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Our File No.: 112948

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

Diane Navas, individually and on behalf of all others
similarly situated,

Plaintiff,

vs.

Commonwealth Financial System, Inc. and
Pendrick Capital Partners II, LLC,

Defendants.

Docket No:

COMPLAINT

JURY TRIAL DEMANDED

BARSHAY | SANDERS^{PLLC}
100 GARDEN CITY PLAZA, SUITE 500
GARDEN CITY, NEW YORK 11530

Diane Navas, individually and on behalf of all others similarly situated (hereinafter referred to as “*Plaintiff*”), by and through the undersigned counsel, complains, states and alleges against Commonwealth Financial System, Inc. and Pendrick Capital Partners II, LLC (hereinafter referred to collectively as “*Defendants*”), as follows:

INTRODUCTION

1. This action seeks to recover for violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.*, (“FDCPA”).

JURISDICTION AND VENUE

2. This Court has federal subject matter jurisdiction pursuant to 28 U.S.C. §1331 and 15 U.S.C. § 1692k(d).

3. Venue is proper under 28 U.S.C. §1391(b) because a substantial part of the events or omissions giving rise to the claim occurred in this Judicial District.

4. At all relevant times, Defendants conducted business within the State of New York.

PARTIES

5. Plaintiff Diane Navas is an individual who is a citizen of the State of New York residing in Suffolk County, New York.

6. Plaintiff is a “consumer” as defined by 15 U.S.C. § 1692a(3).

7. On information and belief, Defendant Commonwealth Financial System, Inc., is a Delaware Corporation with a principal place of business in New castle County, Delaware.

8. On information and belief, Defendant Pendrick Capital Partners II, LLC, is a New York Limited Liability Company with a principal place of business in Warren County, New York.

9. Defendants are regularly engaged, for profit, in the collection of debts allegedly owed by consumers.

10. Defendants are “debt collectors” as defined by 15 U.S.C. § 1692a(6).

ALLEGATIONS

11. Defendants allege Plaintiff owes a debt (“the Debt”).

12. The Debt was primarily for personal, family or household purposes and is therefore a “debt” as defined by 15 U.S.C. § 1692a(5).

13. Sometime after the incurrence of the Debt Plaintiff fell behind on payments owed.

14. Thereafter, at an exact time known only to Defendants, the debt was assigned or otherwise transferred to Defendants for collection.

15. In their efforts to collect the debt, Defendants contacted Plaintiff by letter (“the Letter”) dated January 23, 2017. (“**Exhibit 1.**”)

16. The letter was the initial communication Plaintiff received from Defendants.

17. The letter is a “communication” as defined by 15 U.S.C. § 1692a(2).

18. 15 U.S.C. § 1692g provides that within five days after the initial communication with a consumer in connection with the collection of any debt, a debt collector shall, unless the information is contained in the initial communication or the consumer has paid the debt, send the consumer a written notice containing certain enumerated information.

19. 15 U.S.C. § 1692g(a)(3) requires the notice to include a statement that unless the consumer, within thirty days of receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed valid by the debt collector.

20. There is no requirement that the consumer dispute the debt in writing.

21. It is a violation of the FDCPA to require disputes be made in writing.

22. It is a violation of the FDCPA to include language in the letter that overshadows the required 15 U.S.C. § 1692g(a)(3) statement.

23. It is a violation of the FDCPA to include language in the letter that contradicts the required 15 U.S.C. § 1692g(a)(3) statement.

24. It is a violation of the FDCPA to include language in the letter that, when examined from the perspective of the least sophisticated consumer, overshadows the required § 1692g(a)(3) statement.

25. It is a violation of the FDCPA to include language in the letter that, when examined from the perspective of the least sophisticated consumer, contradicts the required § 1692g(a)(3) statement.

26. It is a violation of the FDCPA to include language in the letter that, when examined from the perspective of the least sophisticated consumer, leads the least sophisticated consumer to believe that her dispute must be made in writing.

27. The Letter states:

SEND ALL CORRESPONDENCE TO:
Commonwealth Financial Systems
245 Main Street
Dickson City PA 18519

28. Disputes need not be in writing. *Hooks v. Forman, Holt, Eliades & Ravin, LLC*, 717 F.3d 282 (2d Cir. 2013).

29. Disputes may be made orally.

30. The language concerning correspondence with Defendant overshadows the required 15 U.S.C. § 1692g(a)(3) statement.

31. The language concerning correspondence with Defendant contradicts the required 15 U.S.C. § 1692g(a)(3) statement.

32. The language concerning correspondence with Defendant, when examined from the perspective of the least sophisticated consumer, overshadows the required § 1692g(a)(3) statement.

