

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

CASE NO.:

KRYSTINA MORRONE,

Plaintiff,

vs.

I.C. SYSTEM, INC.,

Defendant.

DEFENDANT’S NOTICE AND PETITION FOR REMOVAL

TO: The Honorable Judges of the United States District Court for the Eastern District of New York.

COMES NOW, Defendant and Petitioner for removal, I.C. SYSTEM, INC. (“Defendant”), and with reservation of all rights, hereby removes this action to the United States District Court for the Eastern District of New York from the Civil Court of the City of New York, County of Kings, the proceeding entitled and captioned: *Krystina Morrone v. I.C. SYSTEM, INC.*, Index No.: 007659 on the basis of federal question jurisdiction pursuant to 28 U.S.C. §§ 1441 and 1446(a). This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331 and 1367.

The Petition is based on the following grounds:

1. Plaintiff is KRYSTINA MORRONE (“MORRONE” and/or “Plaintiff”).

2. Defendant is I.C. SYSTEM, INC. (“ICS” and/or “Defendant”).

3. The civil action was originally brought against them in the Civil Court of the City of New York, County of Kings, the proceeding entitled and captioned: *Krystina Morrone v. I.C. SYSTEM, INC.*, Index No.: 007659. A copy of the Complaint served in that action, in addition to all process and pleadings served upon Defendant/Petitioner, is attached hereto.

4. The aforesaid action was commenced by service of process consisting of the Summons and Complaint, upon Defendant, on April 19, 2022.

5. The controversy herein between the Plaintiff and Defendant is a controversy based upon consumer protection right created by and enforced through federal statutes, 15 U.S.C. § 1692, *et seq.*, entitled the Fair Debt Collection Practices Act (“FDCPA”).

6. The above-described action is a civil action over which this Court has original jurisdiction under the provisions of 28 U.S.C. § 1331, and is one that may be removed to this Court by the Defendant/Petitioner pursuant to the provisions of 28 U.S.C. § 1441(a), in that it is a civil action based upon a federal question over which this Court has original jurisdiction.

7. This Petition for Removal is filed with this Court within thirty (30) days after service on Defendant of the Complaint in the above-styled action and is, therefore, timely pursuant to 28 U.S.C. § 1446 (b).

8. Removal is proper because the Plaintiff’s Complaint involves a federal question. 15 U.S.C. § 1692, *et seq.*, entitled the Fair Debt Collection Practices Act

(“FDCPA”); *Long v. Bando Mfg. of Am., Inc.*, 201 F.3d 754, 757-58 (6th Cir. 2000); *Peters v. Union Pac. R.R.*, 80 F.3d 257, 260 (8th Cir. 1996).

9. All pleadings, process, orders, and other filings in the state court action available to Defendant are attached to this notice as required by 28 U.S.C. §1446(a).

10. Venue is proper in this district under 28 U.S.C. §1441(a) because this district and division embrace the place where the removed action has been pending.

11. Defendant will promptly file a copy of this Notice of Removal with the clerk of the state court where the action has been pending and serve a copy of this Notice on counsel for Plaintiff.

WHEREFORE Defendant, I.C. SYSTEM, INC., respectfully requests that the above-entitled action be removed from the Civil Court of the City of New York, County of Kings, to the United States District Court for the Eastern District of New York for all further proceedings.

Dated: May 5, 2022

Respectfully submitted by:

/s/ Joseph C. Proulx
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Counsel for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via electronic mail this 5th day of May, 2022, to:

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Barshay, Rizzo & Lopez, PLLC
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Attorneys for Plaintiff

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Counsel for Defendant

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF KINGS

KRYSTINA MORRONE,

Plaintiff,

v.

I.C. SYSTEM, INC.,

Defendant.

Index No:

VERIFIED COMPLAINT

Plaintiff Krystina Morrone, by and through the undersigned counsel, complains, states, and alleges against defendant I.C. System, Inc. as follows:

PRELIMINARY STATEMENT

1. This is an action to recover damages for negligence and for violations of New York General Business Law § 349 and the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.*

JURISDICTION AND VENUE

2. This Court has jurisdiction over defendant I.C. System, Inc. because it regularly transacts business within this County, derives substantial revenue from services rendered in this County, has committed tortious acts within this County and has caused injury to persons within this County as described herein.

3. Venue is proper pursuant to C.C.A. § 301(a) because Plaintiff resides in this County.

PARTIES

4. Plaintiff Krystina Morrone ("Plaintiff") is a natural person who is a citizen of the State of New York residing in Kings County, New York.

5. Defendant I.C. System, Inc. ("ICS") is a company existing under the laws of the State of Minnesota, with its principal place of business in Saint Paul, Minnesota.

