

**BARSHAY SANDERS, PLLC**  
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*Attorneys for Plaintiff*  
Our File No.: 114760

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

Olessia Razilova, individually and on behalf of all those  
similarly situated,

Plaintiff,

vs.

Horing Welikson & Rosen, P.C.,

Defendant.

Docket No:

**CLASS ACTION COMPLAINT**

**JURY TRIAL DEMANDED**

Olessia Razilova, individually and on behalf of all those similarly situated (hereinafter referred to as “*Plaintiff*”), by and through the undersigned counsel, complains, states and alleges against Horing Welikson & Rosen, P.C. (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 Olessia Razilova is an individual who is a citizen of the State of New York residing in Kings County, New York.

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

7. On information and belief, Defendant Horing Welikson & Rosen, P.C., is a New York Professional Corporation with a principal place of business in Nassau County, New York.

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

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

**ALLEGATIONS**

10. Defendant alleges Plaintiff owes a debt (“the Debt”).

11. The Debt was primarily for household rent and is therefore a “debt” as defined by 15 U.S.C. § 1692a(5).

12. Plaintiff fell behind on rent payments owed.

13. Thereafter, at an exact time known only to Defendant, the Debt was assigned or otherwise transferred to Defendant for collection.

14. In its efforts to collect the Debt, Defendant contacted Plaintiff by letter (“the Letter”) dated December 8, 2017. (“**Exhibit 1.**”)

15. The Letter was the initial communication Plaintiff received from Defendant.

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

**FIRST COUNT**

**Violation of 15 U.S.C. § 1692g(b)**

17. Plaintiff repeats and realleges the foregoing paragraphs as if fully restated herein.

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

19. The written notice must contain the amount of the debt.

20. The written notice must contain the name of the creditor to whom the debt is

owed.

21. The written notice must contain a statement that unless the consumer, within thirty days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector.

22. The written notice must contain a statement that if the consumer notifies the debt collector in writing within the thirty-day period that the debt, or any portion thereof, is disputed, the debt collector will obtain verification of the debt or a copy of a judgment against the consumer and a copy of such verification or judgment will be mailed to the consumer by the debt collector.

23. The written notice must contain a statement that, upon the consumer's written request within the thirty-day period, the debt collector will provide the consumer with the name and address of the original creditor, if different from the current creditor.

24. A debt collector has the obligation, not just to convey the required information, but also to convey such clearly.

25. Even if a debt collector conveys the required information accurately, the debt collector nonetheless violates the FDCPA if that information is overshadowed or contradicted by other language in the communication.

26. Even if a debt collector conveys the required information accurately, the debt collector nonetheless violates the FDCPA if that information is overshadowed by other collection activities during the 30-day validation period following the communication.

27. 15 U.S.C. § 1692g(b) provides that any collection activities and communication during the 30-day period may not overshadow or be inconsistent with the disclosure of the consumer's right to dispute the debt or request the name and address of the original creditor.

28. A collection activity or communication overshadows or contradicts the validation notice if it would make the "least sophisticated consumer" uncertain or confused as to her rights.

29. Demanding immediate payment without explaining that such demand does not override the consumer's right to dispute the debt or demand validation of the debt is a violation of the FDCPA.

30. Demanding immediate payment without providing transitional language explaining that such demand does not override the consumer's right to dispute the debt or demand validation of the debt is a violation of the FDCPA.

31. The Letter provides the required 15 U.S.C. § 1692g notice.

32. However, included with the Letter was a demand that payment be made within three (3) days.

33. The Letter fails to explain that the demand for payment within three (3) days does not override the Plaintiffs' rights to dispute the debt.

34. The Letter fails to explain that the demand for payment within three (3) days does not override the Plaintiffs' rights to request verification of the debt.

