

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

RYAN YANAWAY, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

ASSETCARE LLC; CF MEDICAL LLC;
and JOHN DOES,

Defendants.

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Civil Action No. 4:18-cv-04557

**CLASS ACTION COMPLAINT FOR VIOLATIONS OF THE FAIR DEBT
COLLECTION PRACTICES ACT AND TEXAS DEBT COLLECTION ACT,
AND DEMAND FOR JURY TRIAL**

Plaintiff, RYAN YANAWAY, individually and on behalf of all others similarly situated,
by way of this Complaint against Defendant, ASSETCARE LLC (“ASSETCARE”), CF
MEDICAL LLC (“CF MEDICAL”) and JOHN DOES (“DOES”), states:

I. NATURE OF THE ACTION

1. Plaintiff brings this action for the illegal practices of Defendants who used unfair, unconscionable, false, deceptive, and misleading practices, and other illegal practices, in connection with its attempts to collect an alleged debt from him. Plaintiff alleges Defendants’ collection practices violate, *inter alia*, the Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. § 1692, *et seq.* and Texas Debt Collection Act (TDCA), Tex. Fin. Code § 392, *et seq.*

2. The FDCPA regulates the behavior of collection agencies attempting to collect a debt on behalf of another. The United States Congress found abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many debt collectors, and has determined that abusive debt collection practices contribute to a number of personal

bankruptcies, marital instability, loss of jobs, and invasions of individual privacy. Congress enacted the FDCPA to eliminate abusive debt collection practices by debt collectors, to ensure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and to promote uniform State action to protect consumers against debt collection abuses. 15 U.S.C. § 1692(a) - (e).

3. The FDCPA is a strict liability statute, which provides for actual or statutory damages upon the showing of one violation. In reviewing an FDCPA complaint, courts “must evaluate any potential deception in the letter under an unsophisticated or least sophisticated consumer standard, assuming that the plaintiff-debtor is neither shrewd nor experienced in dealing with creditors.” *McMurray v. ProCollect, Inc.*, 687 F.3d 665 (5th Cir. 2012).

4. To prohibit deceptive practices, the FDCPA, at 15 U.S.C. § 1692e, outlaws the use of false, deceptive, and misleading collection practices and names a non-exhaustive list of certain *per se* violations of false and deceptive collection conduct. 15 U.S.C. § 1692e(1)-(16).

5. To prohibit unconscionable and unfair practices, the FDCPA at 15 U.S.C. § 1692f, outlaws the use of unfair or unconscionable means to collect or attempt to collect any debt and names a non-exhaustive list of certain *per se* violations of unconscionable and unfair collection conduct. 15 U.S.C. §§ 1692f (1)-(8).

6. The TDCA, like the FDCPA, prohibits debt collectors from using deceptive, coercive, threatening, abusive, and other repugnant practices for the purpose of collecting a consumer debt. Tex. Bus. & Com. Code Ann § 17.50; *Cushman v. GC Services, L.P.*, 397 Fed. Appx. 24 (5th Cir. 2010) (discussing the “tie-in” provision between the TDCA and deceptive practices Acts).

7. Plaintiff seeks actual, statutory, and exemplary damages, injunctive relief, attorney fees, costs, and all other relief, equitable or legal in nature, as deemed appropriate by

this Court, pursuant to the FDCPA, TDCA, and all other common law or statutory regimes.

II. PARTIES

8. YANAWAY is a natural person.

9. At all times relevant to the factual allegations of this Complaint, YANAWAY was a citizen of, and resided in, the City of Houston, Harris County, Texas.

10. At all times relevant to the factual allegations of this Complaint, ASSETCARE was a limited liability company existing pursuant to the laws of the State of Texas.

11. On information and belief, ASSETCARE maintains its principal place of business at 2222 Texoma Parkway, Suite 1800, Sherman, Texas 75090. Its registered agent for service in the State of Texas is CT Corporation System, which is located at 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

12. At all times relevant to the factual allegations of this Complaint, CF MEDICAL was a limited liability company existing pursuant to the laws of the State of Nevada.

13. On information and belief, CF MEDICAL maintains its principal place of business at 101 Convention Center Drive, Suite 700, Las Vegas Nevada.