6. ICS regularly collects or attempts to collect debts asserted to be owed to others.

7. ICS regularly collects or attempts to collect debts asserted to be owed to others by residents in this County.

8. ICS regularly collects or attempts to collect debts asserted to be owed to others by New Yorkers.

9. ICS is regularly engaged, for profit, in the collection of debts allegedly owed by consumers.

10. ICS is regularly engaged, for profit, in the collection of debts allegedly owed by consumers in this County.

11. ICS is regularly engaged, for profit, in the collection of debts allegedly owed by New York consumers.

12. The principal purpose of ICS's business is the collection of such debts.

13. The principal purpose of ICS's business in this County is the collection of such debts.

14. The principal purpose of ICS's business in New York is the collection of such debts.

15. ICS uses instrumentalities of interstate commerce, including telephones and the mails, in furtherance of its debt collection business.

16. ICS uses instrumentalities of interstate commerce, including telephones and the mails, in furtherance of its debt collection business in this County.

17. ICS uses instrumentalities of interstate commerce, including telephones and the mails, in furtherance of its debt collection business in New York.

18. ICS derives substantial revenue from its debt collection services rendered in New York.

19. ICS has committed tortious acts within New York that have caused injury to

consumers in this County.

20. ICS has committed tortious acts within New York that have caused injury to New Yorkers.

FACTUAL ALLEGATIONS RELEVANT TO ALL CLAIMS

21. Plaintiff received a letter from ICS.

22. The letter stated that Plaintiff owed \$429.85 to Verizon Wireless.

23. The letter further stated or otherwise implied that Verizon Wireless had hired or otherwise retained ICS for the purposes of collecting the money from Plaintiff.

24. Plaintiff did not owe \$429.85 to Verizon Wireless.

25. Plaintiff did not owe the alleged debt to Verizon Wireless.

26. Nevertheless, in its efforts to collect the money, ICS decided to contact Plaintiff by letter.

27. Rather than preparing and mailing such letter to Plaintiff on its own, ICS decided to utilize a third-party to perform such activities on its behalf.

28. As part of its utilization of the third-party, ICS conveyed information regarding Plaintiff and the alleged debt to the third-party by electronic means.

29. The information conveyed by ICS to the third-party, which was viewed by employees of the third-party, contained Plaintiff's personal and private information including personal identifying data, among other things.

30. The third-party then populated some or all this information into a prewritten template, printed, and mailed the correspondence to Plaintiff at ICS's direction

31. That letter was received and read by Plaintiff.

32. The letter was the initial written communication Plaintiff received from ICS.

33. Under § 1692g(a) of the FDCPA, within five days of an initial communication with

a consumer, a debt collector must provide a written notice, known as a "Validation Notice," that contains relevant information about the alleged debt and how to dispute it.

34. Pursuant to the FDCPA § 1692g(a), the debt collector must:

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—

- (1) the amount of the debt;
- (2) the name of the creditor to whom the debt is owed;
- (3) a statement that unless the consumer, within thirty days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector;
- (4) a statement that if the consumer notifies the debt collector in writing within the thirty-day period that the debt, or any portion thereof, is disputed, the debt collector will obtain verification of the debt or a copy of a judgment against the consumer and a copy of such verification or judgment will be mailed to the consumer by the debt collector; and
- (5) a statement that, upon the consumer's written request within the thirty-day period, the debt collector will provide the consumer with the name and address of the original creditor, if different from the current creditor.

35. Pursuant to Regulation F of 12 CFR § 1006.34(b)(3)(iv) "Validation period means

the period starting on the date that a debt collector provides the validation information required by paragraph (c) of this section and ending 30 days after the consumer receives or is assumed to receive the validation information. For purposes of determining the end of the validation period, the debt collector may assume that a consumer receives the validation information on any date that is at least five days (excluding legal public holidays identified in 5 U.S.C. 6103(a), Saturdays, and Sundays) after the debt collector provides it.”

36. The Letter states, in the relevant part, **“Call or write to us by March 30, 2022, to dispute all or part of the debt. If you do not, we will assume that our information is correct.”**

37. The Letter provided Plaintiff a deadline of March 30, 2022 to dispute the alleged debt, request validation, and/or request the name and address of the original creditor.

38. The Letter does not have a date.

39. As such, it is unclear when the Letter was mailed.

40. Plaintiff also does not live at the address the mail was directed to.

41. As such, Plaintiff did not receive the Letter until much later.

42. Upon information and belief, the deadline for Plaintiff to dispute the alleged debt and/or request validation is not March 30, 2022.

43. Upon information and belief, the deadline for Plaintiff to dispute the alleged debt and/or request validation is a later date.

44. The Letter provides a dispute and validation deadline that is contrary to the Validation Notice of the FDCPA.

45. Pursuant to the 15 U.S.C. § 1692g(b), in the relevant part, “...Any collection activities and communication during the 30-day period may not overshadow or be inconsistent with the disclosure of the consumer’s right to dispute the debt or request the name and address of the

original creditor.”