35. The Letter would likely make the least sophisticated consumer uncertain as to her rights.

36. The Letter would likely make the least sophisticated consumer confused as to her rights.

37. The Letter would likely discourage the least sophisticated consumer from exercising her right to dispute the debt.

38. The Letter would likely discourage the least sophisticated consumer from exercising her right to request validation of the debt.

39. The Letter would likely discourage the least sophisticated consumer from exercising her right to dispute the debt for fear of further collection action, including being sued.

40. The Letter would likely discourage the least sophisticated consumer from exercising her right to request validation of the debt for fear of further collection action, including being sued.

41. Defendant violated § 1692g(b) as Defendant overshadowed the information required to be provided by that Section.

**SECOND COUNT**  
**Violation of 15 U.S.C. § 1692e**

42. Plaintiff repeats and realleges the foregoing paragraphs as if fully restated herein.

43. 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.

44. While Section 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.

45. 15 U.S.C. § 1692e(2)(A) prohibits the false representation of the character, amount, or legal status of any debt.

46. 15 U.S.C. § 1692e(5) prohibits the threat to take any action that cannot legally be taken or that is not intended to be taken.

47. 15 U.S.C. § 1692e(10) prohibits the use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer.

48. The Letter indicates such is from a law firm.

49. The Letter states, “As of this date no attorney with the above named law firm has personally reviewed the particular circumstances of the account that is addressed by this communication.”

50. Despite this disclaimer, the Letter contains threats of legal action.

51. Despite this disclaimer, the Letter contains information about a potential lawsuit against Plaintiff.

52. Despite this disclaimer, the Letter contains explicit threats of legal action against Plaintiff.

53. Despite this disclaimer, the Letter contains implicit threats of legal action against Plaintiff.

54. The aforementioned statements are false representations of the character, amount, or legal status of any debt.

55. The aforementioned statements violate 15 U.S.C. § 1692e(2)(A).

56. The aforementioned statements are threats to take any action that cannot legally be taken or that is not intended to be taken.

57. The aforementioned statements violate 15 U.S.C. § 1692e(5).

58. The aforementioned statements are false representations to collect or attempt to collect any debt or to obtain information concerning a consumer.

59. The aforementioned statements are deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer.

60. The aforementioned statements violate 15 U.S.C. § 1692e(10).

61. The aforementioned statements violate 15 U.S.C. § 1692e.

### **CLASS ALLEGATIONS**

62. Plaintiff brings this action individually and as a class action on behalf of all persons similarly situated in the State of New York from whom Defendant attempted to collect a consumer debt using a collection letter that includes the same language complained of above, from one year before the date of this Complaint to the present.

63. 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.

64. Defendant regularly engages in debt collection.

65. The Class consists of more than 35 persons from whom Defendant attempted to collect delinquent consumer debts using a collection letter that includes the same language complained of above.

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

67. 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.

68. Plaintiff will fairly and adequately protect and represent the interests of the Class. The management of the class action proposed is not extraordinarily difficult, and the factual and legal issues raised by this class action complaint will not require extended contact with the members of the Class, because Defendant's conduct was perpetrated on all members of the Class and will be established by common proof. Moreover, Plaintiff has retained counsel experienced in actions brought under consumer protection laws.

### **JURY DEMAND**

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

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff respectfully requests judgment as follows:

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

DATED: May 1, 2018

**BARSHAY SANDERS, PLLC**

By: /s/ Craig B. Sanders  
Craig B. Sanders, Esq.  
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Garden City, New York 11530  
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Fax: (516) 706-5055  
csanders@barshaysanders.com  
*Attorneys for Plaintiff*  
Our File No.: 114760

**THIRTY DAY NOTICE**

**FROM:**

HORING WELIKSON & ROSEN, P.C.  
11 HILLSIDE AVENUE  
WILLISTON PARK, NY 11596  
Tel. (516) 535-1799

**TO: OLESSIA RAZILOVA**

12/08/2017

**TAKE NOTICE** that the above named firm, Horing Welikson & Rosen, P.C., has been retained to attempt to collect a debt consisting of rent arrears allegedly owed to 1270 REALTY CO. LLC (who is referred to elsewhere in this notice as "Creditor") totaling \$2103.92, and that any information obtained will be used for that purpose.

