

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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NATALIYA PINYUK on behalf of herself and  
all other similarly situated consumers

Plaintiff,

-against-

THE CBE GROUP, INC.

Defendant.

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**CLASS ACTION COMPLAINT**

**Introduction**

1. Plaintiff, Nataliya Pinyuk, brings this action against The CBE Group, Inc. for violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (“FDCPA”). The FDCPA prohibits debt collectors from engaging in abusive, deceptive and unfair collection practices while attempting to collect on debts.

**Parties**

2. Plaintiff is a citizen of the State of New York who resides within this District.
3. Plaintiff is a consumer as that term is defined by Section 1692(a)(3) of the FDCPA, in that the alleged debt that Defendant sought to collect from Plaintiff a consumer debt.
4. Upon information and belief, Defendant's principal place of business is located in Cedar Falls, Iowa.
5. Defendant is regularly engaged, for profit, in the collection of debts allegedly owed by consumers.

6. Defendant is a “debt collector” as that term is defined by the FDCPA, 15 U.S.C. § 1692(a)(6).

#### **Jurisdiction and Venue**

7. This Court has federal question jurisdiction under 15 U.S.C. § 1692k(d) and 28 U.S.C. § 1331.
8. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b), as the acts and transactions that give rise to this action occurred, in substantial part, in this district.

#### **Allegations Particular to Nataliya Pinyuk**

9. Upon information and belief, on a date better known by Defendant, Defendant began to attempt to collect an alleged consumer debt from the Plaintiff.
10. On or about August 11, 2017, Defendant sent the Plaintiff a collection letter.
11. Said letter stated the “Principal” balance as \$1,251.87, and then stated “Collection Fees: \$225.33.”
12. The Defendant’s statement in said letter of “Collection Fees” is a representation of an unlawful 18% collection fee.
13. The collection fee represented the Defendant’s anticipated compensation for collecting the alleged debt.
14. The Plaintiff was in the midst of a trial period with Verizon, and had timely canceled her account within two weeks of signing up. Therefore, the balance and collection fee are fraudulent.
15. Even if such an agreement was legal, the Plaintiff did not owe any money to Verizon since, as mentioned, she had timely canceled, and the debt and collection cost were

erroneous and outright fraudulent. The Defendant is strictly liable.<sup>1</sup>

16. Upon information and belief, any demanded of a collection fee was not incurred by either Verizon or the Defendant. The Plaintiff in this case canceled her contract prior to any incurred cost at all.
17. The 18% collection fee was a contingent fee agreed to by the Defendant and the Creditor, i.e. the collection fee was a predetermined percentage of the total amount recovered for the Creditor.
18. Only when the Defendant was successful in recovering all or part of the principal amount, was it entitled to its contingent fee.
19. If the Defendant did not recover funds, it was not entitled to any fees.
20. At the time the said letter was sent to the Plaintiff, no funds had been recovered by Defendant on behalf of the Creditor.
21. Because nothing had been recovered, the Defendant was not entitled to its contingent compensation, and the Plaintiff was not liable for the collection fees.
22. The collection fees bear no relation to, and are substantially greater than costs actually incurred by the Defendant or the Creditor, in their attempts to collect the alleged debts.
23. Upon information and belief, Defendant transmits thousands of letters to consumers, similar to the said August 11, 2017 collection letter, which misrepresent the amount the consumer actually owes. In each instance, the Defendant charges the consumer with an illegal and unauthorized collection fee.
24. This practice misleads consumers by creating the false impression that consumers have incurred a collection fee due and owing.
25. The representation that collection fees were owed violated 15 U.S.C. §§ 1692e,

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<sup>1</sup> See Lee v. Kucker & Bruh, LLP, 2013 U.S. Dist. LEXIS 110363, 2013 WL 3982427 (S.D.N.Y. Aug. 2, 2013).

1692e(2)(A), 1692e(5), 1692(f), and 1692f(1).<sup>2</sup>

26. Said letter violated 15 U.S.C. §§ 1692e, 1692e(2)(A), 1692e(5), 1692(f), and 1692f(1) for attempting to collect prohibited collection fees.
27. Plaintiff suffered injury in fact by being subjected to unfair and abusive practices of the Defendant.
28. Plaintiff suffered actual harm by being the target of the Defendant's misleading debt collection communications.
29. Defendant violated the Plaintiff's right not to be the target of misleading debt collection communications.
30. Defendant violated the Plaintiff's right to a truthful and fair debt collection process.
31. Defendant used materially false, deceptive, misleading representations and means in its attempted collection of Plaintiff's alleged debt.
32. Defendant's communications were designed to cause the debtor to suffer a harmful disadvantage in charting a course of action in response to Defendant's collection efforts.
33. The FDCPA ensures that consumers are fully and truthfully apprised of the facts and of their rights, the act enables them to understand, make informed decisions about, and participate fully and meaningfully in the debt collection process. The purpose of the FDCPA is to provide information that helps consumers to choose intelligently. The Defendant's false representations misled the Plaintiff in a manner that deprived her of her right to enjoy these benefits, these materially misleading statements trigger liability under section 1692e of the Act.

