

BARSHAY SANDERS, PLLC
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Attorneys for Plaintiffs
Our File No.: 113327

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

Joanne Rabuffo and Michael Kasten, individually and
on behalf of all others similarly situated,

Plaintiffs,

vs.

Cavalry Portfolio Services, LLC,

Defendant.

Docket No:

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

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

Joanne Rabuffo and Michael Kasten, Individually and on Behalf of All Others Similarly Situated (hereinafter referred to collectively as “*Plaintiffs*”), by and through the undersigned counsel, complain, state and allege against Cavalry Portfolio Services, LLC (hereinafter referred to as “*Defendant*”), 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, Defendant conducted business within the State of New York.

PARTIES

5. Plaintiff Joanne Rabuffo is an individual who is a citizen of the State of New York residing in Nassau County, New York.

6. Plaintiff Michael Kasten is an individual who is a citizen of the State of New York residing in Suffolk County, New York.

7. Plaintiffs are “consumers” as defined by 15 U.S.C. § 1692a(3).

8. On information and belief, Defendant Cavalry Portfolio Services, LLC, is a New York Limited Liability Company with a principal place of business in WESTCHESTER County, New York.

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

10. Defendant is a “debt collector” as defined by 15 U.S.C. § 1692a(6).

ALLEGATIONS

11. Defendant alleges each of the Plaintiffs owe a debt (“the Debts”).

12. The Debts were primarily for personal, family or household purposes and are therefore “debts” as defined by 15 U.S.C. § 1692a(5).

13. Sometime after the incurrence of the Debts, Plaintiffs fell behind on payments owed.

14. Thereafter, at an exact time known only to Defendant, the Debts were assigned or otherwise transferred to Defendant for collection.

15. In its efforts to collect the debt alleged owed by Plaintiff Rabuffo, Defendant contacted Plaintiff Rabuffo by letter (“the Rabuffo Letter”) dated March 13, 2017. (“**Exhibit 1**.”)

16. In its efforts to collect the debt alleged owed by Plaintiff Kasten, Defendant contacted Plaintiff Kasten by letter (“the Kasten Letter”) dated March 13, 2017. (“**Exhibit 1**.”)

17. The Letters are “communications” as defined by 15 U.S.C. § 1692a(2).

FIRST COUNT

Violation of 15 U.S.C. § 1692e

**False or Misleading Representations as to the Name of the
Creditor to Whom the Debt is Owed**

18. Plaintiffs repeats and realleges the foregoing paragraphs as if fully restated herein.

19. 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.

20. 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.

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

22. A collection letter is deceptive under 15 U.S.C. § 1692e if it can reasonably be read by the least sophisticated consumer to have two or more meanings, one of which is inaccurate.

23. A collection letter is also deceptive under 15 U.S.C. § 1692e if it is reasonably susceptible to an inaccurate reading by the least sophisticated consumer.

24. For purposes of 15 U.S.C. § 1692e, the failure to clearly and accurately identify the creditor to whom the debt is owed is unfair and deceptive to the least sophisticated consumer.

25. The identity of creditor to whom the debt is owed is a material piece of information to a consumer.

26. Knowing the identity of creditor to whom the debt.

27. A debt collector has the obligation not just to convey the name of the creditor to whom the debt is owed, but also to convey such clearly.

28. A debt collector has the obligation not just to convey the name of the creditor to whom the debt is owed, but also to state such explicitly.

29. Even if a debt collector conveys the required information, the debt collector nonetheless violates the FDCPA if it conveys that information in a confusing or contradictory fashion so as to cloud the required message with uncertainty.

30. When determining whether the name of the creditor to whom the debt is owed has been conveyed clearly, an objective standard, measured by how the “least sophisticated consumer” would interpret the notice, is applied.

31. Although the Rabuffo Letter identifies an “Original Institution” of “HSBC Bank Nevada, N.A. \ Household Bank,” it fails to explicitly identify a current creditor.

32. Although the Kasten Letter identifies an “Original Institution” of “GE Retail Bank/Lowe’s.”

33. Both Letters identify an “Original Account No.” as well as a “Cavalry Account No.”

34. Neither Letter contains any indication whatsoever, whether explicit or implicit, of the nature of the relationship between the respective “Original Institutions” and Defendant.

