

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
ATLANTA DIVISION

JASHUAN RUSHING pleading on his)	
own behalf and on behalf of all other)	
similarly situated consumers,)	Case No.:
)	
Plaintiff,)	
)	
vs.)	
)	CLASS ACTION COMPLAINT
THE DILLON LAW FIRM, PC,)	
)	
Defendant.)	
)	
_____)	

Plaintiff, JASHUAN RUSHING, (hereinafter “Plaintiff”), on behalf of himself and all other similarly situated consumers, by and through undersigned counsel, hereby alleges against THE DILLON LAW FIRM, PC (hereinafter “DILLON”) as follows:

INTRODUCTION

1. Plaintiff brings this class action against Defendant for using false, deceptive and misleading representations in connection with the collection of a debt, in violation of the Fair Debt Collection Practices Act, 15 U.S.C. §1692 *et seq.* (“FDCPA”).

JURISDICTION AND VENUE

2. Plaintiff brings this action under the FDCPA, a federal statute, thereby invoking jurisdiction pursuant to 28 U.S.C. §1331.

3. Venue is proper in this District under 28 U.S.C. 1391(b) because Defendant's improper conduct alleged in this complaint occurred in, was directed from, and/or emanated from this judicial district and/or because the Defendant is subject to personal jurisdiction in this district.

PARTIES

4. Plaintiff is a natural person, who at all relevant times has resided in Albany, Georgia, and is a “consumer” as the phrase is defined under 15 U.S.C. §1692(a) of the FDCPA.

5. Defendant Dillon is a professional corporation doing business in Georgia with its principal place of business located at 2346 Wisteria Drive, Suite 220, Snellville, GA 30078.

6. Defendant is a “debt collector” as the phrase is defined under 15 U.S.C. §1692(a) of the FDCPA.

ALLEGATIONS APPLICABLE TO ALL COUNTS

7. Plaintiff is a natural person, obligated, or allegedly obligated to pay a debt owed or due, or asserted to be owed or due, a creditor other than Defendant.

8. Defendant is a law firm with attorneys licensed in Georgia. It regularly engages in debt collection activity, collecting unpaid retail and commercial receivables.
9. Plaintiff's obligation, or alleged obligation, arose from a bill owed for a car payment, a debt incurred for personal, family, or household purposes.
10. In the attempt to collect said debt, Defendant mailed a dunning letter to Plaintiff on February 1, 2017, attached as Exhibit A.
11. Defendant Dillon's dunning letter was prominently displayed on attorney letterhead. The letterhead lists the firm name at the top, identifies the firm as "Attorneys At Law," and lists each of the attorneys associated with the firm and where they are licensed.
12. There is mainly one reason to send a collection letter directly on an attorney's letterhead: to "strike fear in the heart of the consumer" since an attorney "is better positioned to get the debtor's knees knocking." *Leshner v. Law Offices of Mitchell N. Kay, PC*, 650 F.3d 993, 1000 (3d Cir. 2011).
13. As if the intimidating letterhead was not sufficient to get Plaintiff's "knees knocking," Defendant wanted to drive the point home even further. The very first sentence of the letter states: "The DILLON LAW FIRM PC has been retained by the above creditor to collect the above outstanding past due indebtedness," and the

second sentence states that Defendant will seek attorney's fees, presumably after conducting legal work such as filing suit.

14. Defendant's letter hits the mark. It intimidates the debtor into believing that they are now being pursued by an aggressive law firm who will file suit immediately.

15. By beginning the letter with the term "has been retained" it clearly implies to the least sophisticated consumer that an attorney with the law firm has reviewed the file and believed there to be sufficient evidence to pursue litigation—lawyers are typically hired to file lawsuits. The least sophisticated consumer believes that lawyers do not typically accept a case without conducting an investigation and concluding that the case is ripe for litigation.

16. In fact, as is evident from the signature of letter, which does not bear a signature from any of the attorneys in the firm, this letter is a form letter and no attorney has actually reviewed the file. Further, given that this dunning letter relates "our file number" #16002048 (suggestive of the amount of files in Defendant's office), it is easily extrapolated that the firm's attorneys do not review every file, or even every letter, prior to sending its dunning letters.

17. Accordingly, by failing to indicate that there has been no material attorney involvement, the least sophisticated consumer is left believing that the

communication at issue was sent directly from an attorney that has reviewed his or her file and determined the case is ripe for litigation.

18. Defendant also makes a separate litigation threat by making it clear that attorney's fees will accrue if Plaintiff does not pay the debt. Upon reading this threat, not only does the least sophisticated consumer fear an imminent lawsuit, Defendant also instills the fear that his or her debt would be increased exponentially by the attorney's fees if not paid immediately.