14. DOES are sued under fictitious names as their true names and capacities are yet unknown to Plaintiff. Plaintiff will amend this complaint by inserting the true names and capacities of the DOE defendants once they are ascertained.

III. JURISDICTION AND VENUE

15. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d) and 28 U.S.C. §§ 1331 & 1337.

16. Supplemental jurisdiction for Plaintiff's state law claims arises under 28 U.S.C. § 1367.

17. Declaratory relief is available pursuant 28 U.S.C. §§ 2201, 2202.

18. Venue is appropriate in this federal district pursuant to 28 U.S.C. § 1391 because the events giving rise to the claims occurred within this federal judicial district, and because ASSETCARE and CF MEDICAL regularly transact business within this federal judicial district and, therefore, reside in the State of Texas within the meaning of 28 U.S.C. § 1391(b) and (c).

IV. FACTS CONCERNING DEFENDANTS

19. CF Medical collects, and attempts to collect, defaulted consumer medical debts incurred, or alleged to have been incurred, for personal, family, or household purposes on behalf of itself and other debt buyers using the U.S. Mail, telephone, and Internet.

20. In connection with its debt servicing operations, CF MEDICAL routinely hires other debt collectors, such as ASSETCARE, to send dunning letters to consumers in an effort to collect money on the defaulted consumer medical debts CF MEDICAL acquires.

21. ASSETCARE regularly uses the U.S. Mail, telephone and Internet to collect, and attempt to collect, on behalf of third-parties, defaulted debts that were incurred, or are alleged to have been incurred, for personal, family, or household purposes.

22. On information and belief, and based on advice of counsel, DOES are natural persons and/or business entities all of whom reside or are located within the United States who personally created, instituted and, with knowledge that such practices were contrary to law, acted consistent with, conspired with, engaged in, and oversaw the violative policies and procedures used by the employees of the named Defendants that are the subject of this Complaint. DOES personally control, and are engaged in, the illegal acts, policies, and practices utilized by the named Defendants and, therefore, are personally liable for all the wrongdoing alleged in this Complaint.

V. FACTS CONCERNING PLAINTIFF

23. ASSETCARE mailed or caused to be mailed a letter dated October 3, 2018 (the “Letter”) to YANAWAY.

24. A true and correct copy of the Letter is attached as *Exhibit A*, except that the undersigned counsel has partially redacted the Letter as required by Fed. R. Civ. P. 5.2.

25. The Letter alleged YANAWAY had incurred and defaulted on a financial obligation incurred for personal medical treatment (the “Debt”), which CF MEDICAL had purchased.

26. The Letter was ASSETCARE’s first written communication to YANAWAY in an attempt to collect the Debt.

27. On information and belief, sometime prior to October 3, 2018, CF MEDICAL, either directly or through intermediate transactions assigned, placed, or transferred the Debt to ASSETCARE for collection.

28. The alleged Debt arose out of one or more transactions in which the money, property, insurance, or services that were the subject of the transactions were primarily for personal, family, or household purposes.

29. The Letter offered to settle the Debt for 40% of the balance owed, provided ASSETCARE received the settlement payment no later than October 17, 2018.

30. The Letter falsely suggests to the unsophisticated consumer that the 40% settlement offer was a one-time take-it-or-leave-it offer.

31. The Letter’s false suggestion arises from the totality of the Letter including, but not limited to the following language:

We have been authorized to extend to you a special offer to resolve this account for \$2052.00. This offer will save you 40%. If you choose to accept this offer, payment *must* be received in this office on or before 10/17/2018. (emphasis added)

32. In fact, CF MEDICAL and ASSETCARE were willing to extend the offer to settle for 40% of the balance due after October 17, 2018.

33. On information and belief, CF MEDICAL and ASSETCARE would have accepted less than 40% of the balance owed at any time to settle the Debt.

34. The Letter is materially false, deceptive, and misleading to an unsophisticated consumer. *Goswami v. Am. Collections Enter.*, 377 F.3d 488, 495-496 (5th Cir. 2004).

35. Consumers must often make difficult decisions about how to use scarce financial resources. *Boucher v. Fin. Sys. of Green Bay, Inc.*, 880 F.3d 362, 368 (7th Cir. 2018).