35. For instance, the Letters fail to state whether the subject accounts were placed with Defendant’s office for collections.

36. For instance, the Letters fail to state whether the Defendant is seeking to collection on the subject accounts of the above-referenced “Original Institutions.”

37. The Rabuffo Letter states, “RE: Original Institution: HSBC Bank Nevada, N.A. \ Household Bank.”

38. The Kasten Letter states, “RE: Original Institution: GE Retail Bank/Lowe’s.”

39. The Letters fail to indicate whether the “Re:” delineations refer to Plaintiffs’ respective account owners.

40. The Letters fail to indicate whether the “Re:” delineations refer to Plaintiffs’ respective creditors.

41. The Letters fail to indicate whether the “Re:” delineations refer to Plaintiffs’ current creditors.

42. The Letters fail to indicate whether the “Re:” delineations refer to the creditors to whom Plaintiffs’ respective debts are owed.

43. The Letters fail to indicate who referred the subject accounts to Defendant.

44. The Letters fail to indicate who Defendant represents.

45. The Letters fail to indicate who is Defendant’s client.

46. The Letter fails to indicate the name of any entity to which Plaintiff should make her check payable to.

47. Both of the subject Letters states, “Cavalry is offering a 55% discount to you.”

48. The Kasten Letter states, “Make Checks and Money Orders Payable to Cavalry Portfolio Services, LLC.”

49. Both of the subject Letters state, “By sending your check, please be aware that you are authorizing Cavalry Portfolio Services, LLC to use information on your check to make a

one-time electronic debt from your account at the financial institution indicated on your check.”

50. Defendant failed to explicitly state the names of the creditors to whom Plaintiffs’ respective debts are owed.

51. Defendant failed to clearly state the names of the creditors to whom Plaintiffs’ respective debts are owed.

52. The least sophisticated consumer would likely be confused as to the names of the creditors to whom Plaintiffs’ respective debts are owed.

53. The least sophisticated consumer would likely be uncertain as to the names of the creditors to whom Plaintiffs’ respective debts are owed.

54. The least sophisticated consumer, upon reading the Rabuffo Letter in its entirety, could reasonably interpret the Rabuffo Letter to mean that the creditor to whom the debt is owed is the stated “Original Institution” of “HSBC Bank Nevada, N.A. \ Household Bank.”

55. Alternatively, the least sophisticated consumer, upon reading the Rabuffo Letter in its entirety, could reasonably interpret the Rabuffo Letter to mean that creditor to whom the debt is owed is Defendant.

56. The least sophisticated consumer, upon reading the Kasten Letter in its entirety, could reasonably interpret the Kasten Letter to mean that the creditor to whom the debt is owed is the stated “Original Institution” of “GE Retail Bank/Lowe’s.”

57. Alternatively, the least sophisticated consumer, upon reading the Kasten Letter in its entirety, could reasonably interpret the Kasten Letter to mean that the creditor to whom the debt is owed is Defendant.

58. Because both of the subject Letters can reasonably be read by the least sophisticated consumer to have two or more meanings, one of which is inaccurate, as described, they are deceptive within the meaning of 15 U.S.C. § 1692e.

59. Because both of the subject Letters are reasonably susceptible to an inaccurate reading by the least sophisticated consumer, as described, they are deceptive within the meaning of 15 U.S.C. § 1692e.

60. The least sophisticated consumer would likely be deceived by the Letters.

61. The least sophisticated consumer would likely be deceived in a material way by the Letters.

62. Defendant violated § 1692e by using false, deceptive and misleading

representations in its attempt to collect the subject debts.

CLASS ALLEGATIONS

63. Plaintiffs bring this action individually and as a class action on behalf of all persons similarly situated in the State of New York from whom Defendant attempted to collect a consumer debt using substantially similar form collection letters that identify an “Original Instiution,” but otherwise fail to identify a “creditor,” “current creditor,” or creditor to whom the debt is owed,” from one year before the date of this Complaint to the present.

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

65. Defendant regularly engages in debt collection.

66. The Class consists of more than 35 persons from whom Defendant attempted to collect delinquent consumer debts using substantially similar form collection letters that identify an “Original Instiution,” but otherwise fail to identify a “creditor,” “current creditor,” or creditor to whom the debt is owed,”

67. Plaintiffs' 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.

68. 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. Defendant has acted in a manner applicable to the Class as a whole such that declaratory relief is warranted.