33. The language concerning correspondence with Defendant, when examined from the perspective of the least sophisticated consumer, contradicts the required § 1692g(a)(3) statement.

34. The language concerning correspondence with Defendant, when examined from the perspective of the least sophisticated consumer, leads the least sophisticated consumer to believe that her dispute must be in writing.

35. Defendant has violated § 1692g, as the above-referenced language overshadows the information required to be provided by that Section. *See Vetrano v. CBE Grp., Inc.*, 2016 WL 4083384 (E.D.N.Y. Aug. 1, 2016).

36. 15 U.S.C. § 1692e prohibits a debt collector from using any false, deceptive, or misleading representation or means in connection with the collection of any debt.

37. While § 1692e specifically prohibits certain practices, the list is non-exhaustive, and does not preclude a claim of falsity or deception based on any non-enumerated practice.

38. Collection notices are deceptive if they can be reasonably read to have two or more different meanings, one of which is inaccurate.

39. The question of whether a collection letter is deceptive is determined from perspective of the “least sophisticated consumer.”

40. The collection letters could be reasonably interpreted by the least sophisticated consumer as incorrectly representing that a dispute must be communicated in writing. *See Vetrano v. CBE Grp., Inc.*, 2016 WL 4083384 (E.D.N.Y. Aug. 1, 2016); *Balke v. Alliance One Receivables Management, Inc.*, No. 16-CV-5624(ADS)(AKT), 2017 WL 2634653 (E.D.N.Y. June 19, 2017).

41. Because the Letter is reasonably susceptible to an inaccurate reading, as described above, it is deceptive within the meaning of the FDCPA.

42. The least sophisticated consumer would likely be deceived by the Letter.

43. The least sophisticated consumer would likely be deceived in a material way by the Letter.

44. The misrepresentation is material because it could impede the least sophisticated consumer's ability to respond to the letter or dispute the debt.

45. Defendant has violated § 1692e by using a false, deceptive, and misleading representation in its attempt to collect a debt.

CLASS ALLEGATIONS

46. Plaintiff brings this action individually and as a class action on behalf of all persons similarly situated in the State of New York from whom Defendants attempted to collect a consumer debt using a form collection letter substantially similar to that at issue herein, that includes the phrase "SEND ALL CORRESPONDENCE TO," from one year before the date of this Complaint to the present.

47. This action seeks a finding that Defendants' conduct violates the FDCPA, and asks that the Court award damages as authorized by 15 U.S.C. § 1692k.

48. Defendants regularly engage in debt collection.

49. The Class consists of more than 35 persons from whom Defendants attempted to collect delinquent consumer debts using a form collection letter substantially similar to that at issue herein, that includes the phrase "SEND ALL CORRESPONDENCE TO," from one year before the date of this Complaint to the present..

50. Plaintiff's claims are typical of the claims of the Class. Common questions of law or fact raised by this class action complaint affect all members of the Class and predominate over any individual issues. Common relief is therefore sought on behalf of all members of the Class. This class action is superior to other available methods for the fair and efficient adjudication of this controversy.

51. The prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications with respect to the individual members of the Class, and a risk that any adjudications with respect to individual members of the Class would, as a practical matter, either be dispositive of the interests of other members of the Class not party to the adjudication, or substantially impair or impede their ability to protect their interests. Defendants have acted in a manner applicable to the Class as a whole such that declaratory relief is warranted.

52. Plaintiff will fairly and adequately protect and represent the interests of the Class. The management of the class action proposed is not extraordinarily difficult, and the factual and

legal issues raised by this class action complaint will not require extended contact with the members of the Class, because Defendants' conduct was perpetrated on all members of the Class and will be established by common proof. Moreover, Plaintiff has retained counsel experienced in actions brought under consumer protection laws.

JURY DEMAND

53. Plaintiff hereby demands a trial of this action by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

- a. Certify this action as a class action; and
- b. Appoint Plaintiff as Class Representative of the Class, and Plaintiff's attorneys as Class Counsel; and
- c. Find that Defendants' actions violate the FDCPA; and
- d. Grant damages against Defendants pursuant to 15 U.S.C. § 1692k; and
- e. Grant Plaintiff's attorneys' fees pursuant to 15 U.S.C. § 1692k; and
- f. Grant Plaintiff's costs; together with
- g. Such other relief that the Court determines is just and proper.