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<sup>2</sup> Seeger v. AFNI, Inc., 2006 WL 2290763 (E.D. Wis. Aug. 9, 2006). (FDCPA case against AFNI, Inc. for adding a 15% fee to Cingular bills was certified to proceed as a class action.), Seeger v. AFNI, Inc., 548 F.3d 1107 (7th Cir. 2008). (AFNI, Inc.'s demand for an additional 15% collection fee violated § 1692f(1) since the charge was not authorized by law or the underlying contract; applicable state law only permitted such a recovery if the amount was actually incurred as an out-of-pocket cost of collection and not, as attempted here, to unlawfully "permit[ ] a third-party purchaser of an account to recover its internal costs."), Butto v. Collecto Inc., 2013 U.S. Dist. LEXIS 45502, 2013 WL 1285577 (E.D.N.Y. Mar. 29, 2013). (Granting Class certification as to a letter which included a collection fee for Verizon service which had not yet been incurred at the time the letter was sent.)

34. These deceptive communications additionally violated the FDCPA since they frustrate the consumer's ability to intelligently choose his or her response.
35. Plaintiff seeks to end these violations of the FDCPA. Plaintiff has suffered damages including but not limited to, fear, stress, mental anguish, emotional stress and acute embarrassment. Plaintiff and putative class members are entitled to preliminary and permanent injunctive relief, including, declaratory relief, and damages.

#### **CLASS ALLEGATIONS**

36. This action is brought as a class action. Plaintiff brings this action on behalf of herself and on behalf of all other persons similarly situated pursuant to Rule 23 of the Federal Rules of Civil Procedure.
37. The identities of all class members are readily ascertainable from the records of Defendant CBE and those business and governmental entities on whose behalf it attempts to collect debts.
38. Excluded from the Plaintiff's Class is the Defendant and all officers, members, partners, managers, directors, and employees of Defendant CBE, and all of their respective immediate families, and legal counsel for all parties to this action and all members of their immediate families.
39. There are questions of law and fact common to the Plaintiff's Class, which common issues predominate over any issues involving only individual class members. The principal issues are whether Defendant's communications with the Plaintiff, such as the above stated claims, violate provisions of the Fair Debt Collection Practices Act.
40. The Plaintiff's claims are typical of the class members, as all are based upon the same facts and legal theories.

41. The Plaintiff will fairly and adequately protect the interests of the Plaintiff's Class defined in this complaint. The Plaintiff has retained counsel with experience in handling consumer lawsuits, complex legal issues, and class actions, and neither the Plaintiff nor her attorneys have any interests, which might cause them not to vigorously pursue this action.
42. This action has been brought, and may properly be maintained, as a class action pursuant to the provisions of Rule 23 of the Federal Rules of Civil Procedure because there is a well-defined community interest in the litigation:
- (a) **Numerosity:** The Plaintiff is informed and believes, and on that basis alleges, that the Plaintiff's Class defined above is so numerous that joinder of all members would be impractical.
  - (b) **Common Questions Predominate:** Common questions of law and fact exist as to all members of the Plaintiff's Class and those questions predominate over any questions or issues involving only individual class members. The principal issues are whether the Defendant's communications with the Plaintiff, such as the above stated claims, violate provisions of the Fair Debt Collection Practices Act.
  - (c) **Typicality:** The Plaintiff's claims are typical of the claims of the class members. Plaintiff and all members of the Plaintiff's Class defined in this complaint have claims arising out of the Defendant's common uniform course of conduct complained of herein.
  - (d) **Adequacy:** The Plaintiff will fairly and adequately protect the interests of the class members insofar as Plaintiff has no interests that are adverse to the

absent class members. The Plaintiff is committed to vigorously litigating this matter. Plaintiff has also retained counsel experienced in handling consumer lawsuits, complex legal issues, and class actions. Neither the Plaintiff nor her counsel have any interests, which might cause them not to vigorously pursue the instant class action lawsuit.