69. Plaintiffs 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 Defendant's conduct was perpetrated on all members of



PO Box 520
Valhalla, NY 10595

Phone: (866) 434-2995 • FAX: (914) 747-3673

www.cavps.com



March 13, 2017

RE: Original Institution: HSBC Bank Nevada, N.A. \ Household Bank
Original Account No.: [REDACTED] 0057
Cavalry Account No.: [REDACTED] 7855
Outstanding Balance: \$2574.43



Joanne Rabuffo
37 Blackheath Rd
Lido Beach, NY 11561-4805

We are required by regulation of the New York State Department of Financial Services to notify you of the following information. This information is NOT legal advice: Your creditor or debt collector believes that the legal time limit (statute of limitations) for suing you to collect this debt may have expired. It is a violation of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq., to sue to collect on a debt for which the statute of limitations has expired. However, if the creditor sues you to collect on this debt, you may be able to prevent the creditor from obtaining a judgment against you. To do so, you must tell the court that the statute of limitations has expired. Even if the statute of limitations has expired, you may choose to make payments on the debt. However, be aware: if you make a payment on the debt, admit to owing the debt, promise to pay the debt, or waive the statute of limitations on the debt, the time period in which the debt is enforceable in court may start again. If you would like to learn more about your legal rights and options, you can consult an attorney or legal assistance or legal aid organization.

Cavalry is offering a **55%** discount to you. That's right, you can resolve your account by simply choosing one of the following payment options listed below:

1 payment of
\$1158.49

6 monthly payments of
\$193.08

12 monthly payments of
\$96.54

This offer expires 04/12/2017.
Please note we are not obligated to renew this offer.

Please feel free to visit our website at www.cavps.com or call us at **(866) 483-5139** to discuss this or other payment options available at Cavalry.

Sincerely,

Christine Acosta

Cavalry Portfolio Services, LLC

We may report information about your account to credit reporting agencies.

THIS IS AN ATTEMPT TO COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE. THIS COMMUNICATION IS FROM A DEBT COLLECTOR. SEE REVERSE SIDE FOR IMPORTANT INFORMATION CONCERNING YOUR RIGHTS.

Notice of Important Rights

We are required by law to notify consumers of the following rights. This list does not include a complete list of rights consumers have under state and federal laws.

In California: The state Rosenthal Fair Debt Collection Practices Act and the federal Fair Debt Collection Practices Act require that, except under unusual circumstances, collectors may not contact you before 8 a.m. or after 9 p.m. They may not harass you by using threats of violence or arrest or by using obscene language. Collectors may not use false or misleading statements or call you at work if they know or have reason to know that you may not receive personal calls at work. For the most part, collectors may not tell another person, other than your attorney or spouse, about your debt. Collectors may contact another person to confirm your location or enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission at 1-877-FTC-HELP or www.ftc.gov. As required by law, you are hereby notified that a negative credit report reflecting on your credit record may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit obligations.

IN COLORADO: A consumer has the right to request in writing that a debt collector or collection agency cease further communication with the consumer. A written request to cease communication will not prohibit the debt collector or collection agency from taking any other action authorized by law to collect the debt. FOR INFORMATION ABOUT THE COLORADO FAIR DEBT COLLECTION PRACTICES ACT, SEE WWW.COAG.GOV/CAR. Our in-state office address and telephone number is 80 Garden Center, Building B, Suite 3 Broomfield, CO 80020, (303) 920-4763.

IN MASSACHUSETTS: Notice of important rights. You have the right to make a written or oral request that telephone calls regarding your debt not be made to you at your place of employment. Any such oral request will be valid for only ten days unless you provide written confirmation of the request postmarked or delivered within seven days of such request. You may terminate this request by writing to the collector. You may contact us by telephone at (866) 483-5139 between 9:00 am and 5:00 pm Eastern Time Monday-Friday or in writing at 500 Summit Lake Drive Suite 400 Valhalla, NY 10595-1340.

IN MINNESOTA: THIS COLLECTION AGENCY IS LICENSED BY THE MINNESOTA DEPARTMENT OF COMMERCE.

In New York City: This collection agency is licensed by the New York City Department of Consumer Affairs. The license numbers are 1143718, 1126502, 1126497, and 1126494.

