

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

GABRIEL TATARU, on behalf of)	
himself and all others similarly situated,)	
)	
Plaintiff,)	
v.)	
)	Case No.
RGS FINANCIAL, Inc.,)	
)	
)	
)	
Defendant.)	<u>JURY TRIAL DEMANDED</u>

CLASS ACTION COMPLAINT

On behalf of himself and all others similarly situated, Plaintiff Gabriel Tataru files this complaint against Defendant RGS Financial, Inc. for its violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (“FDCPA”), for a finding that Defendant’s debt collection actions violated the FDCPA, and to recover damages for Defendant’s violations of the FDCPA, and alleges:

JURISDICTION AND VENUE

1. This Court has federal question jurisdiction pursuant to 28 U.S.C. § 1331 as Plaintiff’s claims, and those brought on behalf of the proposed class defined herein, arise under 15 U.S.C. § 1692 *et seq.*
2. Venue is proper in this District because the acts and transactions occurred here, and Defendant transacts substantial business here.

PARTIES

3. Plaintiff, Gabriel Tataru (“Mr. Tataru” or “Plaintiff”), is a resident of the State of Illinois, from whom Defendant attempted to collect a delinquent consumer debt allegedly owed

to an entity that Defendant describes as “FNB Omaha II”. Plaintiff is thus a consumer as that term is defined by 15 U.S.C. § 1692a(3) of the FDCPA.

4. Defendant RGS Financial, Inc. d/b/a RGS Collections, Inc. (“RGS”), is a Texas based corporation, with its principal place of business at 1700 Jay Ell Dr., Richardson, Texas 75081. RGS does or transacts business in Illinois. Its registered agent is Cogency Global, Inc., which can be found at 600 South Second Street, Suite 404, Springfield, Illinois 62704.

5. RGS regularly collects, or attempts to collect, consumer debt owed to another.

6. RGS acts as a debt collector as defined by § 1692a(6) of the FDCPA because it uses the instrumentalities of interstate commerce including the telephone and/or the mails in its business, the principal purpose of which is the collection of defaulted consumer debts.

7. RGS also acts as a debt collector as defined by § 1692a(6) of the FDCPA as it regularly attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another.

8. RGS is licensed as a collection agency in the State of Illinois.

FACTUAL ALLEGATIONS

9. Defendant has alleged that Plaintiff incurred a debt due to an allegedly defaulted debt to an entity named “FNB Omaha II”. (“alleged debt”). The alleged debt is thus a “debt” as that term is defined at § 1692a(5) of the FDCPA.

10. Defendant has alleged that Plaintiff failed to pay the full balance and that the account later entered default.

11. Defendant claims to be collecting the alleged debt on behalf of the creditor “FNB Omaha II”.

12. RGS began attempting to collect the alleged debt from Plaintiff and sent Plaintiff a collection letter on or about July 12, 2018. (Exhibit A, Collection Letter).

13. The Letter conveyed information regarding the alleged debt, including an account number and balance due on the alleged debt.

14. The Letter was thus a “communication” as that term is defined at § 1692a(2) of the FDCPA.

15. The Letter was Defendant’s initial communication to Plaintiff.

16. The Letter states in two separate places, “Creditor: “FNB OMAHA II” followed by a string of numbers. (Exhibit A).

17. The Letter fails to clearly and accurately identify the current creditor to whom the debt is owed.

18. Plaintiff, and the unsophisticated consumer, would be unable to determine without further reference who “FNB OMAHA II” is, since there is no entity by the name of “FNB OMAHA II”.

19. 15 U.S.C. § 1692g of the FDCPA provides in relevant part:

(a) Notice of debt; contents

Within five 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, send the consumer a written notice containing—

... (2) the name of the creditor to whom the debt is owed. . . .

20. Defendant violated §§ 1692g and 1692g(2) when it failed to accurately convey the name of the creditor to whom the debt is owed.

