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Our File No.: 114722

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

Daniel Torres, individually and on behalf of all others
similarly situated,

Plaintiff,

vs.

Heritage Financial Recovery Services,

Defendant.

Docket No:

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

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

Daniel Torres, individually and on behalf of all others similarly situated (hereinafter referred to as “*Plaintiff*”), by and through the undersigned counsel, complains, states and alleges against Heritage Financial Recovery Services (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 Jersey.

PARTIES

5. Plaintiff Daniel Torres is an individual who is a citizen of the State of New Jersey residing in Hudson County, New Jersey.

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

7. On information and belief, Defendant Heritage Financial Recovery Services, is a New Jersey Limited Liability Company with a principal place of business in Bergen County, New Jersey.

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 personal, family or household purposes and is therefore a “debt” as defined by 15 U.S.C. § 1692a(5).

12. Sometime after the incurrence of the Debt, Plaintiff fell behind on 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 February 20, 2017. (“**Exhibit 1.**”)

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

16. 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.

17. 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.

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

19. 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.

20. 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.

21. 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.

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

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

24. 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.

25. 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.

26. 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.

27. 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.

28. The Letter fails to identify by name and label any entity as “creditor,” “original creditor,” “current creditor,” “account owner,” or “creditor to whom the debt is owed.”

29. The Letter states, “Re: Bergenline X-Ray Diagnostic Center.”

30. The Letter fails to indicate whether the “Re:” refers to the account owner.

31. The Letter fails to indicate whether the “Re:” refers to Plaintiff’s creditor.

32. The Letter fails to indicate whether the “Re:” refers to Plaintiff’s current creditor.

33. The Letter fails to indicate whether the “Re:” refers to Plaintiff’s original creditor.

34. The Letter fails to indicate whether the “Re:” refers to the creditor to whom the debt is owed.

35. The Letter fails to indicate who referred the account to Defendant.

36. The Letter fails to indicate who Defendant represents.

37. The Letter fails to indicate who is Defendant’s client.

38. The Letter indicates that payment should be made payable to Defendant. Defendant failed to explicitly state the name of the creditor to whom the debt is owed.

39. Defendant failed to clearly state the name of the creditor to whom the debt is owed.

40. The least sophisticated consumer would likely be confused as to the name of the creditor to whom the debt is owed.

41. The least sophisticated consumer would likely be uncertain as to the name of the creditor to whom the debt is owed.

42. Because the Letter can reasonably be read by the least sophisticated consumer to have two or more meanings, one of which is inaccurate, as described, it is deceptive within the meaning of 15 U.S.C. § 1692e.

43. Because the Letter is reasonably susceptible to an inaccurate reading by the least sophisticated consumer, as described, it is deceptive within the meaning of 15 U.S.C. § 1692e.

44. The least sophisticated consumer would likely be deceived by the Letter.

45. The least sophisticated consumer would likely be deceived in a material way by the Letter.

46. Defendant violated § 1692e by using a false, deceptive and misleading representation in its attempt to collect a debt. *See Datiz v. Int'l Recovery Assocs., Inc.*, No. 15-cv-3549 (ADS)(AKT), 2016 WL 4148330 (E.D.N.Y. Aug. 4, 2016); *McGinty v. Prof'l Claims Bureau, Inc.*, No. 15-cv-4356 (SJF)(ARL), 2016 WL 6069180 (E.D.N.Y. Oct. 17, 2016).

CLASS ALLEGATIONS

47. 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 fails to identify by name and label any entity as “creditor,” “original creditor,” “current creditor,” “account owner,” or “creditor to whom the debt is owed,” from one year before the date of this Complaint to the present.

48. 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.

49. Defendant regularly engages in debt collection.

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50. The Class consists of more than 35 persons from whom Defendant attempted to collect delinquent consumer debts using a collection letter that fails to identify by name and label any entity as “creditor,” “original creditor,” “current creditor,” “account owner,” or “creditor to whom the debt is owed.”