46. By providing a validation deadline date of March 30, 2022, Defendant overshadowed Plaintiff's rights.

47. By providing a validation deadline date of March 30, 2022, Defendant does not provide Plaintiff the full 30 days.

48. By providing a validation deadline date of March 30, 2022, Defendant shortened the requisite validation period.

49. The acts of ICS as described in this Complaint were performed by ICS or on ICS's behalf by its owners, officers, agents, and/or employees acting within the scope of their actual or apparent authority. As such, all references to “ICS” in this Complaint shall mean ICS or its owners, officers, agents, and/or employees.

50. ICS's conduct as described in this Complaint was willful, with the purpose to either harm Plaintiff or with reckless disregard for the harm to Plaintiff that could result from ICS's conduct.

51. Plaintiff justifiably fears that, absent this Court's intervention, ICS will continue to use abusive, deceptive, unfair, and unlawful means in its attempts to collect the alleged debt and other alleged debts.

52. Plaintiff justifiably fears that, absent this Court's intervention, ICS will ultimately cause Plaintiff unwarranted economic harm.

53. Plaintiff justifiably fears that, absent this Court's intervention, ICS will ultimately cause Plaintiff unwarranted harm to Plaintiff's credit rating.

54. Plaintiff justifiably fears that, absent this Court's intervention, ICS will ultimately cause Plaintiff to be sued.

55. A favorable decision herein would serve to deter ICS from further similar conduct.

- FIRST CAUSE OF ACTION -
VIOLATION OF NEW YORK GENERAL BUSINESS LAW § 349

56. Plaintiff repeats and realleges the foregoing paragraphs as if fully restated herein.

57. New York General Business Law § 349 prohibits “deceptive acts or practices in the conduct of any business, trade, or commerce, or in the furnishing of any service in this state...” independent of whether these acts and practices constitute violations of any other law.

58. An individual “injured by reason of any violation of this section may bring an action in his own name to enjoin such unlawful act or practice, an action to recover his actual damages or fifty dollars, whichever is greater, or both such actions.” N.Y. Gen. Bus. Law § 349(h). An individual may also be awarded punitive damages.

59. Plaintiff is a consumer protected by New York General Business Law § 349.

60. ICS’s debt collection business in New York, aimed purposefully at New York consumers, constitutes a “business, trade or commerce or the furnishing of a service” as contemplated by New York General Business Law § 349.

61. ICS violated New York General Business Law § 349 by using deceptive acts and unlawful practices in its debt collection business. This includes a pattern and practice of unauthorized disclosures to third parties of the personal and private information of New York consumers, including the consumers’ personal identifying data, to third parties. ICS does this with reckless disregard for the propriety and privacy of the information which it discloses, reckless disregard to the risk of identity theft created by ICS’s unauthorized disclosures, reckless disregard to the harm to New York consumers that results from the unauthorized disclosure of such private and sensitive information, and reckless disregard for New York consumers’ rights to privacy.

62. ICS’s actions are consumer-oriented in that they are directed to, and targeted at,

New York consumers. ICS's conduct has a broader impact on consumers at large as ICS has acted similarly with thousands of other New York consumers and has engaged in the same conduct described herein thousands of times. ICS's recurring conduct potentially impacts thousands of similarly situated New York consumers, who, like Plaintiff, have a reasonable expectation that their personal and private information will not be disclosed to third parties without their consent. ICS has a regular pattern and practice of repeatedly disclosing New York consumers' personal and private information to third parties, and without judicial intervention ICS's conduct will likely continue to occur in the future. The unauthorized disclosure of New York consumers' personal and private information is, therefore, harmful to the New York public at large.

63. ICS acted willfully and knowingly in its violations of New York General Business Law § 349. ICS's practices are repeatedly and regularly employed by ICS as part of its business plan. ICS engages in these practices because they are profitable and because it would be more costly for ICS to create a system to ensure the security of New York consumers' private and personal information. ICS engages in this practice for the sole purpose of maximizing its profits.

64. As a direct and proximate result of ICS's violations of New York General Business Law § 349, Plaintiff suffered compensable harm and is entitled to preliminary and permanent injunctive relief, and to recover actual, treble, exemplary, and punitive damages, together with costs and attorney's fees.

- SECOND CAUSE OF ACTION -
VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT

65. Plaintiff repeats and realleges the foregoing paragraphs as if fully restated herein.

66. Congress enacted the FDCPA upon finding that debt collection abuse by debt collectors was a widespread and serious national problem. *See* S. Rep. No. 95-382, at 2 (1977) *reprinted in* U.S.C.C.A.N. 1695, 1696; 15 U.S.C § 1692(a).

67. The purpose of the FDCPA is to protect consumers from deceptive or harassing actions taken by debt collectors, with the aim of limiting the suffering and anguish often inflicted by debt collectors. *Kropelnicki v. Siegel*, 290 F.3d 118, 127 (2d Cir. 2002).