36. A rational person with limited financial resources would, based on the Letter, choose to pay the Debt over an otherwise identical debt in which the collection letter did not falsely imply that the settlement offer was a one-time take-it-or-leave-it offer.

37. ASSETCARE's use of a form letter like the Letter—which falsely implies the settlement offer will not be renewed—competitively disadvantages debt collectors who collect debts who do not falsely imply that a settlement offer will not be renewed.

38. The Letter deprived YANAWAY of truthful, non-misleading, information in connection with Defendants' attempt to collect a debt.

39. CF MEDICAL reviewed the form of the Letter before it was sent to YANAWAY.

40. CF MEDICAL approved the form of the Letter before it was sent to YANAWAY.

41. CF MEDICAL had the right to review and approve the form of the Letter before it was sent to YANAWAY.

42. On information and belief, the Letter was created by merging information specific to a debt and consumer with a template to create what is commonly called a "form letter."

43. Consequently, on information and belief, ASSETCARE caused the same form collection letter to be mailed to others who, like YANAWAY, reside in Texas.

VI. CLASS ALLEGATIONS

44. Defendants' conduct toward YANAWAY is consistent with their policies and practices when attempting to collect debts from consumers generally. Consequently, this action is brought by YANAWAY individually and on behalf of all other persons similarly situated pursuant to Rule 23 of the Federal Rules of Civil Procedure.

45. YANAWAY seeks to certify a class pursuant to Fed. R. Civ. P. 23(a) and 23(b)(3).

46. ***Class Definition.*** The Class consists of all natural persons to whom ASSETCARE mailed a written communication on behalf of CF MEDICAL in the form of ***Exhibit A*** to an address in the State of Texas between November 19, 2017 and December 10, 2018.

47. The identities of the Class members are readily ascertainable from the business records of Defendant and those entities on whose behalf Defendant attempted to collect debts.

48. ***Class Claims.*** The Class claims include all claims each Class member may have for a violation of the FDCPA and TDCA arising from ASSETCARE having mailed a written communication on behalf of CF MEDICAL in the form of ***Exhibit A*** to such Class member.

49. This action has been brought, and may properly be maintained, as a class action pursuant to the provisions of Rule 23 of the Federal Rules of Civil Procedure because there is a well-defined community interest in the litigation:

50. ***Numerosity.*** On information and belief, the Class is so numerous that joinder of all members would be impractical and includes at least 40 members.

51. ***Common Questions Predominate.*** Common questions of law and fact exist as to all members of the Class and those questions predominate over any questions or issues involving only individual class members because such questions and issues concern the same conduct by Defendants with respect to each Class member.

52. **Typicality.** YANAWAY's claims are typical of Class because those claims arise from a common course of conduct engaged in by Defendants.

53. **Adequacy.** YANAWAY will fairly and adequately protect the interests of the Class members because he has no interests adverse to the interests of the Class members. Moreover, YANAWAY is committed to vigorously litigating this matter and retained counsel experienced in handling consumer lawsuits, complex legal issues, and class actions. Neither YANAWAY nor his counsel have any interests which might cause them not to vigorously pursue the instant class action lawsuit.

54. Certification of a class under Rule 23(b)(3) of the Federal Rules of Civil Procedure is appropriate in that the questions of law and fact common to the Class members predominate over any questions affecting an individual member, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

Based on discovery and further investigation (including, but not limited to, disclosure by Defendants of class size and net worth), YANAWAY may, in addition to moving for class certification using modified definitions of the Class and/or Class claims, and the Class period, seek class certification only as to particular issues as permitted under Fed. R. Civ. P. 23(c)(4).

VII. COUNT ONE: VIOLATION OF THE FDCPA.

55. The preceding facts about Defendants and Plaintiff are incorporated by reference.

56. ASSETCARE is a "debt collector" within the meaning of 15 U.S.C. § 1692a(6).

57. CF MEDICAL is a "debt collector" within the meaning of 15 U.S.C. § 1692a(6).

58. DOES are "debt collectors" within the meaning of 15 U.S.C. § 1692a(6).

59. The Debt is a "debt" within the meaning of 15 U.S.C. § 1692a(5).

60. YANAWAY is a "consumer" within the meaning of 15 U.S.C. § 1692a(3).

61. The Letter was a "communication" within the meaning of 15 U.S.C. § 1692a(2).

62. Defendants failed to comply with the FDCPA with respect to Plaintiff. Such failure includes, but is not limited to, using false, deceptive, or misleading representations and/or means in connection with the collection of any debt, in violation of 15 U.S.C. §1692e.

