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13 **UNITED STATES DISTRICT COURT**
 14 **CENTRAL DISTRICT OF CALIFORNIA**

| | | |
|---|---|---------------------------------------|
| |) | Case No. |
| PATRICIA RAPPLEY, individually) |) | |
| and on behalf of all others similarly) |) | Class Action Complaint For |
| situated, |) | Violations Of: |
| |) | |
| Plaintiffs, |) | 1. The Fair Debt Collection |
| |) | Practices Act, 15 U.S.C. |
| vs. |) | §§1692, et seq.; and |
| |) | |
| PORTFOLIO RECOVERY |) | 2. The Rosenthal Fair Debt |
| ASSOCIATES, LLC, and DOES 1- |) | Collection Practices Act, Cal. |
| 10, inclusive, |) | Civ. Code §§1788, et seq. |
| |) | |
| Defendant(s). |) | 3. The California Business and |
| |) | Professions Code §17200 |
| |) | |
| |) | <u>Jury Trial Demanded</u> |
| |) | |

Introduction and Factual Allegations

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3 1. This case arises as a result of false, deceptive and unfair debt-collection
4 practices promulgated nationwide by Defendant, Portfolio Recovery Associates,
5 LLC (“PRA”), in an effort to unlawfully collect on debts allegedly held against
6 consumers.

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8 2. In particular, Plaintiff, Patricia Rappley (“Rappley”), alleges that within the
9 year preceding the filing of this Complaint, PRS attempted to collect debts from
10 her and other consumers and debtors by unlawfully filing claims to enforce and
11 collect on debts in California, when the assignment of the debt on which it was
12 attempting to collect was/is invalid, and the purported assignor(s) were not
13 registered to do business in the state of California.

14
15 3. Plaintiff alleges, specifically, that Defendants files a lawsuit in January
16 2016, to collect an alleged debt owed by Plaintiff to assignor General Electric
17 Capital, Inc.

18
19 4. Defendant purported to be a valid assignee of the debt, and sought to
20 collect against Plaintiff through legal action on the basis of the purported legal
21 assignment of the debt.

22
23 5. However, Defendant unlawfully concealed that it was not a valid assignee
24 of the debt. General Electric Capital, Inc. was not authorized to conduct business
25 in the State of California at the time of the purported assignment and at the time
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1 of Defendant’s collection action against Plaintiff, thus making Defendant’s
2 attempt to collect on a debt that it was not lawfully assigned an unlawful
3 collection effort under the law.
4

5 6. Such conduct is inherently deceptive and misleads the least-sophisticated
6 Consumer. Defendant’s acts and omissions were intentional, and resulted from
7 Defendant’s desire to mislead debtors and consumers into making payments, on
8 debts that Defendant was not lawfully entitled to collect on.
9
10

11 7. Thus, Plaintiff brings class action claims against Defendant, under the
12 Federal Fair Debt Collection Practices Act (“FDCPA”) and the Rosenthal Fair
13 Debt Collection Practices Act (“RFDCPA”), both of which were enacted to
14 “eliminate abusive debt collection practices by debt collectors,” and to “prohibit
15 debt collectors from engaging in unfair or deceptive acts or practices in the
16 collection of consumer debts.” 15 U.S.C. 1692(e); *Cal. Civ. Code* §1788.1(b).
17
18

19 **Jurisdiction and Venue**
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21 8. The Court has jurisdiction over Plaintiff’s FDCPA cause of action pursuant
22 to 28 U.S.C. §1331, and supplemental jurisdiction over Plaintiff’s RFDCPA
23 claim pursuant to 28 U.S.C. §1367.
24

25 9. Venue is proper in the Central District of California pursuant to 18 U.S.C.
26
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28

1 § 1391(b) because Defendant does business within the Central District of
2 California, and because Plaintiff is a resident of San Bernardino, California,
3 which is within the Central District of California.
4

5 **The Parties**

6
7 10. Plaintiff is a natural person residing in San Bernardino County, State of
8 California who is obligated or allegedly obligated to pay any debt, and from
9 whom a debt collector seeks to collect a consumer debt which is due and owing or
10 alleged to be due and owing, thereby rendering her a “consumer,” under the
11 FDCPA, 15 U.S.C. §1692a(3), and a “debtor” under the RFDCPA, *Cal. Civ.*
12 *Code* §§1788.2(h).
13
14

