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*Attorneys for Plaintiff*  
Our File No.: 114590

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

Paola Velez, individually and on behalf of all others  
similarly situated,

Plaintiff,

vs.

Cavalry Portfolio Services, LLC,

Defendant.

Docket No:

**CLASS ACTION COMPLAINT**

**JURY TRIAL DEMANDED**

Paola Velez, 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 Cavalry Portfolio Services, 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.

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

**PARTIES**

5. Plaintiff Paola Velez is an individual who is a citizen of the State of Missouri residing in Saint charles County, Missouri.

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

7. On information and belief, Defendant Cavalry Portfolio Services, LLC, is a New York Limited Liability Company with a principal place of business in Westchester 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 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 June 19, 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. 15 U.S.C. § 1692e(2)(A) prohibits the false representation of the character, amount, or legal status of any debt.

18. 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.

19. 23 N.Y.C.R.R. § 1.2 requires that within 5 days after the initial communication with a consumer in connection with the collection of any debt, a debt collector shall, unless the following information is contained in the initial communication or the consumer has paid the

debt, provide the consumer clear and conspicuous written notification of, *inter alia*, the following:

**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. Supplemental social 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.**

20. The Letter states, "If you act within 30 days to resolve your account, your account will not be placed with a collection law firm . . . [i]f your account is placed with a collection law firm, an attorney will review your account and make the final decision as to whether a lawsuit should be filed.

21. The Letter further states, "If a lawsuit is filed, the law firm will ask the court to enter a judgment against you for the full amount you owe. You will have the opportunity to defend yourself after the lawsuit is filed. If a judgment is entered, the law firm will be authorized to take further action to satisfy the balance owed on the judgment."

22. The Letter strongly suggests to the least sophisticated consumer that if the debt is not satisfied, she will be sued.

23. The least sophisticated consumer, upon reading the above-transcribed statements, would likely believe that if she is sued and if a judgment is entered, then any source of income would be subject to seizure or garnishment for the purposes of satisfying the judgment.

24. The least sophisticated consumer, based on the contents of the Letter, would **not** know that in the event of a judgment, there are numerous types of income, such as those delineated in 23 N.Y.C.R.R. § 1.2 and transcribed above, that Defendant would not be legally permitted to take for the purposes of satisfying the judgment.

25. Defendant's omissions concerning the limits and exemptions to the types of income Defendant would be lawfully entitled to collect in order to satisfy a judgment would likely mislead the least sophisticated consumer into believing that in the event of a judgment, Defendant would be lawfully entitled to seize and/or garnish any and all types of income.

26. Given the Letter's warnings that the consumer may be sued and that if a judgment is entered, the law firm will be authorized to take further action to satisfy the balance owed on the judgment, the types of income that are exempt from being taken for such purposes is a material piece of information to the least sophisticated consumer.

27. The least sophisticated consumer, holding the mistaken impression that in the event of a judgment, Defendant would be lawfully entitled to seize and/or garnish any and all types of income, would likely be deceived into remitting payment when she otherwise would not to do.

28. A collection letter violates 15 U.S.C. § 1692e if it is reasonably susceptible to an inaccurate interpretation by the least sophisticated consumer as to any material piece of information.

29. The least sophisticated consumer would likely reasonably but inaccurately interpret the Letter to mean that if she is sued, and a judgment rendered against her, Defendant would be lawfully entitled to take any and all types of income for the purposes of satisfying the judgment.

30. The Letter, because of the aforementioned failures, violates 15 U.S.C. §§ 1692e, 1692e(2)(A), and 1692e(10).

### **CLASS ALLEGATIONS**

31. 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 containing language substantially similar to that set forth in Paragraphs 21 and 22, *supra*, but omits information concerning the limits and exemptions to the types of income Defendant would be lawfully entitled to collect in order to satisfy a judgment, from one year before the date of this Complaint to the present.

32. 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.

33. Defendant regularly engages in debt collection.

34. The Class consists of more than 35 persons from whom Defendant attempted to collect delinquent consumer debts Paragraphs 21 and 22, *supra*, but omits information concerning the limits and exemptions to the types of income Defendant would be lawfully entitled to collect in order to satisfy a judgment.

35. 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.

36. 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.

37. 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**

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

**PRAYER FOR RELIEF**

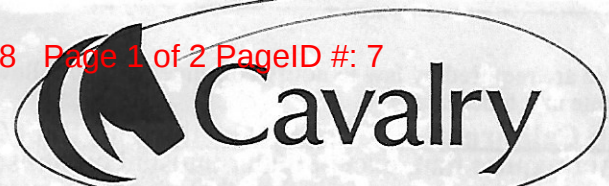
**WHEREFORE**, Plaintiff respectfully requests judgment as follows:

- 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: June 18, 2018

**BARSHAY SANDERS, PLLC**

By: /s/ Craig B. Sanders  
Craig B. Sanders, Esq.  
100 Garden City Plaza, Suite 500  
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*Attorneys for Plaintiff*  
Our File No.: 114590



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Valhalla, NY 10595

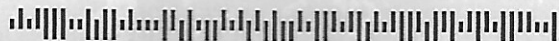
Phone: (866) 434-2995 • FAX: (914) 747-3673

[www.cavps.com](http://www.cavps.com)



June 19, 2017

|                           |                            |
|---------------------------|----------------------------|
| RE: Original Institution: | Synchrony Bank/Care Credit |
| Original Account No.:     | XXXXXXXXXXXX4855           |
| Cavalry Account No.:      | ██████████5818             |
| Outstanding Balance:      | \$4924.94                  |



Paola Velez  
306 Valley Bluff Dr  
Foristell, MO 63348-1242

Dear Paola Velez:

As of the date of this letter, your account meets Cavalry's guidelines for placement with one of Cavalry's collection law firms practicing in your state.

