

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

SOHAIL QURESHI on behalf of himself and
all other similarly situated consumers

Plaintiff,

-against-

VITAL RECOVERY SERVICES, LLC

Defendant.

CLASS ACTION COMPLAINT

Introduction

1. Plaintiff, Sohail Qureshi brings this action against Vital Recovery Services, LLC 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 Peachtree Corners, Georgia.
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 Sohail Qureshi

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 18, 2017, Defendant sent the Plaintiff a collection letter.
11. The said letter was an effort to collect on a consumer debt.
12. The said letter stated the balance as follows:

Principal Amount Due	\$888.84
Interest Due	\$0.00
Misc. Fee Due	\$0.00
Total Balance Due	\$888.84

13. The least sophisticated consumer would understand that charges and fees would begin to accrue on the account if he did not pay.
14. However, no such charges and fees were accruing on the account.
15. Furthermore, the Defendant was not contractually entitled to charges and fees.
16. The Defendant misrepresented the character of the alleged debt, in violation of 15 U.S.C.

§§ 1692e and 1692e(2)(a), when it falsely implied charges and fees could accrue on the account.

17. The Defendant never intended to add any charges and fees to Plaintiff's account.
18. The Defendant further threatened to take an action it did not intend to take, in violation of 15 U.S.C. §1692e(5), when it implied it would add interest, fees and other charges to Plaintiff's alleged debt.
19. The Defendant could have avoided any confusion by not listing charges and fees in its letter at all.¹
20. The Defendant violated 15 U.S.C. § 1692e(2)(A) for misrepresenting the amount of the debt owed by the Plaintiff.
21. 15 U.S.C. § 1692e of the FDCPA provides:

A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

(2) The false representation of --
the character, amount, or legal status of any debt; or

(A) the character, amount, or legal status of any debt; or...

(10) the use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer.

22. The said letter is a standardized form letter.
23. Upon information and belief, the Defendant's collection letters, such as the said collection letter, number in the hundreds.
24. Defendant's August 18, 2017 letter is in violation of 15 U.S.C. §§ 1692e, 1692e(2),

¹ *Wood v. Allied Interstate, LLC*, Docket No. 1:17-cv-04921 (N.D. Ill. Jun 30, 2017) (“[B]y stating that fees and collection costs stood at “\$0.00,” instead of stating something like “N/A” or declining to mention fees and collection costs at all, the letter reasonably could be read to imply that such charges would begin to accrue if Wood did not pay the debt. Why, after all, would Allied include a column for fees and collection charges, and insert a dollar figure (\$0.00), if not to suggest that that such fees and costs might possibly accrue in the future?”)

1692e(5), and 1692e(10) for failing to clearly state the amount of the debt which is due and owing, and by employing false, deceptive and misleading representations in connection with the collection of a debt.

25. Plaintiff suffered injury in fact by being subjected to unfair and abusive practices of the Defendant.
26. Plaintiff suffered actual harm by being the target of the Defendant's misleading debt collection communications.
27. Defendant violated the Plaintiff's right not to be the target of misleading debt collection communications.
28. Defendant violated the Plaintiff's right to a truthful and fair debt collection process.
29. Defendant used materially false, deceptive, misleading representations and means in its attempted collection of Plaintiff's alleged debt.
30. 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.
31. 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 him of his right to enjoy these benefits, these materially misleading statements trigger liability under section 1692e of the Act.
32. These deceptive communications additionally violated the FDCPA since they frustrate the consumer's ability to intelligently choose his or her response.

33. 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

34. This action is brought as a class action. Plaintiff brings this action on behalf of himself and on behalf of all other persons similarly situated pursuant to Rule 23 of the Federal Rules of Civil Procedure.
35. The identities of all class members are readily ascertainable from the records of Vital Recovery Services, LLC and those business and governmental entities on whose behalf it attempts to collect debts.
36. Excluded from the Plaintiff's Class is the Defendant and all officers, members, partners, managers, directors, and employees of Vital Recovery Services, LLC, and all of their respective immediate families, and legal counsel for all parties to this action and all members of their immediate families.
37. 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 the Defendant's communications with the Plaintiff, such as the above stated claims, violate provisions of the Fair Debt Collection Practices Act.
38. The Plaintiff's claims are typical of the class members, as all are based upon the same facts and legal theories.
39. 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 his attorneys have any interests, which might cause them not to vigorously pursue this action.

40. 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 his 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.
41. 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.
42. 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.

43. 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.
44. 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 himself and the members of a class, as against the Defendant.

45. Plaintiff repeats, reiterates, and incorporates the allegations contained in paragraphs numbered one (1) through forty four (59) herein with the same force and effect as if the same were set forth at length herein.
46. This cause of action is brought on behalf of Plaintiff and the members of a class.
47. 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 18, 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), 1692e(5), and 1692e(10) for failing to clearly state the amount of the debt which is due and owing, and by employing false, deceptive and misleading representations in connection with the collection of a debt.