68. To further these ends, “the FDCPA enlists the efforts of sophisticated consumers ... as ‘private attorneys general’ to aid their less sophisticated counterparts, who are unlikely themselves to bring suit under the Act, but who are assumed by the Act to benefit from the deterrent effect of civil actions brought by others.” *Jacobson v. Healthcare Fin. Servs., Inc.*, 516 F.3d 85, 91 (2d Cir. 2008).

69. The FDCPA is a strict liability statute, and a debt collector’s intent may only be considered as an affirmative defense. *Ellis v. Solomon & Solomon, P.C.*, 591 F.3d 130, 135 (2d Cir. 2010). A single violation of the FDCPA is sufficient to establish civil liability against a debt collector. *Bentley v. Great Lakes Collection Bureau*, 6 F.3d 60, 62 (2d Cir. 1993).

70. Plaintiff is a “consumer” as that term defined by the FDCPA.

71. ICS is a “debt collector” as that term is defined by the FDCPA.

72. The money sought from Plaintiff is a “debt” as that term is defined by the FDCPA.

73. The letter is a “communication” as that term is defined by the FDCPA.

74. ICS’s conveyance of Plaintiff’s personal and private information to the third party is a “communication” as that term is defined by the FDCPA.

75. The actions described herein constitute “an attempt to collect a debt” or “were taken in connection with an attempt to collect a debt” within the meaning of the FDCPA.

76. ICS violated the following sections of the FDCPA: 1692c and 1692f. By way of example and not limitation, ICS violated the FDCPA by: Communicating with third parties about Plaintiff and the alleged debt without Plaintiff’s authorization, disclosing Plaintiff’s personal and

private information, including Plaintiff's personal identifying data, to third parties without Plaintiff's authorization, and disclosing Plaintiff's personal and private information for ICS's financial gain.

77. ICS violated the FDCPA and is liable to Plaintiff for statutory damages of up to \$1,000.00 plus costs and attorney's fees as provided for by Section 1692k of the FDCPA.

- THIRD CAUSE OF ACTION -
NEGLIGENCE PER SE

78. Plaintiff repeats and realleges the foregoing paragraphs as if fully restated herein.

79. Violation of a statute that imposes a duty of care constitutes negligence *per se*.

80. ICS owed Plaintiff a duty, or obligation, recognized by law.

81. New York General Business Law § 349 sets a standard of care by prohibiting specific practices, such as consumer fraud and deception, and providing for a private right of action.

82. Plaintiff is within the class of persons protected by New York General Business Law § 349.

83. As previously set forth, ICS's conduct violated New York General Business Law § 349 and therefore breached the duty imposed by the statutory standard and constitutes negligence *per se*.

84. The FDCPA creates a standard of care because it was designed to protect consumers like Plaintiff from the type of harm which occurred here and provides for a private right of action.

85. Plaintiff is within the class of persons protected by the FDCPA.

86. As previously set forth, ICS's conduct violated the FDCPA and therefore breached the duty imposed by the statutory standard and constitutes negligence *per se*.

87. As a direct and proximate result of ICS's negligence *per se*, Plaintiff suffered

compensable harm and is entitled to recover actual, treble, exemplary, and punitive damages.

- FOURTH CAUSE OF ACTION -
NEGLIGENCE

88. Plaintiff repeats and realleges the foregoing paragraphs as if fully restated herein.

89. Independent of New York General Business Law § 349 and the FDCPA, creditors and debt collectors owe debtors a duty of reasonable care in the collection of debts.

90. ICS owed a duty to Plaintiff to perform its attempted collection of Plaintiff's alleged debt with reasonable care.

91. ICS owed a duty to Plaintiff to exercise reasonable care in its handling and maintenance of Plaintiff's personal and private information.

92. ICS owed a duty to Plaintiff to exercise reasonable care in keeping Plaintiff's personal information private and to not disclose Plaintiff's personal and private information to third parties.

93. ICS owed a duty to Plaintiff to not put at risk the privacy of Plaintiff's personal and private information.

94. ICS owed a duty to Plaintiff to not expose Plaintiff to the risk of identity theft through the disclosure of Plaintiff's personal and private information.

95. ICS breached these duties by not performing its attempted collection of Plaintiff's alleged debt with reasonable care, by sharing Plaintiff's personal and private information with third parties without Plaintiff's consent, by sharing Plaintiff's personal and private information with third parties without ensuring the security of such information, and by sharing Plaintiff's personal and private information with third parties without ensuring that such third parties had procedures and/or policies in place to secure Plaintiff's personal and private information.

96. Plaintiff was damaged by ICS's breach of its duties to Plaintiff in that Plaintiff had

a reasonable expectation that Plaintiff's personal and private information would not be disclosed without Plaintiff's permission, Plaintiff had a right to control the dissemination of Plaintiff's personal and private information, Plaintiff's personal and private information may now be in the public realm, and ICS exposed Plaintiff to possible identity theft.