15 11. Defendant is a company that uses any instrumentality of interstate
16 commerce or the mails in its business, the principal purpose of which is the
17 collection of any debts; it also regularly collects or attempts to collect, directly or
18 indirectly, debts owed or due or asserted to be owed or due another. Thus,
19 Defendant is a “debt collector,” under the FDCPA, 15 U.S.C. §1692(a)6.
20 Defendant, in the ordinary course of business, regularly, on behalf of itself or
21 others, engages in debt collection, thereby qualifying it as a “debt collector,”
22 under the RFDCPA, *Cal. Civ. Code* §1788.2(c).
23
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1 12. The debts Defendant attempted to collect from Plaintiff and the putative
2 class members qualify as “debt(s),” under the FDCPA, 5 U.S.C. §1692a(5), and
3 as “consumer debt(s),” under the RFDCPA, *Cal. Civ. Code* §1788.2(f).
4

5 **Class Allegations**

6
7 13. Plaintiff brings this class action on behalf of himself and all others
8 similarly situated (“the Class”).
9

10 14. Plaintiff represents, and is a member of the following classes:

- 11 a. All persons residing in the United States, who, within the one (1)
12 year preceding the filing of this Complaint, Defendant filed an action
13 in California Superior Court to collect upon an alleged debt which it
14 was not lawfully assigned to collect on;
- 15
16 b. All persons residing in the United States, who, within the one (1)
17 year preceding the filing of this Complaint, received collection
18 correspondence from Defendant attempting to collect a debt which
19 Defendant was not lawfully assigned to, and thus did not have the
20 ability to lawfully collect on;
- 21
22 c. All persons residing in the United States, who, within the one (1)
23 year preceding the filing of this Complaint, received collection
24 correspondence from Defendant that failed to disclose that
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1 Defendant did not have the lawful right to collect on the debt it was
2 attempting to collect on;
3

4 15. As a result of Defendant’s conduct, Plaintiff and members of the putative
5 class have been deprived of accurate and valid information regarding the legal
6 status of the debts that Defendant was attempting to collect on. Defendant misled
7 Plaintiff and the Class into believing that they had to make payments towards
8 these debts to Defendant, which Defendant had no lawful right to collect on. They
9 have also been misled, through the unlawful filing of a collection action, that
10 Defendant had the lawful right to collect to enforce this debt.
11
12

13
14 16. Defendant and its employees or agents are excluded from the Class.
15 Plaintiff does not know the number of members in the Class, but believes the
16 Class members number to be in the tens of thousands, if not more. Thus, this
17 matter should be certified as a Class action to assist in the expeditious litigation of
18 this matter.
19
20

21 17. This lawsuit seeks statutory damages, actual damages, and injunctive relief
22 for recovery of economic injury on behalf of the Class and is not intended to
23 request any recovery for personal injury and claims related thereto. Plaintiff
24 reserves the right to expand the Class definition to seek recovery on behalf of
25 additional persons as warranted as facts are learned in further investigation and
26 discovery.
27
28

1 18. The joinder of the Class members is impractical and the disposition of their
2 claims in the Class action will provide substantial benefits both to the parties and
3 to the court. The Class can be identified through Plaintiff’s records or Plaintiff’s
4 agents’ records.
5

6 19. There is a well-defined community of interest in the questions of law and
7 fact involved affecting the parties to be represented. The questions of law and
8 fact to the Class predominate over questions which may affect individual Class
9 members, including the following:
10
11

- 12 a. Whether, within the one (1) year preceding the filing of this
13 Complaint, Defendant attempted to collect on debts which Defendant
14 had not been lawfully assigned, and thus, that Defendant had no
15 legal standing to collect said debts;
16
- 17 b. Whether Plaintiff and the Class members were damaged thereby, and
18 the extent of damages for such violation; and
19
- 20 c. Whether Defendant should be enjoined from engaging in such
21 conduct in the future.
22

23 20. As a person that was subject to the unlawful collection efforts of Defendant,
24 Plaintiff is asserting claims that are typical of the Class. Plaintiff will fairly and
25 adequately represent and protect the interests of the Class in that Plaintiff has no
26 interests antagonistic to any member of the Class.
27
28

1 21. Plaintiff and the members of the Class have all suffered irreparable harm as
 2 a result of the Defendant’s unlawful and wrongful conduct. Absent a class action,
 3 the Class will continue to face the potential for irreparable harm. In addition,
 4 these violations of law will be allowed to proceed without remedy and Defendant
 5 will likely continue such illegal conduct, resulting in numerous debtors and
 6 consumers unknowingly believing that Defendant has any legal right to collect
 7 the debt they are seeking to collect on. Because of the size of the individual Class
 8 member’s claims, few, if any, Class members could afford to seek legal redress
 9 for the wrongs complained of herein.
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 14 22. Plaintiff has retained counsel experienced in handling class action claims
 15 and claims involving violations of the FDCPA and RFDCPA.
 16