51. 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.

52. 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.

53. 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

54. 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 FDCA; 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: February 13, 2018

BARSHAY SANDERS, PLLC

By: /s/ Todd D. Muhlstock

Todd D. Muhlstock, Esq.

100 Garden City Plaza, Suite 500

Garden City, New York 11530

Tel: (516) 203-7600

Fax: (516) 706-5055

Attorneys for Plaintiff

Our File No.: 114722

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GARDEN CITY, NEW YORK 11530

HERITAGE *H* FINANCIAL

600 EAST CRESCENT AVENUE STE 304
UPPER SADDLE RIVER, NJ 07458

RETURN SERVICE REQUESTED

If paying by DEBIT or CREDIT card please complete this section

SELECT PAYMENT METHOD: VISA

CARD NUMBER

SIGNATURE _____ EXP. DATE _____

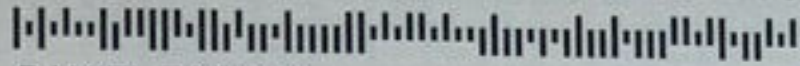
CARDHOLDER NAME (Please Print) _____

Date	Agency Number	PAY THIS AMOUNT
2/20/2017	9102	\$202.50

MAKE CHECKS PAYABLE TO: HERITAGE FINANCIAL RECOVERY SERVICES

AMOUNT ENCLOSED \$

1 AB *A-05-FX4-AM-01340-5



DANIEL TORRES
1918 KERRIGAN AVE APT 2
UNION CITY NJ 07087-2019



TOLL FREE: 800.325.3440
DATE: FEBRUARY 20, 2017
RE: BERGENLINE X-RAY DIAGNOSTIC CENTER

LOCAL: 201.818.6168
FAX: 201.818.5166
EMAIL: info@hfrs1.com

AGENCY NUMBER	ACCOUNT NUMBER	CURRENT BALANCE
9102	2431	\$202.50

Dear DANIEL TORRES,

You were previously notified of this claim. for the next 10 DAYS we are authorized to accept 80% in full settlement of this account.

Take advantage of this chance to save a substantial amount of money. This offer will expire 10 DAYS from the date of this letter and may not be available in the future. In the event that this account was reported to the Credit Bureaus, we will request that your file be updated to reflect that this has been settled in full.

Call our representatives at 1-800-325-3440 to arrange payment or use our 24 hour payment options listed below.

Sincerely,

HERITAGE FINANCIAL RECOVERY SERVICES

24-HOUR PAYMENT OPTIONS



CALL OUR TOLL-FREE AUTOMATED LINE
877.304.0488



PAY ONLINE @ www.hfrs1.com

This is a communication from a Debt Collector.

This is an attempt to collect a debt and any information obtained will be used for this purpose.

Mail Payments to:

Heritage, 600 East Crescent Avenue Ste 304, Upper Saddle River, NJ 07458

IF THIS ACCOUNT HAS BEEN PAID, PLEASE CALL US ON OUR TOLL-FREE NUMBER: 800.325.3440

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

UNITED STATES DISTRICT COURT

for the

DISTRICT OF NEW JERSEY

Daniel Torres, individually and on behalf of all others similarly situated)	
_____)	
<i>Plaintiff(s)</i>)	
)	Civil Action No.
v.)	
)	
Heritage Financial Recovery Services)	
_____)	
<i>Defendant(s)</i>)	

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*
Heritage Financial Recovery Services
600 East Crescent Avenue , Suite 304
Upper Saddle River, New Jersey 07458

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: DANIEL TORRES; (b) County of Residence of First Listed Plaintiff HUDSON; (c) Attorneys (Firm Name, Address, and Telephone Number) BARSHAY SANDERS, PLLC, 100 Garden City Plaza, Ste 500, Garden City, NY 11530 (516) 203-7600; DEFENDANTS: HERITAGE FINANCIAL RECOVERY SERVICES; County of Residence of First Listed Defendant BERGEN; NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED; Attorneys (If Known)