97. As a direct and proximate result of ICS's negligence, Plaintiff suffered compensable harm and is entitled to recover actual, treble, exemplary, and punitive damages.

- FIFTH CAUSE OF ACTION -
VIOLATION OF NEW YORK GENERAL BUSINESS LAW § 349

98. Plaintiff repeats and realleges the foregoing paragraphs as if fully restated herein.

99. New York General Business Law § 349 prohibits "deceptive acts or practices in the conduct of any business, trade, or commerce, or in the furnishing of any service in this state..." independent of whether these acts and practices constitute violations of any other law.

100. An individual "injured by reason of any violation of this section may bring an action in his own name to enjoin such unlawful act or practice, an action to recover his actual damages or fifty dollars, whichever is greater, or both such actions." N.Y. Gen. Bus. Law § 349(h). An individual may also be awarded punitive damages.

101. Plaintiff is a consumer protected by New York General Business Law § 349.

102. ICS's debt collection business in New York, aimed purposefully at New York consumers, constitutes a "business, trade or commerce or the furnishing of a service" as contemplated by New York General Business Law § 349.

103. ICS violated New York General Business Law § 349 by using deceptive acts and unlawful practices in its debt collection business. This includes a pattern and practice of attempting to collect money from New York consumers without sufficient proof and competent business records establishing that the consumer owes the money sought, attempting to collect money from

New York consumers without sufficient proof of the legitimate right, title, or interest in such money, attempting to collect money from New York consumers without being in possession of a credit agreement executed by the consumer, attempting to collect money from New York consumers without being in possession of any competent proof that the consumer agreed to pay money, and misrepresenting to New York consumers the amount of money owed and the consumer's obligation to pay such.

104. ICS's actions are consumer-oriented in that they are directed to, and targeted at, New York consumers. ICS's conduct has a broader impact on consumers at large as ICS has acted similarly with hundreds of other New York consumers and has engaged in the same conduct described herein thousands of times. ICS's recurring conduct potentially impacts hundreds of similarly situated New York consumers, who, like Plaintiff, have been subjected to ICS's same unlawful collection attempts. Without judicial intervention ICS's conduct will likely continue to occur in the future. ICS's conduct is, therefore, harmful to the New York public at large.

105. ICS acted willfully and knowingly in its violations of New York General Business Law § 349. ICS's practices are repeatedly and regularly employed by ICS as part of its business plan. ICS engages in this practice because it is profitable and because it would be more costly for ICS to create a system to verify that the consumer actually owes the money sought and to ensure that ICS holds a legitimate right, title, or interest in the money. ICS engages in this practice for the sole purpose of maximizing its profits.

106. ICS's conduct as described herein was consumer-oriented in that it was directed to, and targeted at, New York consumers. ICS's conduct has a broader impact on consumers at large as ICS has acted similarly with thousands of other New York consumers.

107. As a direct and proximate result of ICS's violations of New York General Business

Law § 349, Plaintiff suffered compensable harm and is entitled to preliminary and permanent injunctive relief, and to recover actual, treble, exemplary, and punitive damages, together with costs and attorney's fees.

- SIXTH CAUSE OF ACTION -
VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT

108. Plaintiff repeats and realleges the foregoing paragraphs as if fully restated herein.

109. Congress enacted the FDCPA upon finding that debt collection abuse by debt collectors was a widespread and serious national problem. *See* S. Rep. No. 95-382, at 2 (1977) *reprinted in* U.S.C.C.A.N. 1695, 1696; 15 U.S.C § 1692(a).

110. The purpose of the FDCPA is to protect consumers from deceptive or harassing actions taken by debt collectors, with the aim of limiting the suffering and anguish often inflicted by debt collectors. *Kropelnicki v. Siegel*, 290 F.3d 118, 127 (2d Cir. 2002).

111. To further these ends, "the FDCPA enlists the efforts of sophisticated consumers ... as 'private attorneys general' to aid their less sophisticated counterparts, who are unlikely themselves to bring suit under the Act, but who are assumed by the Act to benefit from the deterrent effect of civil actions brought by others." *Jacobson v. Healthcare Fin. Servs., Inc.*, 516 F.3d 85, 91 (2d Cir. 2008).

112. The FDCPA is a strict liability statute, and a debt collector's intent may only be considered as an affirmative defense. *Ellis v. Solomon & Solomon, P.C.*, 591 F.3d 130, 135 (2d Cir. 2010). A single violation of the FDCPA is sufficient to establish civil liability against a debt collector. *Bentley v. Great Lakes Collection Bureau*, 6 F.3d 60, 62 (2d Cir. 1993).