63. The conduct of Defendants invaded the rights of Plaintiff that are protected by the FDCPA, the invasion of which caused injury-in-fact.

64. Based on a single violation of the FDCPA, Defendants are liable to Plaintiff for such relief as is allowed under 15 U.S.C. § 1692k.

VIII. COUNT TWO: VIOLATION OF THE TDCA

65. The preceding facts about Defendants and Plaintiff are incorporated by reference.

66. ASSETCARE is engaged in the act and/or practice of “debt collection” as that term is defined by Tex. Fin. Code § 392.001(5).

67. ASSETCARE is a “debt collector” within the meaning of Tex. Fin. Code § 392.001(5).

68. CF MEDICAL is engaged in the act and/or practice of “debt collection” as that term is defined by Tex. Fin. Code § 392.001(5).

69. CF MEDICAL is a “debt collector” within the meaning of Tex. Fin. Code § 392.001(5).

70. The Debt is a “consumer debt” as defined by Tex. Fin. Code § 392.001(2).

71. YANAWAY is a “consumer” within the meaning of Tex. Fin. Code § 392.001(1).

72. ASSETCARE violated the TDCA including, but not limited to, Tex. Fin. Code § 392.304(a)(19) by using false, deceptive, and misleading representations and/or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer.

IX. PRAYER FOR RELIEF.

73. WHEREFORE, Plaintiff respectfully requests the Court enter judgment in his favor and against Defendants, jointly and severally, as follows:

A. With respect to Count One:

74. Certifying this action may be maintained as a class action pursuant to Fed. R. Civ. P. 23 including defining the Class, defining the class claims, and appointing Plaintiff's attorneys as class counsel;

75. Awarding such actual damages as may be proven to Plaintiff and to the members of the Class pursuant to 15 U.S.C. § 1692k(a)(1);

76. Awarding statutory damages for Plaintiff pursuant to 15 U.S.C. § 1692k(a)(2)(A) and § 1692k(a)(2)(B)(i);

77. Awarding of statutory damages for the Class pursuant to 15 U.S.C. § 1692k(a)(2)(B)(ii);

78. An incentive award for Plaintiff, in connection with his services to the Class in an amount to be determined by the Court after judgment is entered in favor of the Class;

79. Adjudging this action to be a successful action under 15 U.S.C. § 1692k(a)(2)(B)(3) and awarding reasonable attorneys' fees including litigation expenses;

80. Awarding costs of suit as allowed by law; and

81. For such other and further relief as may be just and proper.

B. With respect to Count Two:

82. Certifying this action may be maintained as a class action pursuant to Fed. R. Civ. P. 23 including defining the class, defining the class claims, and appointing Plaintiff's attorneys as class counsel;

83. Awarding injunctive relief to prevent or restrain Defendants' further violations of

Chapter 392 of the Texas Finance Code pursuant to Tex. Fin. Code § 392.403(a)(1);

84. Awarding such actual damages as may be proven to Plaintiff and members of the Class pursuant to Tex. Fin. Code § 392.403(a)(2);

85. An incentive award for Plaintiff, in connection with his services to the Class in an amount to be determined by the Court after judgment is entered in favor of the Class;

86. Adjudging Plaintiff to have successfully maintained an action under Tex. Fin. Code § 392.403(a), and awarding reasonable attorney's fees and costs pursuant to Tex. Fin. Code § 392.403(b); and

87. For such other and further relief as may be just and proper.

X. JURY DEMAND.

89. Demand is hereby made for trial by jury.

Respectfully submitted,

s/ Andrew T. Thomasson

Dated: December 3, 2018

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Attorneys for Plaintiff, Ryan Yanaway

EXHIBIT “A”



2222 Texoma Pkwy, Ste 180
Sherman, TX 75090

Original Creditor:	U.S. Anesthesia Partners of Tex	
Current Creditor:	CF Medical LLC	
Patient:	RYAN YANAWAY	
Account #	Date of Service	Balance Due
[REDACTED] 9558	07/06/2016	\$3420.00

October 3, 2018

NOTICE OF DEBT

Dear RYAN YANAWAY:

Your U.S. Anesthesia Partners of Texas P.A. account has been sold to CF Medical LLC. CF Medical LLC has placed your account with AssetCare, LLC for collection. All payments and questions should be directed to AssetCare, LLC to ensure prompt service and credit.

