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Attorneys for Plaintiffs
Our File No.: 111587

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

Glen F. Schwaner and Lourdes B. Fischer, individually
and on behalf of all others similarly situated,

Plaintiffs,

vs.

MRS BPO, LLC,

Defendant.

Docket No:

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

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

Glen F. Schwaner and Lourdes B. Fischer, 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 MRS BPO, 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 Glen F. Schwaner is an individual who is a citizen of the State of New York residing in Nassau County, New York.

6. Plaintiff Lourdes B. Fischer 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’s principal place of business is located in Cherry Hill, New Jersey.

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 debt”).

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. The debts were originally incurred with Chase Bank, N.A.

15. The debts were incurred on credit cards.

16. The credit cards accrued interest.

17. The credit cards accrued late fees.

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

19. In its efforts to collect the debt, Defendant contacted Plaintiff Schwaner by letter dated December 7, 2015. (“**Exhibit 1.**”)

20. In its efforts to collect the debt, Defendant contacted Plaintiff Fischer by letter dated December 4, 2015. (“**Exhibit 1.**”)

21. The letters were the initial communication to each Plaintiff received from

Defendant.

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

23. 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.

24. One such requirement is that the debt collector provide “the amount of the debt.” 15 U.S.C. § 1692g(a)(1).

25. A debt collector has the obligation not just to convey the amount of the debt, but to convey such clearly.

26. The letters, at the bottom thereof, state “Based on the information provided by the above referenced client, the transactions below may or may not be reflective of the current balance.”

27. Below the foregoing statement on each letter is a dollar amount.

28. The statement on the letters that the dollar amount “may or may not be reflective of the current balance” would make the least sophisticated consumer uncertain as to the amount of the debt.

29. The statement on the letters that the dollar amount “may or may not be reflective of the current balance” would make the least sophisticated consumer confused as to the amount of the debt.

30. The statement on the letters that the dollar amount “may or may not be reflective of the current balance” would render the least sophisticated consumer unable to determine the amount of his or her debt.

31. The statement on the letters that the dollar amount “may or may not be reflective of the current balance” does not comport with Defendant’s obligation to clearly provide “the amount of the debt.”

32. The statement on the letters that the dollar amount “may or may not be reflective of the current balance” does not comport with Defendant’s obligation under 15 U.S.C. § 1692g(a)(1).

33. The least sophisticated consumer would be uncertain as to the amount of the debt.

34. The least sophisticated consumer would be confused as to the amount of the debt.

35. Defendant failed to clearly state the amount of the debt.

36. Defendant failed to unambiguously state the amount of the debt.

37. Defendant violated 15 U.S.C. § 1692g(a)(1).

38. 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.

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

40. 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.

41. 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.

42. 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.

43. The letters can reasonably be read by the least sophisticated consumer to have two or more meanings, one of which is inaccurate, as described.

44. The letters can reasonably be read by the least sophisticated consumer to mean that the dollar amount is “reflective of the current balance.”

45. The letters can reasonably be read by the least sophisticated consumer to mean that the dollar amount is not “reflective of the current balance.”

46. Defendant violated 15 U.S.C. § 1692e by using a false, deceptive and misleading representation in its attempt to collect a debt.

CLASS ALLEGATIONS

47. 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 delinquent consumer debt using letters that included language that a dollar amount “may or may not be reflective of the current balance,” from one year before the date of this Complaint to the present. This action seeks a finding that Defendant’s conduct violates the FDCPA, and asks that the Court award damages as authorized by § 1692k(a)(2) of the FDCPA.

48. Defendant regularly engages in debt collection, using the same form collection

letters they sent Plaintiffs, in their attempts to collect delinquent consumer debts from other persons.

49. The Class consists of more than 35 persons from whom Defendant attempted to collect delinquent consumer debts by sending other consumers the same form collection letters it sent to Plaintiffs.

50. 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.

51. 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.

52. 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 the Class and will be established by common proof. Moreover, Plaintiffs have retained counsel experienced in actions brought under the FDCPA.

JURY DEMAND

53. Plaintiffs hereby demand a trial of this action by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request judgment as follows:

- a. Certify this action as a class action; and
- b. Appoint Plaintiffs as Class Representatives of the Class, and their



MRS Associates
1930 OLNEY AVENUE
CHERRY HILL NJ 08003
800-932-5573
Office Hours :
Monday - Thursday 9am - 9pm ET
Friday 9am - 5pm ET

S-SFMRSA11 L-001wWP
P54LZ000204768 - 228808284 109536
Return Address :
MRS BPO, L.L.C.
1930 OLNEY AVENUE
CHERRY HILL NJ 08003



GLEN F SCHWANER
31 CYPRESS LN
SHIRLEY NY 11967-2418

December 7, 2015

RE: CHASE BANK USA N.A.
MRS ACCT#: LU4-4076 Use only bold numbers when calling
CLIENT ACCT#: xxxxxxxxxxx3041
ACCOUNT BALANCE: \$9,115.47

Dear GLEN F SCHWANER,

The above referenced client has placed your account with our office for collection. We recognize that sometimes circumstances or events can make it difficult to satisfy your financial obligations.