17 23. A class action is a superior method for the fair and efficient adjudication of
 18 this controversy. Class-wide damages are essential to induce Plaintiff to comply
 19 with federal and California law. The interest of Class members in individually
 20 controlling the prosecution of separate claims against Defendant is small because
 21 the maximum statutory damages in an individual action under the FDCPA and/or
 22 RFDCPA are minimal. Management of these claims is likely to present
 23 significantly fewer difficulties than those presented in many class claims.
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1 24. Defendant has acted on grounds generally applicable to the Class, thereby
2 making appropriate final injunctive relief and corresponding declaratory relief
3 with respect to the Class as a whole.
4

5 **First Cause of Action: Violation of the Fair Debt Collection Practices Act**
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7 25. Plaintiff incorporates by reference, the preceding paragraphs of this
8 Complaint.
9

10 26. A debt collector may not falsely represent the character, amount or legal
11 status of any debt in connection with the collection of any debt. *15 U.S.C.*
12 *§1692e(2)(A)*. By engaging in the above detailed conduct, Defendant violated this
13 provision of the FDCPA.
14

15 27. A debt collector may not threaten to take any action that cannot legally be
16 taken or that is not intended to be taken, in connection with the collection of any
17 debt. *15 U.S.C. §1692e(5)*. By engaging in the above detailed conduct, Defendant
18 violated this provision of the FDCPA.
19

20 28. A debt collector may not use false representations or deceptive means, in
21 connection with the collection of any debt. *15 U.S.C. §1692e(10)*. By engaging in
22 the above detailed conduct, Defendant violated this provision of the FDCPA.
23

24 29. A debt collector may not use unfair or unconscionable means, in
25 connection with the collection of any debt. *15 U.S.C. §1692f*. By engaging in the
26 above detailed conduct, Defendant violated this provision of the FDCPA.
27
28

1 30. As a direct proximate result of Defendant's conduct, Plaintiff and the Class
2 have suffered actual damages and other harm, thereby entitling them to seek
3 statutory damages in the amount of \$1,000.00 each, in addition to reasonably
4 incurred attorney's fees and costs. 15 U.S.C. §1692k(a)(1)-(3)
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6

7 **Second Cause of Action: Violation of the**
8 **Rosenthal Fair Debt Collection Practices Act**

9 31. Plaintiff incorporates by reference, the preceding paragraphs of this
10 Complaint.
11

12 32. Pursuant to §1788.17 of the RFDCPA: "[n]otwithstanding any other
13 provision of this title, every debt collector collecting or attempting to collect a
14 consumer debt shall comply with the provisions of Sections 1692b to 1692j,
15 inclusive, of, and shall be subject to the remedies in Section 1692k of, Title 15 of
16 the United States Code. However, subsection (11) of Section 1692e and Section
17 1692g shall not apply to any person specified in paragraphs (A) and (B) of
18 subsection (6) of Section 1692a of Title 15 of the United States Code or that
19 person's principal. The references to federal codes in this section refer to those
20 codes as they read January 1, 2001." *Cal. Civ. Code* §1788.17
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22
23

24 33. Thus by engaging in conduct prohibited by Sections e(2)(A), e(5), e(10)
25 and f of the FDCPA, Defendant violated the RFDCPA.
26

27 34. As a direct proximate result of Defendant's conduct, Plaintiff and the Class
28

1 have suffered actual damages and other harm, thereby entitling them to seek
2 statutory damages in the amount of \$1,000.00 each, actual damages and
3 reasonably incurred attorney's fees and costs. *Cal. Civ. Code* §1788.30.
4

5 **THIRD CAUSE OF ACTION**

6 **Violation of Unfair Business Practices Act**

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8 35. Plaintiff incorporates by reference each allegation set forth above.

9
10 36. Actions for relief under the unfair competition law may be based on any
11 business act or practice that is within the broad definition of the UCL. Such
12 violations of the UCL occur as a result of unlawful, unfair or fraudulent business
13 acts and practices. A plaintiff is required to provide evidence of a causal
14 connection between a defendant's business practices and the alleged harm--that is,
15 evidence that the defendant's conduct caused or was likely to cause substantial
16 injury. It is insufficient for a plaintiff to show merely that the defendant's conduct
17 created a risk of harm. Furthermore, the "act or practice" aspect of the statutory
18 definition of unfair competition covers any single act of misconduct, as well as
19 ongoing misconduct.
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23

24 **UNFAIR**

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26 37. California Business & Professions Code § 17200 prohibits any "unfair
27 ...business act or practice." Defendant's acts, omissions, misrepresentations,
28 and practices as alleged herein also constitute "unfair" business acts and

1 practices within the meaning of the UCL in that its conduct is substantially
2 injurious to consumers, offends public policy, and is immoral, unethical,
3 oppressive, and unscrupulous as the gravity of the conduct outweighs any
4 alleged benefits attributable to such conduct. There were reasonably available
5 alternatives to further Defendant's legitimate business interests, other than the
6 conduct described herein. Plaintiff reserves the right to allege further conduct
7 which constitutes other unfair business acts or practices. Such conduct is
8 ongoing and continues to this date. Here, Defendant's conduct has caused and
9 continues to cause substantial injury to Plaintiff and members of the Class.
10 Plaintiff and members of the Class have suffered injury in fact due to
11 Defendant's unlawful attempts to collect on a debt they were not lawfully able
12 to collect on. Thus, Defendant's conduct has caused substantial injury to
13 Plaintiff and the members of the Sub-Class.