DATED: January 23, 2018

BARSHAY SANDERS, PLLC

By: /s/ Craig B. Sanders
Craig B. Sanders, Esq.
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Our File No.: 112948

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100 GARDEN CITY PLAZA, SUITE 500
GARDEN CITY, NEW YORK 11530

PO Box 1110
Charlotte, NC 28201-9392

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COMMONWEALTH
FINANCIAL SYSTEMS, INC.
Phone: 800-848-2170 Fax: 570-963-1644

Hours of Operation – Eastern Time Monday - Thursday 8am - 9pm
Friday 8am - 5pm, Saturday 8am - 12pm



January 23, 2017



SEND ALL CORRESPONDENCE TO:
Commonwealth Financial Systems
245 Main Street
Dickson City PA 18519



Personal & Confidential
DIANE NAVAS
67 LAKE ST
PATCHOGUE NY 11772-2574

Please Detach And Return In The Enclosed Envelope With Your Payment

| CFSI ACCOUNT # | CURRENT CREDITOR | ORIGINAL CREDITOR | ORIGINAL ACCOUNT # | AMOUNT DUE |
|----------------|---------------------------|----------------------------|--------------------|------------|
| 0273 | Pendrick Capital Partners | EMP OF SUFFOLK COUNTY PLLC | 1710 | \$722.30 |

Dear Diane Navas,

Please be advised that your account has been placed with CFSI by Pendrick Capital Partners, the purchaser of the above referenced account. If you consider this debt to be valid, please remit payment to the above listed address.

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgement and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor.

Please review the Privacy Notice contained on the back of this letter for an explanation of the Account Owners policies and procedures regarding the use of non-public, personal information.

This is an attempt to collect a debt and any information obtained will be used for that purpose. This is a communication from a debt collector.

Sincerely
Matthew Smith Ext. 213
800-848-2170

****To chat with a live agent or pay online visit www.cfsi-arm.com**

To pay using our 24/7 automated payment system call 800-848-2170 option 7

Your Commonwealth account number is 86280273.



CFSI Acct #
[REDACTED] 0273

Our client, Pendrick Capital Partners, LLC ("Pendrick CP"), has asked us to provide you with the information contained below.

This notice is being provided to you in compliance with the Gramm-Leach-Bliley Act.

This notice has no reflection or bearing upon the status of your account. For example, if your account has been settled, the balance has been paid, the balance has been disputed, or if you have filed for bankruptcy protection, the status of your account shall not change as a result of this notice.

The privacy and security of your personal information is important to Pendrick CP, Pendrick CP does not share information about you with anyone, except as permitted by law. This notice will inform you about Pendrick CP's policies and procedures concerning the personal information about that Pendrick CP obtains, maintains and discloses in connection with the account(s) of your that Pendrick CP owns. Pendrick CP collects nonpublic information about you that is obtained from one or more of the following sources.

1. Information Pendrick CP received from companies that sold Pendrick CP your account(s)
2. Information about your transactions with Pendrick CP's affiliates; and
3. Information from skip tracing companies and/or consumer reporting agencies

INFORMATION PENDRICK CP MAY SHARE WITH PENDRICK CP'S AFFILIATES - Pendrick CP may share identification (such as name and address) information about Pendrick CP's transactions and experiences with you (such as payment history) and information that does not identify you, with Pendrick CP's affiliates. By sharing this information, Pendrick CP is better able to service your account(s).

INFORMATION PENDRICK CP MAY SHARE WITH NONAFFILIATED COMPANIES - Pendrick CP shares all of the information Pendrick CP collects about you, as described above, with non affiliated companies, as permitted by law, to assist in the servicing of your account(s). For example, Pendrick CP:

1. May share information about you with companies that Pendrick CP uses to perform account servicing functions to manage and maintain your account and to process transaction you have authorized; and
2. May report information about you to consumer reporting agencies, government agencies in response to a subpoena, or others in connection with investigations.

Because Pendrick CP respects your privacy, Pendrick CP does not sell, trade or otherwise disclose your identity or any other personal information about you to third parties for their marketing. Pendrick CP does not share collected information about customers or former customers with third parties for any other purpose, except as permitted by applicable privacy law. For example, collected information may be shared in certain circumstances (A) with third parties, to service or enforce accounts, (B) with credit reporting agencies, and (C) with law enforcement officials, to protect against fraud or other crimes.

CONFIDENTIALITY AND SECURITY OF YOUR ACCOUNT(S) - Pendrick CP restricts access to nonpublic personal information about you to only those employees who need to know such information, and third party service providers who provide support services to Pendrick CP, Pendrick CP maintains physical, electronic and procedural safeguards to protect your personal information. If Pendrick CP uses other companies to provide services for Pendrick CP, Pendrick CP requires them to keep the information Pendrick CP shares with them safe and secure and Pendrick CP does not allow them to use or share information for any purpose other than the job they are hired to do.