21. 15 U.S.C. § 1692e of the FDCPA states in relevant part:

A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

. . . (10) The use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer. . . .

22. Defendant violated §§ 1692e and 1692e(10) by making a false, deceptive and misleading statement when it claimed that the creditor to whom the debt was owed was “FNB OMAHA II”, since there is no entity by that name.

23. Defendant’s collection communications are to be interpreted under the “unsophisticated consumer” standard. See, *Gammon v. GC Services, Ltd. Partnership*, 27 F.3d 1254, 1257 (7th Cir. 1994).

COUNT I—FAIR DEBT COLLECTION PRACTICES ACT- CLASS CLAIM

24. Plaintiff re-alleges the previous paragraphs as if set forth fully in this count.

25. Defendant violated §§ 1692g and 1692g(2) when it failed to accurately convert the name of the creditor to whom the debt is owed.

26. Defendant violated §§ 1692e and 1692e(10) by making a false, deceptive and misleading statement when it claimed that the creditor to whom the debt was owed was “FNB OMAHA II”, since there is no entity by that name.

CLASS ALLEGATIONS

27. Plaintiff brings this claim on behalf of a Class.

28. Plaintiff’s proposed class consists of (a) all individuals with Illinois addresses (b) who were sent a collection letter, by or on behalf of RGS, in the form represented by Exhibit A of this Class Complaint (c) to collect a consumer debt (d) that was sent from September 6, 2018,

to 21 days after the filing of this complaint (e) that was not returned as undeliverable by the postal service.

29. Defendant regularly engages in debt collection, including attempting to collect debt via the mails, in its regular course of business.

30. On information and belief, the Class consists of more than 35 persons, due to the form nature of the letter.

31. 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.

32. 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.

33. 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 the 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 class action litigation including class actions brought under the FDCPA.

34. Because of the Defendant's violations of the FDCPA, Plaintiff and the class are entitled to an award of statutory damages, costs and reasonable attorney fees.

WHEREFORE, Plaintiff, Gabriel Tataru, individually and on behalf of all others similarly situated, respectfully requests that the Court:

- A. Certify this action as a class action;
- B. Appoint Plaintiff Gabriel Tataru as Class Representative of the Class, and his attorneys as Class Counsel;
- C. Declare that Defendant's collection practices violate the FDCPA;
- D. Enter judgment in favor of Plaintiff and against Defendant, for statutory damages, costs, and reasonable attorneys' fees as provided by § 1692k(a) of the FDCPA; and,
- E. Grant such further relief as deemed just.

JURY DEMAND

Plaintiff demands trial by jury.

Respectfully submitted,

By: /s/ Bryan Paul Thompson
One of Plaintiff's Attorneys

Bryan Paul Thompson
Robert W. Harrer
Chicago Consumer Law Center, P.C.
111 West Washington Street, Suite 1360
Chicago, Illinois 60602
Tel. 312-858-3239
Fax 312-610-5646
bryan.thompson@cclc-law.com
rob.harrer@cclc-law.com

DOCUMENT PRESERVATION DEMAND

Plaintiff hereby demands that defendant take affirmative steps to preserve all recordings, data, documents, and all other tangible things that relate to plaintiff, the events described herein, any third party associated with any telephone call, campaign, account, sale or file associated with plaintiff, and any account or number or symbol relating to them. These materials are likely very relevant to the litigation of this claim. If defendant is aware of any third party that has possession, custody, or control of any such materials, plaintiff demands that defendant request that such third party also take steps to preserve the materials. This demand shall not narrow the scope of any independent document preservation duties of the defendant.

By: /s/ Bryan Paul Thompson
One of Plaintiff's Attorneys

NOTICE OF LIEN AND ASSIGNMENT

Please be advised that we claim a lien upon any recovery herein for 1/3 or such amount as a court awards. All rights relating to attorney's fees have been assigned to counsel.