We have been authorized to extend to you a special offer to resolve this account for \$2052.00. This offer will save you 40%. If you choose to accept this offer, payment must be received in this office on or before 10/17/2018.

This offer and the deadline for accepting it do not in any way affect your right to dispute this debt and request validation of this debt during the 30 days following your receipt of this letter as described on the reverse side. If you do not accept this offer you are not giving up any of your rights regarding this debt.

Office hours are Monday Tuesday and Friday 8AM to 5PM Wednesday and Thursday 10AM to 7PM and Saturday 8AM to 12PM Central Time. You may contact us toll-free at 888-993-3596. We offer several payment options. We can take your payment information over the phone or you may mail a check directly to our office or pay your account online. You will need this letter for reference in order to pay your account online.

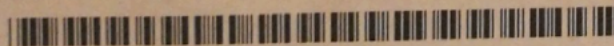
PAY ONLINE

<https://ryanyanaway36da.revexpress.com>
PASSWORD: [REDACTED]

SEE REVERSE SIDE FOR IMPORTANT CONSUMER INFORMATION

Detach Bottom Portion and Return With Payment

DEPT 688 8664958018102
PO BOX 4115
CONCORD CA 94524



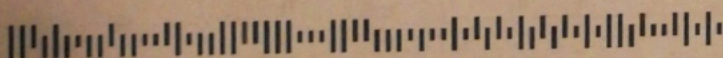
Reference#: [REDACTED] 1512

[REDACTED] 2017

Account #: [REDACTED] 9558

Amt Due: \$2052.00

RETURN SERVICE REQUESTED





RYAN YANAWAY
6102 WINSOME LN APT 103B
HOUSTON TX 77057-5430

AssetCare LLC
P.O. Box 1127
Sherman, TX 75091

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this 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 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.

This is an attempt to collect a debt. Any information obtained will be used for that purpose. This communication is from a debt collector. Calls to and from this company may be monitored or recorded for quality purposes.

CHECK ONE:	<input type="checkbox"/> 	MASTERCARD	<input type="checkbox"/> 	VISA
ACCOUNT NUMBER	_____		EXP DATE	_____
CARDHOLDER NAME	_____			
CARDHOLDER SIGNATURE	_____			
			AMOUNT OF PAYMENT \$	_____

CF Medical, LLC
CF Medical II, LLC
CF Medical V, LLC
CF Medical VI, LLC
CA Medical, LLC
CP Medical, LLC
ACF Medical Services Special Finance Unit, LLC

Calls may be monitored or recorded for quality assurance.

Dear Account Holder:

At CF Medical, LLC, CF Medical II, LLC, CF Medical V, LLC, CF Medical VI, LLC, CA Medical, LLC, CP Medical, LLC, ACF Medical Services Special Finance Unit, LLC and their affiliated companies (collectively, the "Account Owners" or "we"), protecting the confidentiality and security of our account holders' information has always been an important part of the way we conduct our business. Below and on the back of this letter you will find our Privacy Notice which will provide you with information to help you understand how we handle the non-public personal information about you that we obtain from time to time.

This Privacy Notice is being sent to you on behalf of each of the Account Owners. To ensure that this important information reaches all of our account holders, we are mailing a copy of this letter to each account holder. If your account has been settled, the balance has been paid, the balance has been disputed, or if you have filed for bankruptcy protection, the status of your account shall not change as a result of this notice. If you are an account holder on more than one of our accounts, you may receive more than one letter regarding this Privacy Notice.

Please review the Privacy Notice contained below and on the back of this letter for an explanation of the Account Owners' policies and procedures regarding the use of non-public, personal information.

CF Medical, LLC, CF Medical II, LLC, CF Medical V, LLC, CF Medical VI, LLC, CA Medical, LLC, CP Medical, LLC, ACF Medical Services Special Finance Unit, LLC (collectively the "Companies," and "us" or "we" when referring to a particular company).