In Tennessee: This collection agency is licensed by the Collection Service Board, State Department of Commerce and Insurance.

In Utah: As required by Utah law, you are hereby notified that a negative credit report reflecting on your credit record may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit obligations.

In North Carolina: This collection agency is licensed by the North Carolina Department of Insurance. The license numbers are 3824, 3910, 3911, and 3912. Its true name is Cavalry Portfolio Services, LLC. Its true addresses are: (a) 4050 Cotton Center Boulevard, Building 2, Suite 20, Phoenix, Arizona 85040; (b) 500 Summit Lake Drive Suite 400 Valhalla, NY 10595-1340; (c) 4500 South 129th East Ave, Suite 165, Tulsa, Oklahoma 74134; and (d) 1611 County Rd B W, Suite 306, Roseville, MN 55113.

For account questions, comments, or general customer service, you may contact us at (866) 434-2995 Monday through Thursday 9am to 9pm Eastern Time, Friday 9am to 5pm Eastern Time, Saturday 9am to 1pm Eastern Time, or you may write us at 500 Summit Lake Drive Suite 400 Valhalla, NY 10595-1340.

By sending your check, please be aware that you are authorizing Cavalry Portfolio Services, LLC to use information on your check to make a one-time electronic debit from your account at the financial institution indicated on your check.



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Valhalla, NY 10595

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www.cavps.com



March 13, 2017

RE: Original Institution: GE Retail Bank/Lowe's
Original Account No.: XXXXXXXXXXXXXXX1606
Cavalry Account No.: [REDACTED] 1014
Outstanding Balance: \$3030.20



Michael Kasten
140 New Jersey Ave
Bellport, NY 11713-2136



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Cavalry is offering a **55%** discount to you. That's right, you can resolve your account by simply choosing one of the following payment options listed below:

1 payment of
\$1363.59

9 monthly payments of
\$151.51

18 monthly payments of
\$75.75

This offer expires 04/12/2017.
Please note we are not obligated to renew this offer.

Please feel free to visit our website at www.cavps.com or call us at **(866) 483-5139** to discuss this or other payment options available at Cavalry.

Sincerely,

Christine Acosta

Cavalry Portfolio Services, LLC

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PAYMENT COUPON

Please detach and return this portion with the payment to the address below.
Make Checks and Money Orders Payable to

Michael Kasten
140 New Jersey Ave
Bellport, NY 11713-2136



Cavalry Portfolio Services, LLC.

If you would like to make a payment via our secure website, please visit us at www.cavps.com



Cavalry Portfolio Services, LLC

PO Box 27288
Tempe, AZ 85285-7288

Original Institution: GE Retail Bank/Lowe's
Original Account No.: XXXXXXXXXXXX1606
Cavalry Account No.: [REDACTED]1014
Outstanding Balance: \$3030.20

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

UNITED STATES DISTRICT COURT
for the
EASTERN DISTRICT OF NEW YORK

Joanne Rabuffo and Michael Kasten, individually and on behalf of all others similarly situated)	
<i>Plaintiff(s)</i>)	
v.)	Civil Action No.
Cavalry Portfolio Services, LLC)	
<i>Defendant(s)</i>)	

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*
Cavalry Portfolio Services, LLC
CT CORPORATION SYSTEM
111 EIGHTH AVENUE
NEW YORK, NEW YORK, 10011

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: JOANNE RABUFFO
(b) County of Residence of First Listed Plaintiff: NASSAU
(c) Attorneys: BARSHAY SANDERS, PLLC
DEFENDANTS: CAVALRY PORTFOLIO SERVICES, LLC
County of Residence of First Listed Defendant: WESTCHESTER

II. BASIS OF JURISDICTION
III. CITIZENSHIP OF PRINCIPAL PARTIES
Grid with categories: U.S. Government Plaintiff/Defendant, Federal Question, Diversity, Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF, DEF, Incorporated or Principal Place of Business, Foreign Nation.

IV. NATURE OF SUIT
Grid with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN
Grid with categories: 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 - Transfer, 8 Multidistrict Litigation - Direct File.

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing: 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 No

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

DATE: March 15, 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: NASSAU

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: [Cavalry Portfolio Services Named in FDCPA Suit Filed by Two New York Consumers](#)