By: /s/ Bryan Paul Thompson
One of Plaintiff's Attorneys

EXHIBIT A



1700 Jay Ell Dr Ste 200 • Richardson TX 75081
Phone Number: 866-941-8600
PAY ONLINE: www.myrgs.com

CREDITOR:	[REDACTED]
RGS ACCOUNT #:	[REDACTED]
AMOUNT OWED:	\$739.51
LAST PAID DATE:	10/19/17

JULY 12, 2018

ACCOUNT INFORMATION

Dear GABRIEL TATARU

RGS Collections, Inc. has been assigned to provide a resolution on the above stated account. Associates are available to assist you. We're here to help you, but we need you to act. Please decide what works for you.

- ☐ You can resolve your account, without talking to an associate, by visiting our secure, private website at <https://www.myrgs.com> to negotiate and pay anytime, day or night.
- ☐ You can pay \$739.51 in full or make
Two payments: one payment of \$369.75, final payment of \$369.76
Three payments: two payments of \$246.50, final payment of \$246.51
- ☐ Call 866-941-8600 or visit us online to make alternate arrangements.

We're here to help, and we'd like your feedback. Please feel free to reach out to us with compliments, complaints or suggestions at president@rgsfinancial.com.


Sincerely,
CC - RESOLUTION DEPT
RGS Collections, Inc.
Toll Free 866-941-8600



 **Manage Account Online:**
www.myrgs.com

 **Pay by Phone:**
866-941-8600

 **Pay by MoneyGram:**
Receive Code 4290

 **Pay by Mail:**
Make checks payable to
RGS Collections, Inc.

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

NOTICE: SEE REVERSE SIDE FOR IMPORTANT INFORMATION.

PLEASE DETACH LOWER PORTION AND RETURN WITH PAYMENT IN THE ENCLOSED ENVELOPE

ICORGSF01AG4

CORGSF01
PO BOX 1280
OAKS PA 19456-1280
ADDRESS SERVICE REQUESTED

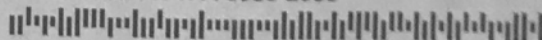
For your convenience, we accept:
VISA or MasterCard  



PAY ONLINE
www.myrgs.com

PLEASE SEND ALL CORRESPONDENCE TO:

RGS COLLECTIONS, INC.
PO BOX 852039
RICHARDSON TX 75085-2039



JULY 12, 2018

GABRIEL TATARU

CREDITOR:

FNB OMAHA II

RGS ACCOUNT #:

AMOUNT OWED:

\$739.51

☐ Check here if there is new contact information and complete section 2 on reverse side.

IMPORTANT NOTICE

This communication is from a debt collector. This is an attempt to collect a debt and any information obtained will be used for that purpose. Unless you notify this office within thirty (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 thirty (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 thirty (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.



Your payment may be presented electronically for payment using Automated Clearing House (ACH) or other means in accordance with applicable banking rules, regulations and/or any other federal or state statutes.

PAYMENT OPTIONS

- Payments may be made online at www.myrgs.com
- Make checks payable to RGS COLLECTIONS, INC..
- Pay with VISA or MasterCard by completing and returning sections 1 and 2 in the form below or by calling our office.

Please complete this section and return in the enclosed envelope.

You are hereby authorized to charge my credit card account.

CHECK ONE <input type="checkbox"/>  VISA <input type="checkbox"/>  MASTERCARD		EXP. DATE /	PAYMENT AMOUNT \$
CARD NUMBER			
CARDHOLDER'S NAME		CARDHOLDER SIGNATURE	
CARDHOLDER ADDRESS		CITY	STATE ZIP
PRIMARY PHONE NUMBER		SECONDARY PHONE NUMBER	
ADDRESS		CITY	STATE ZIP CODE

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

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

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

DEFENDANTS

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)

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 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"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <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"/> 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 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 <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <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

VI. CAUSE OF ACTION (Enter U.S. Civil Statute under which you are filing and write a brief statement of cause.)**VII. Previous Bankruptcy Matters** (For nature of suit 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 SIGNATURE OF ATTORNEY OF RECORD