Special Notice Regarding Collected Information Subject to the Fair Debt Collection Practices Act. This Privacy Notice is being sent to you by Pendrick CP in accordance with federal privacy law, and it describes our privacy practices generally. However, please be assured that collected information that is received or used for purposes of collecting a debt subject to the Fair Debt Collection Practices Act is communicated only in accordance with that Act.

FURTHER INFORMATION: for additional information concerning Pendrick CP's privacy policy, you may write to Pendrick CP at: Pendrick Capital Partners, LLC Attn: Customer Service, 79 Warren Street, Suite 2C, Glens Falls, NY 12801.

New York City Department of Consumer Affairs license number 1170462.

Debt collectors, in accordance with the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq., are prohibited from engaging in abusive, deceptive, and unfair debt collection efforts, including but not limited to:

- The use or threat of violence;
- The use or obscene or profane language; and
- Repeated phone calls made with the intent to annoy, abuse, or harass.

If a creditor or debt collector receives a money judgment against you in court, state and federal laws may prevent the following types of income from being taken to pay the debt:

- Supplemental security income (SSI);
- Social security;
- Public assistance (welfare);
- Spousal support, maintenance (alimony) or child support;
- Unemployment benefits;
- Disability benefits;
- Workers' compensation benefits;
- Public or private pensions;
- Veterans' benefits;
- Federal student loans, federal student grants, and federal work study funds; and
- Ninety percent of your wages or salary earned in the last sixty days

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT
for the
EASTERN DISTRICT OF NEW YORK

Diane Navas, individually and on behalf of all others
similarly situated

Plaintiff(s)

v.

Commonwealth Financial System, Inc. and Pendrick
Capital Partners II, LLC

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*
Pendrick Capital Partners II, LLC
79 Warren Street , Suite 2C
Glens Falls, New York 12801

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) – or 60 days if you are the United States, or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) – you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff’s attorney, whose name and address are:

BARSHAY SANDERS PLLC
100 GARDEN CITY PLAZA, SUITE 500
GARDEN CITY, NY 11530

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS: DIANE NAVAS
(b) County of Residence of First Listed Plaintiff: SUFFOLK
(c) Attorneys: BARSHAY SANDERS, PLLC
DEFENDANTS: COMMONWEALTH FINANCIAL SYSTEM, INC.
County of Residence of First Listed Defendant: NEW CASTLE
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
O 1 U.S. Government Plaintiff
O 2 U.S. Government Defendant
O 3 Federal Question (U.S. Government Not a Party)
O 4 Diversity (Indicate Citizenship of Parties in Item III)
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country

IV. NATURE OF SUIT (Place an "X" in One Box Only)
CONTRACT
REAL PROPERTY
PERSONAL INJURY
CIVIL RIGHTS
PRISONER PETITIONS
FORFEITURE/PENALTY
LABOR
IMMIGRATION
BANKRUPTCY
SOCIAL SECURITY
FEDERAL TAX SUITS
OTHER STATUTES

V. ORIGIN (Place an "X" in One Box Only)
O 1 Original Proceeding
O 2 Removed from State Court
O 3 Remanded from Appellate Court
O 4 Reinstated or Reopened
O 5 Transferred from Another District (specify)
O 6 Multidistrict Litigation - Transfer
O 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 15 USC §1692
Brief description of cause: 15 USC §1692 Fair Debt Collection Practices Act Violation

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$
CHECK YES only if demanded in complaint: JURY DEMAND: Yes O No

VIII. RELATED CASE(S) IF ANY
(See Instructions)
JUDGE
DOCKET NUMBER

DATE: January 23, 2018
SIGNATURE OF ATTORNEY OF RECORD: /s Craig B. Sanders

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFF JUDGE MAG. JUDGE

CERTIFICATION OF ARBITRATION ELIGIBILITY

Local Arbitration Rule 83.10 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

I, Craig B. Sanders, counsel for Plaintiff, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

- monetary damages sought are in excess of \$150,000, exclusive of interest and costs,
the complaint seeks injunctive relief,
the matter is otherwise ineligible for the following reason

DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

RELATED CASE STATEMENT (Section VIII on the Front of this Form)

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that " A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)

- 1. Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County: NO
2. If you answered "no" above:
a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? YES
b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? YES
c) If this is a Fair Debt Collection Practice Act case, specific the County in which the offending communication was received: SUFFOLK

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County? Yes No

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

BAR ADMISSION

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court. Yes No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court? Yes (If yes, please explain) No

I certify the accuracy of all information provided above.

Signature: /s Craig B. Sanders

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit Against Commonwealth Financial System, Pendrick Capital Partners Centers on Debt Dispute Instructions](#)