THE COMPANIES' PRIVACY NOTICE - This notice is being forwarded to you in compliance with the Gramm-Leach-Bliley Privacy Act, 15 U.S.C. sec. 6801 et seq. This notice has no reflection or bearing upon the status of your account.

The privacy and security of your personal information is important to us. This notice will inform you about our policies and procedures concerning the personal information about you that we obtain, maintain and disclose in connection with the account(s) of yours that we own or owned. We collect nonpublic personal information about you that is obtained from one or more of the following sources:

1. Information we received from companies that sold us your account(s) (for example, applications, contracts, checks and other related forms or documents regarding your dealings with your original creditor);
2. Information about your transactions with us, our affiliates or others; and,
3. Information from skip-tracing companies and/or consumer-reporting agencies.

PRIVACY NOTICE CONTINUED ON REVERSE SIDE

INFORMATION WE MAY SHARE WITH OUR AFFILIATES - We may share identification (such as name and address), information about our transactions and experiences with you (such as payment history), and information that does not identify you, with one or more of our affiliates in order to better service your accounts.

INFORMATION WE MAY SHARE WITH NONAFFILIATED COMPANIES - We share all of the information we collect about you, as described above, with nonaffiliated companies, as permitted by law, to assist in the servicing of your account(s). For example, we:

1. May share information about you with companies that we use ("Servicers") to perform account servicing functions to manage and maintain your account and to process transactions that you have authorized;
2. May report information about you to consumer reporting agencies, government agencies in response to a subpoena, or others in connection with investigations (For example, if your account is closed as a result of a payment, settlement or otherwise, we report this to consumer reporting agency[ies]);
3. May share information about you with the original creditor from which we purchased your account and/or its servicers, or successors, to manage and maintain your account(s) and to process transactions that you have authorized; and
4. We may disclose identifiable information to another entity with which we enter into, or intend to enter into, a corporate transaction, such as, for example, a merger, consolidation, joint venture, acquisition, or asset purchase.

Because we respect your privacy, we do not sell, trade or otherwise disclose your identity or any other personal information about you to third parties for their marketing purposes.

CONFIDENTIALITY AND SECURITY OF YOUR ACCOUNT - We restrict access to nonpublic personal information about you to only those employees who need to know such information, and certain third parties as noted above. We maintain physical, electronic and procedural safeguards to protect your personal information. If we use other companies to provide services for us, we require them to keep the information we share with them safe and secure and we do not allow them to use or share the information for any purpose other than the job they are hired to do.

FURTHER INFORMATION: You may have other privacy protections under state or federal laws including the Fair Debt Collection Practices Act (FDCPA). This notice does not affect any rights or privacy protections provided by these laws. We may amend this privacy notice at any time, and will inform you of changes as required by law. For additional information concerning our privacy policy, you may write or contact our Servicer at: AssetCare, LLC, P.O. Box 3209, Sherman, TX 75091. You may also contact 1-888-893-0171.

In accordance with the FDCPA: This is an attempt to collect a debt by a debt collector. Any information obtained will be used for that purpose.

Vermont Residents Only: Following the law of your state, we will not disclose nonpublic personal financial information about you to nonaffiliated third parties (other than as permitted by law) unless you authorize us to make that disclosure. Your authorization must be in writing. If you wish to authorize us to disclose your nonpublic personal financial information to nonaffiliated third parties, you may write us at: P.O. Box 3209, Sherman, TX 75091.

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

RYAN YANAWAY, individually and on behalf of all others similarly situated

(b) County of Residence of First Listed Plaintiff Harris
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Stern Thomasson LLP
150 Morris Avenue, 2nd Floor, Springfield, NJ 07081
(973) 379-7500

DEFENDANTS

ASSETCARE, LLC; CF MEDICAL, LLC; and JOHN DOES

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

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)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 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)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

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 U.S.C. § 1692, et seq.

Brief description of cause:

Violations of the the Fair Debt Collection Practices Act and Texas Debt Collection Act

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

1,000,000.00

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

12/03/2018

SIGNATURE OF ATTORNEY OF RECORD

s/ Andrew T. Thomasson

FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading 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. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

ClassAction.org

This complaint is part of ClassAction.org's searchable [class action lawsuit database](#)