- (e) **Superiority:** A class action is superior to the other available means for the fair and efficient adjudication of this controversy because individual joinder of all members would be impracticable. Class action treatment will permit a large number of similarly situated persons to prosecute their common claims in a single forum efficiently and without unnecessary duplication of effort and expense that individual actions would engender. Certification of a class under Rule 23(b)(1)(A) of the Federal Rules of Civil Procedure is appropriate because adjudications with respect to individual members create a risk of inconsistent or varying adjudications which could establish incompatible standards of conduct for Defendant who, on information and belief, collects debts throughout the United States of America.
43. Certification of a class under Rule 23(b)(2) of the Federal Rules of Civil Procedure is also appropriate in that a determination that the above stated claims, violate provisions of the Fair Debt Collection Practices Act, and is tantamount to declaratory relief and any monetary relief under the FDCPA would be merely incidental to that determination.
44. Certification of a class under Rule 23(b)(3) of the Federal Rules of Civil Procedure is also appropriate in that the questions of law and fact common to members of the

Plaintiff's Class predominate over any questions affecting an individual member, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

45. Further, Defendant has acted, or failed to act, on grounds generally applicable to the Rule (b)(1)(A) and (b)(2) Class, thereby making appropriate final injunctive relief with respect to the Class as a whole.
46. Depending on the outcome of further investigation and discovery, Plaintiff may, at the time of class certification motion, seek to certify one or more classes only as to particular issues pursuant to Fed. R. Civ. P. 23(c)(4).

#### **CAUSE OF ACTION**

##### **Violations of the Fair Debt Collection Practices Act brought by Plaintiff on behalf of herself and the members of a class, as against the Defendant.**

47. Plaintiff repeats, reiterates, and incorporates the allegations contained in paragraphs numbered one (1) through forty six (46) herein with the same force and effect as if the same were set forth at length herein.
48. This cause of action is brought on behalf of Plaintiff and the members of a class.
49. The class involves all individuals whom Defendant's records reflect resided in the State of New York and who were sent a collection letter in substantially the same form letter as the letter sent to the Plaintiff on or about August 11, 2017; and (a) the collection letter was sent to a consumer seeking payment of a personal debt; and (b) the collection letter was not returned by the postal service as undelivered; and (c) the Plaintiff asserts that the letter contained violations of 15 U.S.C. §§ 1692e, 1692e(2)(A), 1692e(5), 1692(f), and 1692f(1) for attempting to collect prohibited collection fees.



**Violations of the Fair Debt Collection Practices Act**

50. The Defendant's actions as set forth above in the within complaint violates the Fair Debt Collection Practices Act.

51. Because the Defendant violated the Fair Debt Collection Practices Act, the Plaintiff and the members of the class are entitled to damages in accordance with the Fair Debt Collection Practices Act.

WHEREFORE, Plaintiff, respectfully requests preliminary and permanent injunctive relief, and that this Court enter judgment in Plaintiff's favor and against the Defendant and award damages as follows:

- (a) Statutory damages provided under the FDCPA, 15 U.S.C. § 1692(k);
- (b) Attorney fees, litigation expenses and costs incurred in bringing this action; and
- (c) Any other relief that this Court deems appropriate and just under the circumstances.

Dated: Brooklyn, New York  
October 2, 2017

/s/ Maxim Maximov  
Maxim Maximov, Esq.  
Attorneys for the Plaintiff  
Maxim Maximov, LLP  
1701 Avenue P  
Brooklyn, New York 11229  
Office: (718) 395-3459  
Facsimile: (718) 408-9570  
E-mail: m@maximovlaw.com

Plaintiff requests trial by jury on all issues so triable.

/s/ Maxim Maximov  
Maxim Maximov, Esq.

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

NATALIYA PINYUK

(b) County of Residence of First Listed Plaintiff KINGS (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

MAXIM MAXIMOV, LLP OFFICE: (718) 395-3459
1701 AVENUE P FAX: (718) 408-9570
BROOKLYN, NEW YORK 11229 E-MAIL: M@MAXIMOV.LAW.COM

DEFENDANTS

THE CBE GROUP, INC.

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
3 Federal Question (U.S. Government Not a Party)
2 U.S. Government Defendant
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State PTF DEF 1 1 Incorporated or Principal Place of Business In This State PTF DEF 4 4
Citizen of Another State 2 2 Incorporated and Principal Place of Business In Another State 5 5
Citizen or Subject of a Foreign Country 3 3 Foreign Nation 6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Contains various legal categories and checkboxes.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District
6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
15 U.S.C. SECTION 1692 -- FAIR DEBT COLLECTION PRACTICES ACT (FDCPA)
Brief description of cause:
UNLAWFUL AND DECEITFUL DEBT COLLECTION BUSINESS PRACTICES

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 No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 10/02/2017 SIGNATURE OF ATTORNEY OF RECORD /S/ MAXIM MAXIMOV, ESQ.

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

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, N/A, counsel for \_\_\_\_\_, 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:

N/A

**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? NO
  - b) Did the events of omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? YES

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? \_\_\_\_\_

(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/ MAXIM MAXIMOV, ESQ.