113. Plaintiff is a "consumer" as that term defined by the FDCPA.

114. ICS is a "debt collector" as that term is defined by the FDCPA.

115. The alleged debt is a "debt" as that term is defined by the FDCPA.

116. The letter is a “communication” as that term is defined by the FDCPA.

117. The actions described herein constitute “an attempt to collect a debt” or “were taken in connection with an attempt to collect a debt” within the meaning of the FDCPA.

118. ICS violated the following sections of the FDCPA: 1692e, 1692f and 1692g. By way of example and not limitation, ICS violated the FDCPA by: Using false, deceptive or misleading representations or means; misrepresenting the character, amount, or legal status of the debt; misrepresenting the services rendered or compensation which may be lawfully received; threatening to take and actually taking an action prohibited by law; communicating or threatening to communicate to any person credit information which is known or which should be known to be false; using any false, deceptive or misleading representations or means; using unfair or unconscionable means; and collecting or seeking to collect any amount (including any interest, fee, charge, or expense incidental to the principal obligation) unless such amount is expressly authorized by the agreement creating the debt or permitted by law; and failing to provide accurate and clear information in the collection letter.

119. As set forth above, Plaintiff did not owe \$429.85.

120. As such, ICS did not accurately set forth the actual amount of the alleged debt as required by 15 U.S.C. § 1692g(a)(1).

121. In sum, ICS’s statement of the amount of the alleged debt, when Plaintiff did not owe that amount, violates 15 U.S.C. § 1692g(a)(1).

122. As also relevant here, 15 U.S.C. § 1692g(a)(2) requires the written notice provide a statement of the name of the creditor to whom the debt is owed.

123. To comply with 15 U.S.C. § 1692g(a)(2), the statement of the name of the creditor to whom the debt is owed must accurately set forth the name of the entity that actually owns the

debt.

124. A statement of the name of the creditor to whom the debt is owed, when the consumer does not owe money to the stated entity, violates 15 U.S.C. § 1692g(a)(2).

125. As set forth above, Plaintiff did not owe money to Verizon Wireless.

126. As such, ICS did not accurately set forth the name of the entity that actually owns the debt as required by 15 U.S.C. § 1692g(a)(2).

127. In sum, ICS's statement that Verizon Wireless was the name of the creditor to whom the alleged debt was owed, when Plaintiff did not owe any money to Verizon Wireless violates 15 U.S.C. § 1692g(a)(2).

128. 15 U.S.C. § 1692g(a)(3) provides that the written notice must contain a statement that unless the consumer, within thirty days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector.

129. Pursuant to the 15 U.S.C. § 1692g(b), in the relevant part, "...Any collection activities and communication during the 30-day period may not overshadow or be inconsistent with the disclosure of the consumer's right to dispute the debt or request the name and address of the original creditor."

130. The Letter provides a dispute and validation deadline that is contrary to the Validation Notice of the FDCPA.

131. The Letter states, in the relevant part, "**Call or write to us by March 30, 2022, to dispute all or part of the debt.** If you do not, we will assume that our information is correct."

132. The Letter provided Plaintiff a deadline of March 30, 2022 to dispute the alleged debt, request validation, and/or request the name and address of the original creditor.

133. The Letter does not have a date.

134. As such, it is unclear when the Letter was mailed.

135. Plaintiff also does not live at the address the mail was directed to.

136. As such, Plaintiff did not receive the Letter until much later.

137. As such, ICS did not accurately set forth the deadline for Plaintiff to dispute the alleged debt as required by 15 U.S.C. § 1692g(a)(3).

138. 15 U.S.C. § 1692e provides, generally, that a debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt.

139. 15 U.S.C. § 1692e(2)(A) prohibits the false representation of the character, amount, or legal status of any debt.

140. 15 U.S.C. § 1692e(10) prohibits the use of any false representation or deceptive means to collect or attempt to collect any debt.

141. An allegation by a debt collector that a consumer owes a debt to a certain entity when the consumer does not owe a debt to that entity is a violation of 15 U.S.C. §§ 1692e, 1692e(2)(A) and 1692e(10).

142. An allegation by a debt collector that a consumer owes a certain amount of money when the consumer does not that amount is a violation of 15 U.S.C. §§ 1692e, 1692e(2)(A) and 1692e(10).

143. As such, ICS's allegation that Plaintiff owed \$130.84 is a false, deceptive, and/or misleading representation made in connection with the collection of the alleged debt in violation of 15 U.S.C. § 1692e.

144. ICS's allegation that Plaintiff owed money to Verizon Wireless is a false, deceptive, and/or misleading representation made in connection with the collection of the alleged debt in violation of 15 U.S.C. § 1692e.

145. ICS's allegation that Plaintiff owed \$130.84 is a false representation of the character, amount, and/or legal status of the alleged debt in violation of 15 U.S.C. § 1692e(2)(A).