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); O 1 U.S. Government Plaintiff; O 2 U.S. Government Defendant; O 3 Federal Question (U.S. Government Not a Party); O 4 Diversity (Indicate Citizenship of Parties in Item III); Citizen of This State; Citizen of Another State; Citizen or Subject of a Foreign Country; PTF DEF; O 1 O 1; O 2 O 2; O 3 O 3; Incorporated or Principal Place of Business In This State; Incorporated and Principal Place of Business In Another State; Foreign Nation; PIF DEF; O 4 O 4; O 5 O 5; O 6 O 6

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; O 110 Insurance; O 120 Marine; O 130 Miller Act; O 140 Negotiable Instrument; O 150 Recovery of Overpayment & Enforcement of Judgment; O 151 Medicare Act; O 152 Recovery of Defaulted Student Loans (Excludes Veterans); O 153 Recovery of Overpayment of Veteran's Benefits; O 160 Stockholders' Suits; O 190 Other Contract; O 195 Contract Product Liability; O 196 Franchise; O 310 Airplane; O 315 Airplane Product Liability; O 320 Assault, Libel & Slander; O 330 Federal Employers' Liability; O 340 Marine; O 345 Marine Product Liability; O 350 Motor Vehicle; O 355 Motor Vehicle Product Liability; O 360 Other Personal Injury; O 362 Personal Injury - Medical Malpractice; O 365 Personal Injury - Product Liability; O 367 Health Care/Pharmaceutical Personal Injury Product Liability; O 368 Asbestos Personal Injury Product Liability; O 370 Other Fraud; O 371 Truth in Lending; O 380 Other Personal Property Damage; O 385 Property Damage Product Liability; O 422 Appeal 28 USC 158; O 423 Withdrawal 28 USC 157; O 460 Deportation; O 470 Racketeer Influenced and Corrupt Organizations; O 480 Consumer Credit; O 490 Cable/Sat TV; O 495 Arbitration; O 496 Arbitration; O 497 Arbitration; O 498 Arbitration; O 499 Arbitration; O 500 Arbitration; O 501 Arbitration; O 502 Arbitration; O 503 Arbitration; O 504 Arbitration; O 505 Arbitration; O 506 Arbitration; O 507 Arbitration; O 508 Arbitration; O 509 Arbitration; O 510 Arbitration; O 511 Arbitration; O 512 Arbitration; O 513 Arbitration; O 514 Arbitration; O 515 Arbitration; O 516 Arbitration; O 517 Arbitration; O 518 Arbitration; O 519 Arbitration; O 520 Arbitration; O 521 Arbitration; O 522 Arbitration; O 523 Arbitration; O 524 Arbitration; O 525 Arbitration; O 526 Arbitration; O 527 Arbitration; O 528 Arbitration; O 529 Arbitration; O 530 Arbitration; O 531 Arbitration; O 532 Arbitration; 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V. ORIGIN (Place an "X" in One Box Only); 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 (specify); O 6 Multidistrict Litigation - Transfer; O 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION: (Enter U.S. Civil Statute under which you are filing and write a brief statement of cause.) 15 USC §1692 - Fair Debt Collection Practices; VII. Previous Bankruptcy Matters: ((For nature of suite 422 and 423, enter the case number and judge for any associated bankruptcy matter previously adjudicated by a judge of this Court. Use a separate attachment if necessary.

VIII. 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

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

X. This Case (check one box) Is not a refiling of a previously dismissed action is a refiling of case number previously dismissed by Judge

DATE February 14, 2018 SIGNATURE OF ATTORNEY OF RECORD /s/ Todd D. Muhlstock

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit: Heritage Financial Recovery Services Failed to Identify Consumer's Creditor](#)