08/11/17

Creditor: Verizon Wireless
Account Number: 088857586200001
CS Number: 21-67376924
Reference Number: 0180
Principal: \$1,251.87
Collection Fees: \$225.33
Balance: \$1,477.20

Dear Pinyuk Nataliya :

Your Verizon Wireless account has been referred to CBE Group for collection. Please take this opportunity to pay your account balance in full.

We are committed to helping you resolve your debt. If you cannot pay the full balance at this time, we have many payment options that may meet your individual needs. Please give us a call at (855)722-9161. We are here to help.

Disconnect Date	Service/Equipment	Amount	Collection Fees	Total Due
03/13/17	SERVICE AMOUNT	\$1,251.87	\$225.33	\$1,477.20
<b>Total Amount Due: \$1,477.20</b>				



**Pay Online – Account resolution The easy way:**

Login to your account at [www.paycbegroup.com](http://www.paycbegroup.com) to quickly and easily pay your balance in full or setup payment arrangements.

Please make your check or money order payable to:  
**Verizon**

Service Address: 332 92ND ST BROOKLYN, NY 11209-6304

Unless you notify this office within thirty (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 thirty (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 judgment and mail you a copy of such judgment or verification. If you request this office in writing within thirty (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.

The CBE Group, Inc. mailing address Po Box 2635 , Waterloo, IA 50704-2635


**This is an attempt to collect a debt; any information obtained will be used for that purpose.  
 This communication is from a debt collector.  
 NOTICE: SEE REVERSE SIDE FOR IMPORTANT INFORMATION.**

PLEASE DETACH AND RETURN LOWER PORTION WITH ENCLOSED ENVELOPE

29\_CDCBEG04\_0180

PO BOX 2635  
 WATERLOO, IA 50704-2635  
 CHANGE SERVICE REQUESTED

IF PAYING BY CREDIT/DEBIT, FILL OUT BELOW

CARD NUMBER	EXP DATE	SELECT CARD USING FOR PAYMENT
SIGNATURE	 <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
ACCT#: 088857586200001 CS #:21-67376924 REF #: 0180 DATE: 08/11/17		

CALL: (855)722-9161  
 2167376924-1-33-29404263



498367831  
  
 Pinyuk Nataliya  
 332 92nd St Apt A4  
 Brooklyn NY 11209-6311

THE CBE GROUP, INC.  
 Payment Processing Center  
 PO Box 2038  
 Waterloo, IA 50704-2038

21 06737692400000033 0000000147720 081117 180 0

Case 1:14-cv-00333 Document 1-2 Filed 10/02/17 Page 2 of 2 PageID #: 18

**TO ALL CONSUMERS - Notice about Electronic Check Conversion:** When you provide a check as payment, you authorize us either to use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction. When we use information from your check to make an electronic fund transfer, funds may be withdrawn from your account as soon as the same day we receive your payment and you will not receive your check back from your financial institution. Also, you authorize us to represent a check as an electronic fund transfer from your account if your payment is returned unpaid.

**Please be aware of the following rights. This list does not contain a complete list of the rights consumers have under state and federal law.**

**New York:** 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:

- (i) the use or threat of violence;
- (ii) the use of obscene or profane language; and
- (iii) 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:

1. Supplemental security income, (SSI);
2. Social security;
3. Public assistance (welfare);
4. Spousal support, maintenance (alimony) or child support;
5. Unemployment benefits;
6. Disability benefits;
7. Workers' compensation benefits;
8. Public or private pensions;
9. Veterans' benefits;
10. Federal student loans, federal student grants, and federal work study funds; and
11. Ninety percent of your wages or salary earned in the last sixty days.

**New York City Borough Residents:** Department of Consumer Affairs, City of New York, License # 1080974. Please contact Matt Wolk at the number listed on the front of this letter regarding this matter.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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NATALIYA PINYUK on behalf of herself and  
all other similarly situated consumers

Plaintiff,

-against-

THE CBE GROUP, INC.

Defendant.

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**SUMMONS IN A CIVIL ACTION**

TO: THE CBE GROUP, INC.  
1309 TECHNOLOGY PARKWAY  
CEDAR FALLS, IOWA 50613-6976

**YOU ARE HEREBY SUMMONED** and required to file with the Clerk of this Court  
and serve upon PLAINTIFF'S ATTORNEY:

MAXIM MAXIMOV, ESQ.  
MAXIM MAXIMOV, LLP  
1701 AVENUE P  
BROOKLYN, NEW YORK 11229

an answer to the complaint which is herewith served upon you, with **21** days after service of this  
summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will  
be taken against you for the relief demanded in the complaint.

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CLERK

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DATE

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BY DEPUTY CLERK

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit: CBE Group Demands Illegal 'Collection Fee'](#)

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