19. By representing to Plaintiff that a suit may be initiated immediately and that an attorney has reviewed the case and found it ripe for litigation, Defendant has engaged in false and deceptive practices. Further, the threats and misrepresentations overshadow Plaintiff's right to validate the debt within the 30-day validation period provided in the letter.

20. In fact, as of the date of this filing— (5) months since receiving the letter— Defendant has not filed suit against Plaintiff which is indicative of another misrepresentation: Defendant never intended to pursue litigation despite its implied threat to do so.

21. Additionally, Defendant's dunning letter did not indicate or inform Plaintiff of any details about the interest being sought. The letter did not include the rate of interest or as of what date the payment would be considered satisfied in the event Plaintiff sent the total amount. In other words, if Defendant were to receive

Plaintiff's payment of \$13,908.09 on June 1, 2017, this amount would not satisfy the obligation because the interest would have increased the debt from that owed on June 1, 2017. Yet, Defendant failed to inform Plaintiff of this fact. Numerous courts around the country have adopted the *Miller* safe harbor language to prevent this violation from continuing to occur, but Defendant did not provide this safe harbor language within any of its letters. *See Miller v. McCalla, Raymer, Padrick, Cobb, Nichols, & Clark, L.L.C.*, 214 F.3d 872 (7th Cir. 2000).

22. Accordingly, Defendant's letter is false, deceptive, and misleading in violation of the FDCPA.

Plaintiff Has Suffered a Concrete and Particularized Injury

23. Congress codified the Fair Debt Collection Practices Act to provide specific protections to consumer debtors to prevent them from being subject to harassment as well as subject to false and misleading statements.

24. Plaintiff sustained a concrete and particularized injury by Defendant's placement of numerous false and misleading statements within its collection letter that violate Plaintiff's rights.

25. Plaintiff sustained a concrete and particularized injury by being misled by Defendant's representations that the debt was reviewed by counsel, the debt was imminently subject to litigation, overshadowing Plaintiff's validation rights and that

Defendant was entitled to and would potentially be seeking attorney's fees and unknown interest amounts in addition to the actual debt owed.

CLASS ACTION ALLEGATIONS

The Class

26. Pursuant to Rule 23 of the Federal Rules of Civil Procedure ("FRCP")

Plaintiff seeks certification of the class, initially defined as follows:

All consumers that have received similar collection letters from Defendant in the State of Georgia concerning consumer debts within one year prior to the filing of this complaint until the conclusion of this action.

27. Excluded from the Class is Defendant herein, and any person, firm, trust, corporation or other entity related to or affiliated with Defendant, including, without limitation, persons who are officers, directors, employees, associates or partners of Defendant.

Numerosity

28. Upon information and belief, Defendant has sent dunning letters to hundreds of consumers throughout the State of Georgia, each of which contains language that violates the FDCPA. The members of the Class, therefore, are believed to be so numerous that joinder of all members is impracticable.

29. The exact number and identities of the members of the Class are unknown at this time and can only be ascertained through discovery. Identification of the

members of the Class is a matter capable of ministerial determination from Defendant's records.

Common Questions of Law and Fact

30. There are questions of law and fact common to the class that predominates over any questions affecting only individual Class members. These common questions of law and fact include, without limitation: (i) whether Defendant violated various provisions of the FDCPA; (ii) whether Plaintiff and the Class have been injured by Defendant's conduct; (iii) whether Plaintiff and the Class have sustained damages and are entitled to restitution as a result of Defendant's wrongdoing and, if so, what is the proper measure and appropriate statutory formula to be applied in determining such damages and restitution; and (iv) whether Plaintiff and the Class are entitled to declaratory and/or injunctive relief.

Typicality

31. Plaintiff's claims are typical of the claims of the members of the Class, and Plaintiff has no interests adverse or antagonistic to the interests of other members of the Class.

Protecting the Interests of the Class Members

32. Plaintiff will fairly and adequately represent the Class members' interests in that Plaintiff's counsel is experienced and, further, anticipates no impediments in the pursuit and maintenance of the Class Action as sought herein.

Proceeding Via Class Action is Superior and Advisable

33. A class action is superior to other methods for the fair and efficient adjudication of the claims herein asserted.

34. The members of the Class are generally unsophisticated individuals, whose rights will not be vindicated in the absence of a Class Action.

35. Prosecution of separate actions by individual members of the Class would create the risk of inconsistent or varying adjudications resulting in the establishment of inconsistent or varying standards for the parties.