Violations of the Fair Debt Collection Practices Act

48. The Defendant's actions as set forth above in the within complaint violates the Fair Debt Collection Practices Act.
49. 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
August 9, 2018

/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

SOHAIL QURESHI

(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

VITAL RECOVERY SERVICES, LLC

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
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
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)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

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

Click here for: Nature of Suit Code Descriptions.

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

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 (specify)
6 Multidistrict Litigation - Transfer
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 U.S.C. § 1692

Brief description of cause:

15 U.S.C. § 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 No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

08/09/2018

SIGNATURE OF ATTORNEY OF RECORD

/S/ MAXIM MAXIMOV, ESQ.

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP 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, Maxim Maximov, 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? Yes 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 No
 - b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? Yes No
 - c) If this is a Fair Debt Collection Practice Act case, specify the County in which the offending communication was received: Kings County

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: _____

PO Box 923748
Peachtree Corners, GA 300103748

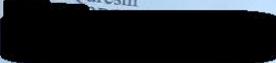
V01



ACCOUNT INFORMATION	
New Account #	[REDACTED]
Total Balance Due	\$888.84



Sohail Qureshi



VITAL RECOVERY SERVICES, LLC
PO BOX 923747
PEACHTREE CORS., GA 300103747

A Pay to A

Amount Paid:

Home Phone:

Daytime Phone:

August 18, 2017

Please Detach And Return in The Enclosed Envelope With Your Payment

**IMPORTANT NOTICE: PLEASE RESPOND
WE ARE OFFERING YOU AN OPPORTUNITY.**

Dear Sohail Qureshi:

We are offering you the opportunity to resolve the NISSAN MOTOR ACCEPTANCE CORP account noted to the right for \$711.07, which is only 80% of the total balance you owe on this account. If you take advantage of this offer, these are your benefits:

- We will accept a significantly reduced payment amount as compared to the Total Balance Due.
- After we receive your payment, we will cease all efforts to collect the remaining balance.
- We will inform the creditor that your account has been resolved in full.
- We will send you a letter stating the debt has been resolved in full eighteen days after the payment is received.

all us to discuss our offer, even if you don't know if you can afford a one-time yment. We want to consider other payment plans together with you. We are not ligated to renew this offer.

NEW YORK CITY RESIDENTS: Kyle Sutter, Operations Manager, B: 678-578-1045.

ew York City Department of Consumer Affairs License Number: 2047506-DCA

NEW YORK STATE RESIDENTS: Debt collectors, in accordance with the Fair Debt ection Practices Act, 15 U.S.C. § 1692 et seq., are prohibited from engaging in sive, deceptive, and unfair debt collection efforts, including but not limited to: ne use or threat of violence; e use of obscene or profane language; and eated phone calls made with the intent to annoy, abuse, or harass.

reditor or debt collector receives a money judgment against you in court, state and l laws may prevent the following types of income from being taken to pay the debt: mplemental security income, (SSI); ial security;

lic assistance (welfare); asial support, maintenance (alimony) or child support; mployment benefits; ility benefits; ers' compensation benefits; e or private pensions; ans' benefits;

ral student loans, federal student grants, and federal work study funds; and ty percent of your wages or salary earned in the last sixty days.

letter is an attempt to collect a debt by a debt collector. Any information

ACCOUNT SUMMARY

Original Creditor
NISSAN MOTOR ACCEPTANCE CORP

Current Creditor
NISSAN MOTOR ACCEPTANCE CORP

New Account #
[REDACTED]

Original Account #
[REDACTED]

Last Payment Date
04/21/2017

Principal Amount Due
\$888.84

Interest Due
\$0.00

Misc. Fee Due
\$0.00

Total Balance Due
\$888.84

PAYMENT OPTIONS

To make a payment online:
<https://pay.vitalrecovery.com>
Sign on using payment id:
[REDACTED]



For further information or to pay by phone, please call Vital Recovery Services, LLC at (855)664-8752.



Mail check or money order payable to Vital Recovery Services, LLC



BE RAT A

INTERNATIONAL The Association of Credit and Collection Professionals 805011 - 00006714

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

SOHAIL QURESHI on behalf of himself and
all other similarly situated consumers

Plaintiff,

-against-

VITAL RECOVERY SERVICES, LLC

Defendant.

SUMMONS IN A CIVIL ACTION

TO: VITAL RECOVERY SERVICES, LLC
4775 PEACHTREE INDUSTRIAL BOULEVARD, SUITE 310
BERKELEY LAKE, GEORGIA 30092

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.

CLERK

DATE

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: [New York Consumer Claims Vital Recovery Services Misrepresented His Debt](#)