146. ICS's allegation that Plaintiff owed money to Verizon Wireless is a false representation of the character, amount, and/or legal status of the alleged debt in violation of 15 U.S.C. § 1692e(2)(A).

147. ICS's allegation that Plaintiff owed \$130.84 is a false representation made in an attempt to collect the alleged debt in violation of 15 U.S.C. § 1692e(10).

148. ICS's allegation that Plaintiff owed money to Verizon Wireless is a false representation made in an attempt to collect the alleged debt in violation of 15 U.S.C. § 1692e(10).

149. ICS violated the FDCPA and is liable to Plaintiff for statutory damages of up to \$1,000.00 plus costs and attorney's fees as provided for by Section 1692k of the FDCPA.

- SEVENTH CAUSE OF ACTION -
NEGLIGENCE PER SE

150. Plaintiff repeats and realleges the foregoing paragraphs as if fully restated herein.

151. Violation of a statute that imposes a duty of care constitutes negligence *per se*.

152. ICS owed Plaintiff a duty, or obligation, recognized by law.

153. New York General Business Law § 349 sets a standard of care by prohibiting specific practices, such as consumer fraud and deception, and providing for a private right of action.

154. Plaintiff is within the class of persons protected by New York General Business Law § 349.

155. As previously set forth, ICS's conduct violated New York General Business Law § 349 and therefore breached the duty imposed by the statutory standard and constitutes negligence *per se*.

156. The FDCPA creates a standard of care because it was designed to protect consumers like Plaintiff from the type of harm which occurred here and provides for a private right of action.

157. Plaintiff is within the class of persons protected by the FDCPA.

158. As previously set forth, ICS's conduct violated the FDCPA and therefore breached the duty imposed by the statutory standard and constitutes negligence *per se*.

159. Plaintiff is a "debtor" as that term is defined by New York General Business Law § 600(2).

160. ICS is a "debt collection agency" and "principal creditor" as those terms are defined by New York General Business Law §§ 600(4) and 600(3), respectively.

161. ICS's owners, officers, agents, and/or employees acting within the scope of their actual or apparent authority are "debt collectors" as that term is defined by defined by New York General Business Law § 600(7).

162. The money that ICS sought to collect from Plaintiff is a "consumer claim" and "debt" as those terms are defined by New York General Business Law §§ 600(1) and 600(6), respectively.

163. The letter is a "communication" as that term is defined by New York General Business Law § 600(5).

164. New York General Business Law § 601 sets a standard of care by prohibiting specific practices, such as claiming or attempting to enforce a right with knowledge or reason to know that the right does not exist, and knowingly collecting, attempting to collect, or asserting a right to any collection fee, attorney's fee, court cost or expense unless such charges are justly due and legally chargeable against the debtor.

165. Plaintiff is within the class of persons protected by New York General Business

Law § 600, et seq.

166. ICS's conduct violated New York General Business Law § 600, et seq. and therefore breached the duty imposed by the statutory standard and constitutes negligence *per se*.

167. As a direct and proximate result of ICS's negligence *per se*, Plaintiff suffered compensable harm and is entitled to recover actual, treble, exemplary, and punitive damages.

- EIGHTH CAUSE OF ACTION -
NEGLIGENCE

168. Plaintiff repeats and realleges the foregoing paragraphs as if fully restated herein.

169. Independent of New York General Business Law § 349 and the FDCPA, creditors and debt collectors owe debtors a duty of reasonable care in the collection of debts.

170. ICS owed a duty to Plaintiff to exercise reasonable care in its attempts to collect money from Plaintiff.

171. ICS owed a duty to Plaintiff to exercise reasonable care in making representations of fact to Plaintiff concerning the alleged debt.

172. ICS owed a duty to Plaintiff not to attempt to collect money from Plaintiff that Plaintiff did not owe.

173. ICS owed a duty to Plaintiff not to attempt to collect money from Plaintiff without sufficient proof and competent business records establishing that Plaintiff owed the money sought, not to attempt to collect money from Plaintiff without sufficient proof that ICS holds a legitimate right, title, or interest in such money, not to attempt to collect money from Plaintiff without being in possession of a credit agreement executed by Plaintiff, not to attempt to collect money from Plaintiff without being in possession of any competent proof that Plaintiff agreed to pay the money, and not to misrepresent to Plaintiff the amount of money owed and Plaintiff's obligation to pay such.

174. ICS breached these duties by attempting to collect money from Plaintiff without sufficient proof and competent business records establishing that Plaintiff owed the money sought, by attempting to collect money from Plaintiff without sufficient proof that ICS holds a legitimate right, title, or interest in such money, by attempting to collect money from Plaintiff without being in possession of a credit agreement executed by Plaintiff, by attempting to collect money from Plaintiff without being in possession of any competent proof that Plaintiff agreed to pay the money, by misrepresenting the amount of money owed and Plaintiff's obligation to pay such, by using false, deceptive or misleading representations or means in its attempt to collect money from Plaintiff, by misrepresenting the character, amount, or legal status of the alleged debt, by misrepresenting the services rendered or compensation which may be lawfully received, by threatening to take and actually taking an action prohibited by law, by using unfair or unconscionable means in its attempt to collect money from Plaintiff; by seeking to collect money from Plaintiff not expressly authorized by an agreement or permitted by law, and by failing to provide accurate and clear information in its collection letter.