36. A Class Action will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the duplication of effort and expense that numerous individual actions would engender. Class treatment also will permit the adjudication of relatively small claims by many Class members who could not otherwise afford to seek legal redress for the wrongs complained of herein.

37. Absent a Class Action, the members of the Class will continue to suffer losses borne from Defendant's breaches of Class members' statutorily protected rights as well as monetary damages, thus allowing and enabling: (a) Defendant's conduct to proceed and; (b) Defendant to further enjoy the benefit of its ill-gotten gains.

38. Defendant has acted, and will act, on grounds generally applicable to the entire Class, thereby making appropriate a final injunctive relief or corresponding declaratory relief with respect to the Class as a whole.

COUNT I
VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT
15 U.S.C. §1692 et seq.

39. Plaintiff repeats, realleges and reasserts the allegations contained in the above paragraphs and incorporates them as if specifically set forth at length herein.

40. By the actions taken by Defendant as described above, Defendant has engaged in unfair and deceptive acts and practices, in violation of 15 U.S.C. §§1692e, 1692e(2),1692e(5), 1692e(10), 1692g, 1692f, and 1692f(1).

41. Section 1692e provides:

§ 1692e. False or misleading representations

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--

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

(B) any services rendered or compensation which may be lawfully received by any debt collector for the collection of a debt.

(5) The threat to take any action that cannot legally be taken or that is not intended to be taken.

(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...

42. Section 1692g provides:

§ 1692g. Validation of debts

(b) 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.

43. Section 1692f provides:

§ 1692f. Unfair practices

A debt collector may not use unfair or unconscionable means to collect or attempt to collect any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

(1) The collection of any amount (including interest, fee, charge, or expense incidental to the principal obligation) unless such amount is expressly authorized by the agreement creating the debt or permitted by law.

44. Plaintiff has been damaged and is entitled to relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, Jashuan Rushing, respectfully requests that this Court do the following for his benefit:

- a. Enter an order certifying the Class as defined above, appointing Plaintiff as Class Representative, and Jonathan Mason of Mason Law Group, P.C., as Class Counsel;
- b. Enter an injunctive order preventing Defendant from continuing to send the letters which violate the FDCPA;
- c. Enter a judgment against Defendant for statutory damages, attorney's fees and costs;
- d. Grant such other and further relief as may be just and proper.

JURY TRIAL DEMAND

Plaintiff demands a jury trial on all issues so triable.

Dated this 9th day of June, 2017

Respectfully Submitted,

/s/ Jonathan Mason

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FEBRUARY 1, 2017

VIA FIRST CLASS MAIL
JASHAUN RUSHING



RE: TD AUTO FINANCE LLC
vs: JASHAUN RUSHING
Our File No.: [REDACTED] 2048
Principal Amount: \$13,520.65
Interest to date: \$387.44
Attorney Fees: \$.00
Total: \$13,908.09

Dear JASHAUN RUSHING: THE DILLON LAW FIRM PC has been retained by the above creditor to collect the above outstanding past due indebtedness. Accordingly, demand is hereby made that the above amount (which does include allowable interest) be paid to this office.

Our client may also seek attorney's fees incurred in the collection of this debt plus future allowable interest. If you dispute this debt or any portion of this debt, please do so within 30 days after receipt of this letter, or we will consider the debt to be valid and due. If we are notified in writing, within the 30 day period, that the debt or any portion of the debt is disputed, we will obtain verification of the debt OR a copy of the judgment against you and provide you with a copy of such verification or judgment.

Furthermore, if you send a written request within the 30 day period, we will provide you with the name and address of the original creditor, if different from the current creditor. We reserve the right to pursue every legal remedy available to collect this debt during and after that time. Please note that this is an attempt to collect a debt and any information obtained, will be used for that purpose.

Send payment to our office referencing our file number. Please note we accept Visa, Master Card, and checks for payment. Please call to make payment arrangements and for details.

Sincerely,
THE DILLON LAW FIRM PC

TRACE DILLON or DWAYNE KINNEY



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

Jashuan Rushing

DEFENDANTS

The Dillon Law Firm, PC

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Gwinnett County

(IN U.S. PLAINTIFF CASES ONLY)

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

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

Jonathan B. Mason 1100 Peachtree St., NE Suite 200 Atlanta, GA 30060 jmason@atlshowbizlaw.com 404-920-8040

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)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, 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)

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Insurance, Personal Injury, Real Estate, etc.

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

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

Brief description of cause: Unfair debt collection

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 SIGNATURE OF ATTORNEY OF RECORD

06/09/2017 /s/ Jonathan B. Mason

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

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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: [The Dillon Law Firm Hit with Debt Collection Lawsuit](#)