If you act within 30 days to resolve your account, your account will not be placed with a collection law firm. Please contact a Cavalry representative at (800) 861-4760 to discuss your payment options. Cavalry is committed to working with you to come up with a payment arrangement to resolve your account.

As of the date of this letter, no attorney has reviewed the particular circumstances of your account to determine whether a lawsuit should be filed against you. If your account is placed with a collection law firm, an attorney will review your account and make the final decision as to whether a lawsuit should be filed.

If a lawsuit is filed, the law firm will ask the court to enter a judgment against you for the full amount that you owe. You will have the opportunity to defend yourself after the lawsuit is filed. If a judgment is entered, the law firm will be authorized to take further action to satisfy the balance owed on the judgment.

You may contact us at (800) 861-4760.

Sincerely,

Cavalry Portfolio Services, LLC

**THIS IS AN ATTEMPT TO COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE. THIS COMMUNICATION IS FROM A DEBT COLLECTOR. SEE REVERSE SIDE FOR IMPORTANT INFORMATION CONCERNING YOUR RIGHTS.**

**PAYMENT COUPON**

Paola Velez  
306 Valley Bluff Dr  
Foristell, MO 63348-1242



Please detach and return this portion with the payment to the address below.  
Make Checks and Money Orders Payable to  
**Cavalry Portfolio Services, LLC.**

If you would like to make a payment via our secure website, please visit us at [www.cavps.com](http://www.cavps.com)

  
**Cavalry Portfolio Services, LLC**  
PO Box 27288  
Tempe, AZ 85285-7288

**Original Institution:** Synchrony Bank/Care Credit  
**Original Account No.:** XXXXXXXXXXXXX4855  
**Cavalry Account No.:** [REDACTED] 5818  
**Outstanding Balance:** \$4924.94

SSU LTR  
CVN:wfd  
783050  
00000208  
1 of 1

**Notice of Important Rights**  
We are required by law to notify consumers of the following rights. This list does not include a complete list of rights consumers have under state and federal laws.  
**In California:** The state Rosenthal Fair Debt Collection Practices Act and the federal Fair Debt Collection Practices Act require that, except under unusual circumstances, collectors may not contact you before 8 a.m. or after 9 p.m. They may not harass you by using threats of violence or arrest or by using obscene language. Collectors may not use false or misleading statements or call you at work if they know or have reason to know that you may not receive personal calls at work. For the most part, collectors may not tell another person, other than your attorney or spouse, about your debt. Collectors may contact another person to confirm your location or enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission at 1-877-FTC-HELP or [www.ftc.gov](http://www.ftc.gov).  
As required by law, you are hereby notified that a negative credit report reflecting on your credit record may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit obligations.  
**IN COLORADO:** A consumer has the right to request in writing that a debt collector or collection agency cease further communication with the consumer. A written request to cease communication will not prohibit the debt collector or collection agency from taking any other action authorized by law to collect the debt. FOR INFORMATION ABOUT THE COLORADO FAIR DEBT COLLECTION PRACTICES ACT, SEE [WWW.COAG.GOV/CAR](http://WWW.COAG.GOV/CAR). Our in-state office address and telephone number is 80 Garden Center, Building B, Suite 3 Broomfield, CO 80020, (303) 920-4763.  
**IN MASSACHUSETTS:** Notice of important rights. You have the right to make a written or oral request that telephone calls regarding your debt not be made to you at your place of employment. Any such oral request will be valid for only ten days unless you provide written confirmation of the request postmarked or delivered within seven days of such request. You may terminate this request by writing to the collector. You may contact us by telephone at (866) 483-5139 between 9:00 am and 5:00 pm Eastern Time Monday-Friday or in writing at 500 Summit Lake Drive Suite 400 Valhalla, NY 10595-1340.  
**IN MINNESOTA:** THIS COLLECTION AGENCY IS LICENSED BY THE MINNESOTA DEPARTMENT OF



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

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

|   |   |                  |
|---|---|------------------|
| Paola Velez, individually and on behalf of all others<br>similarly situated | ) |                  |
| _____   | ) |                  |
| <i>Plaintiff(s)</i>   | ) |                  |
|   | ) | Civil Action No. |
| v.  | ) |                  |
|   | ) |                  |
| Cavalry Portfolio Services, LLC   | ) |                  |
| _____   | ) |                  |
| <i>Defendant(s)</i>   | ) |                  |

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*  
Cavalry Portfolio Services, LLC  
CT CORPORATION SYSTEM  
111 EIGHTH AVENUE  
NEW YORK, NEW YORK, 10011

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: PAOLA VELEZ
(b) County of Residence of First Listed Plaintiff: SAINT CHARLES
(c) Attorneys: BARSHAY SANDERS, PLLC
DEFENDANTS: CAVALRY PORTFOLIO SERVICES, LLC
County of Residence of First Listed Defendant: WESTCHESTER

II. BASIS OF JURISDICTION
III. CITIZENSHIP OF PRINCIPAL PARTIES
Grid with categories: U.S. Government Plaintiff/Defendant, Federal Question, Diversity, Citizen of This State, etc.

IV. NATURE OF SUIT
Grid with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN
Grid with categories: 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, etc.

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: June 19, 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? 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
c) If this is a Fair Debt Collection Practice Act case, specific the County in which the offending communication was received: SAINT CHARLES

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: [Class Action: Cavalry Portfolio Services Omitted 'Material' Info from Collection Letter](#)

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