As of this date no attorney with the above named law firm has personally reviewed the particular circumstances of the account that is addressed by this communication.

The above named creditor claims that you owe rent arrears as specified in this notice. Unless you, within thirty (30) days after receipt of this notice, dispute the validity of the debt, or any portion thereof, the debt will be assumed to be valid by us. If you notify us, in writing, within the thirty-day period that the debt, or any portion thereof, is disputed, we will obtain verification of the debt and a copy of such verification will be mailed to you by us. Upon your written request made within thirty (30) days of the receipt of this notice, we will provide you with the name and address of the original creditor, if different from the current creditor.

This advice pertains to your dealings with the above mentioned law firm as a debt collector. This opportunity to dispute the debt is separate from any response that you are required to make or any action you are required to take with respect to any other legal notices you receive. Please respond to any legal notices you may receive within the time frames set forth in those notices. This Notice does not affect your dealings with the Court, and in particular it does not change the time in which you must answer a Nonpayment Notice of Petition and Petition, which is a command from the court, not from this office, and you must follow its instructions even if you dispute the validity or amount of the debt. The advice in this letter also does not affect the above law firm's relations with the Court. As lawyers, we may file papers in the suit according to the Court's rules and the judge's instructions.

OLESSIA RAZILOVA  
1270 EAST 19 ST., APT: 1H  
BROOKLYN, NY 11230

9245 - 1270 - 1H File No. [REDACTED] 0318



**THREE DAY NOTICE**

TO: **OLESSIA RAZILOVA**  
  
**1270 EAST 19 ST.**  
**APT. 1H**  
**BROOKLYN, NY 11230**

December 8, 2017  
  
File No. [REDACTED] 0318  
9245 -1270-1H

**TENANT(S) OF THE ABOVE PREMISES:**

**PLEASE TAKE NOTICE** that you are justly indebted to the Landlord of the above described premises in the sum of


**Two Thousand One Hundred Three and 92/100 Dollars**  
**(\$2,103.92)**

for rent of said premises from October 01, 2017 to December 31, 2017 \*, which you are required to pay on or before the expiration of three (3) days from the date of service of this Notice, or surrender up the possession of said Premises to the Landlord, in default of which the Landlord will commence summary proceedings under the statute to recover the possession thereof.

Dec 17      \$1,051.17  
Nov 17      \$1,051.17  
Oct 17      \$1.58

1270 REALTY CO. LLC

**LANDLORD**

BY: 

**CARLO DIMAGGIO - MEMBER**  
**P O BOX 392**  
**GLEN COVE, NY 11542**

PLEASE NOTE: All responses and inquiries with respect to this Notice should be made directly to your landlord

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

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

Olessia Razilova, individually and on behalf of all those similarly situated	)	
_____	)	
<i>Plaintiff(s)</i>	)	
	)	Civil Action No.
v.	)	
	)	
Horing Welikson & Rosen, P.C.	)	
_____	)	
<i>Defendant(s)</i>	)	

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*  
Horing Welikson & Rosen, P.C.  
11 Hillside Avenue  
Williston Park, New York 11596

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 OLESSIA RAZILOVA
DEFENDANTS HORING WELIKSON & ROSEN, P.C.
(b) County of Residence of First Listed Plaintiff KINGS
(c) Attorneys (Firm Name, Address, and Telephone Number) BARSHAY SANDERS, PLLC

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

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

V. ORIGIN (Place an "X" in One Box Only)
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 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 May 2, 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? 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
c) If this is a Fair Debt Collection Practice Act case, specific the County in which the offending communication was received: KINGS

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: [Horing Welikson & Rosen Hit with Class Action Alleging FDCPA Infraction](#)

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