Resolving a long overdue debt is never easy. Often the hardest part is taking the first step. We are ready to assist you to find a solution that is both fair and reasonable. You may even qualify for a payment arrangement or a settlement that could save you a substantial amount of money!

Payment may be made by calling 800-932-5573, mailing to the above address or by using our online payment website at <https://mrspay.webview.com> (internet connection required). If you have any questions or wish to discuss other arrangements, you may contact us.

IMPORTANT CONSUMER INFORMATION

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of the debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice that you dispute the validity of this debt or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request of this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor.

Please see the table below which includes additional details about your account. Based on the information provided by the above referenced client, the transactions below may or may not be reflective of the current balance.

The total amount of the debt due as of charge-off	\$ 9,115.47
---	-------------

Sincerely,

MRS Associates
800-932-5573
MRS Associates is a trade name of MRS BPO, L.L.C.

This is an attempt to collect a debt and any information obtained will be used for that purpose.
This communication is from a debt collector.



Send Payment/ Correspondence to:
MRS Associates
1930 OLNEY AVENUE
CHERRY HILL NJ 08003
800-949-3217

S-SFMRSA11 L-001wWP
P54CZ900201249 - 228775728 102498
Return Address :
MRS BPO, L.L.C.
1930 OLNEY AVENUE
CHERRY HILL NJ 08003

Office Hours :
Monday - Thursday 9am - 9pm ET
Friday 9am - 5pm ET



LOURDES B ADAMESFISCHER
78 MARC DR
RIDGE NY 11961-2139

December 4, 2015

RE: CHASE BANK USA N.A.
MRS ACCT#: LU4. **9474** Use only bold numbers when calling
CLIENT ACCT#: xxxxxxxxxxxx6505
ACCOUNT BALANCE: \$5,128.66

Dear LOURDES B ADAMESFISCHER,

The above referenced client has placed your account with our office for collection. We recognize that sometimes circumstances or events can make it difficult to satisfy your financial obligations.

Resolving a long overdue debt is never easy. Often the hardest part is taking the first step. We are ready to assist you to find a solution that is both fair and reasonable. You may even qualify for a payment arrangement or a settlement that could save you a substantial amount of money!

Payment may be made by calling 800-949-3217, mailing to the above address or by using our online payment website at <https://mrspay.webview.com> (internet connection required). If you have any questions or wish to discuss other arrangements, you may contact us.

IMPORTANT CONSUMER INFORMATION

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of the debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice that you dispute the validity of this debt or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request of this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor.

Please see the table below which includes additional details about your account. Based on the information provided by the above referenced client, the transactions below may or may not be reflective of the current balance.

The total amount of the debt due as of charge-off	\$ 5,128.66
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Sincerely,

MRS Associates
800-949-3217
MRS Associates is a trade name of MRS BPO, L.L.C.

This is an attempt to collect a debt and any information obtained will be used for that purpose.
This communication is from a debt collector.

NEW YORK CITY RESIDENTS:

New York City Department of Consumer Affairs, license number 1292105, 1292103, 1292102.
MRS Associates contact: Terri Hart Mon - Fri 8 AM - 5 PM ET (888) 334-5677.

NEW YORK STATE RESIDENTS:

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. Debt collectors, in accordance with the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq., are prohibited from engaging in abusive, deceptive, and unfair debt collection efforts, including but not limited to:

- (i) The use or threat of violence;
- (ii) The use of obscene or profane language; and
- (iii) Repeated phone calls made with the intent to annoy, abuse, or harass.

If a creditor or debt collector receives a money judgment against you in court, state and federal laws may prevent the following types of income from being taken to pay the debt:

1. Supplementary security income, (SSI);
2. Social Security;
3. Public assistance (welfare);
4. Spousal support, maintenance (alimony) or child support;
5. Unemployment benefits;
6. Disability benefits;
7. Workers' compensation benefits;
8. Public or private pensions;
9. Veterans' benefits;
10. Federal student loans, federal student grants, and federal work study funds; and
11. Ninety percent of your wages or salary earned in the last sixty days.

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: GLEN F. SCHWANER
DEFENDANTS: MRS BPO, LLC
(b) County of Residence of First Listed Plaintiff: NASSAU
County of Residence of First Listed Defendant: CAMDEN
(c) Attorneys: BARSHAY SANDERS, PLLC

II. BASIS OF JURISDICTION
III. CITIZENSHIP OF PRINCIPAL PARTIES
O 1 U.S. Government Plaintiff
O 2 U.S. Government Defendant
O 3 Federal Question
O 4 Diversity
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country

IV. NATURE OF SUIT
CONTRACT
REAL PROPERTY
TORTS
PERSONAL INJURY
CIVIL RIGHTS
PRISONER PETITIONS
FORFEITURE/PENALTY
LABOR
IMMIGRATION
BANKRUPTCY
SOCIAL SECURITY
FEDERAL TAX SUITS
OTHER STATUTES

V. ORIGIN
O 1 Original Proceeding
O 2 Removed from State Court
O 3 Remanded from Appellate Court
O 4 Reinstated or Reopened
O 5 Transferred from Another District
O 6 Multidistrict Litigation - Transfer
O 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: December 2, 2016
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

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? _____

(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

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This Summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [MRS BPO Knocked with Class Action Over Debt Collection Practices](#)