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38. Moreover, Defendant's conduct as alleged herein solely benefits Defendant while providing no benefit of any kind to any consumer.

39. Finally, the injury suffered by Plaintiff and members of the Class is not an injury that these consumers could reasonably have avoided. After Defendant brought suit against Plaintiff to collect on a debt they had no lawful interest in, these consumers suffered injury in fact. Defendant failed to take reasonable steps to inform Plaintiff and class members that they had no legal authority to collect

1 on the debts. Thus, Defendant’s conduct has violated the “unfair” prong of
2 California Business & Professions Code § 17200.
3

4 **FRAUDULENT**

5 40. California Business & Professions Code § 17200 prohibits any “fraudulent
6 ... business act or practice.” In order to prevail under the “fraudulent” prong of
7 the UCL, a consumer must allege that the fraudulent business practice was likely
8 to deceive members of the public.

9 41. The test for “fraud” as contemplated by California Business and
10 Professions Code § 17200 is whether the public is likely to be deceived. Unlike
11 common law fraud, a § 17200 violation can be established even if no one was
12 actually deceived, relied upon the fraudulent practice, or sustained any damage.

13 42. Here, consumers, including Plaintiff and the Class Members, are likely to
14 be deceived, by Defendant who is filing collections cases against Plaintiff and
15 Class Members in a court of law, purporting to have legal authority to collect on
16 a debt. For the same reason, it is likely that Defendant’s fraudulent business
17 practice would deceive other members of the public.

18 43. Thus, Defendant’s conduct has violated the “fraudulent” prong of
19 California Business & Professions Code § 17200.
20

21 **UNLAWFUL**

22 44. California Business and Professions Code Section 17200, et seq. prohibits “
23 any unlawful...business act or practice.”

24 45. As explained above, Defendant deceived Plaintiff and other Class Members
25 by representing that they had the legal authority to collect on debts that they had
26 not been lawfully assigned.

27 46. Defendant’s conduct therefore caused and continues to cause harm to
28 Plaintiff and Class Members.

47. These representations by Defendant are therefore an “unlawful” business

1 practice or act under Business and Professions Code Section 17200 *et seq.*
2 48. Defendant has thus engaged in unlawful, unfair, and fraudulent business
3 acts entitling Plaintiff and Class Members to judgment and equitable relief
4 against Defendant, as set forth in the Prayer for Relief. Additionally, pursuant to
5 Business and Professions Code section 17203, Plaintiff and Class Members seek
6 an order requiring Defendant to immediately cease such acts of unlawful, unfair,
7 and fraudulent business practices and requiring Defendant to correct its actions.

8 **PRAYER FOR RELIEF**

9 Plaintiff, on behalf of himself and the Class, requests the following relief:

- 10 (a) An order certifying the Class and appointing Plaintiff as
11 Representative of the Class;
- 12 (b) An order certifying the undersigned counsel as Class Counsel;
- 13 (c) An order requiring Defendant, at its own cost, to notify all
14 Class Members of the unlawful and deceptive conduct herein;
- 15 (d) An order requiring Defendant to engage in corrective action
16 regarding the conduct discussed above;
- 17 (e) Actual damages suffered by Plaintiff and Class Members as
18 applicable or full restitution of all funds acquired from
19 Plaintiff and Class Members from the charging higher interest
20 during the relevant class period;
- 21 (f) Punitive damages, as allowable, in an amount determined by
22 the Court or jury;
- 23 (g) Any and all statutory enhanced damages;
- 24 (h) All reasonable and necessary attorneys' fees and costs
25 provided by statute, common law or the Court's inherent
26 power;
- 27 (i) Pre- and post-judgment interest; and
28

1 (j) All other relief, general or special, legal and equitable, to
2 which Plaintiff and Class Members may be justly entitled as
3 deemed by the Court.
4

5 **Trial by Jury**

6 Pursuant to the seventh amendment to the Constitution of the United States
7 of America, Plaintiff is entitled to, hereby does demand a jury trial.
8

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10 Dated: January 20, 2017
11

12
13 By: /s/Todd M. Friedman
14 Todd M. Friedman, Esq.
15 **LAW OFFICES OF TODD M. FRIEDMAN, P.C.**
Attorneys for Plaintiff
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ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Portfolio Recovery Associates Hit with Lawsuit over Collection Practices](#)