175. As a direct and proximate result of ICS's negligence, Plaintiff suffered compensable harm and is entitled to recover actual, treble, exemplary, and punitive damages.

- NINTH CAUSE OF ACTION -
NEGLIGENT MISREPRESENTATION

176. Plaintiff repeats and realleges the foregoing paragraphs as if fully restated herein.

177. ICS owed a duty to Plaintiff to exercise reasonable care in its attempts to collect money from Plaintiff.

178. ICS owed a duty to Plaintiff to exercise reasonable care in making representations of fact to Plaintiff concerning the alleged debt.

179. ICS owed a duty to Plaintiff to ensure that its collection letters contain accurate

information.

180. ICS owed a duty to Plaintiff to exercise reasonable care in making sure its collection letters do not contain inaccurate representations of fact.

181. ICS breached these duties by representing in its letter that Plaintiff owed money when such representation was based on insufficient documentation, by representing in its letter that Plaintiff owed money when such representation was not based on any competent proof that any entity assigned all that entity's interest in the alleged debt, by representing in its letter that Plaintiff owed money when such representation was not based on any credit agreement signed by Plaintiff, by representing in its letter that Plaintiff owed money when such representation was not based on any competent proof that Plaintiff agreed to pay such money, and by representing in its letter that Plaintiff owed money when ICS held no legal right, title or interest in any debt Plaintiff allegedly owed.

182. As a direct and proximate result of ICS's negligent misrepresentations, Plaintiff suffered compensable harm and is entitled to recover actual, treble, exemplary, and punitive damages.

JURY DEMAND

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

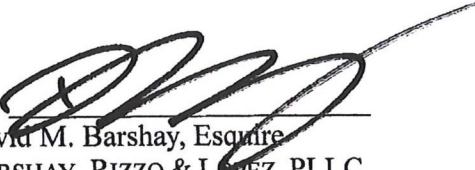
PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests the following relief:

- a. A determination that ICS has committed the violations of law alleged in this action.
- b. Actual, treble, exemplary and punitive damages up to the jurisdictional limits of this Court on Plaintiff's negligence causes of action.
- c. Statutory damages of up to \$1,000.00 pursuant to 15 U.S.C. § 1692k on Plaintiff's FDCPA causes of action.

- d. Statutory and punitive damages up to the jurisdictional limits of this Court on Plaintiff's New York General Business Law § 349 causes of action.
- e. The costs of this action and attorneys' fees as allowed by law.
- f. Pre-judgment and post-judgment interest as allowed by law; and
- g. Such other and further relief that the Court determines is just and proper.


DATED: March 29, 2022

By: 
David M. Barshay, Esquire
BARSHAY, RIZZO & LOPEZ, PLLC
445 Broadhollow Road | Suite CL18
Melville, New York 11747
Tel: (631) 210-7272
Fax: (516) 706-5055
Our File No.: BRL21685
Attorneys for Plaintiff

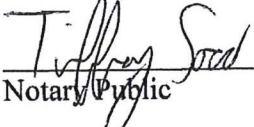
VERIFICATION

Krystina Morrone, being duly sworn, deposes and says:

I am the plaintiff in this action against ICS. I have read the foregoing complaint and know the contents thereof to be true except as to matters therein stated to be alleged on information and belief and as to those matters, I believe them to be true.


Krystina Morrone

Sworn to before me on
March 29, 2022


Notary Public

TIFFANY SOOD
Notary Public, State of New York
Registration No. 01SO6389380
Qualified in Queens County
Commission Expires March 25, 2023

Index No:

**CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF KINGS**

KRYSTINA MORRONE,

Plaintiff,

-against-

I.C. SYSTEM, INC.,

Defendant.

SUMMONS AND COMPLAINT

BARSHAY, RIZZO & LOPEZ, PLLC
Attorneys for Plaintiff
445 Broadhollow Road | Suite CL18
Melville, New York 11747
Tel: (631) 210-7272

I hereby certify pursuant to 22 NYCRR § 130-1.1-a that, to the best of my knowledge, information and belief, formed after an inquiry reasonable under the circumstances, the presentation of the papers listed below or the contentions therein are not frivolous as defined in 22 NYCRR § 130-1.1(c):


David M. Barsky, Esquire

Dated: March 29, 2022

Service of the within _____ is hereby admitted.

Dated: _____, 20__

Attorneys for _____