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Our File No.: BRL21895

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

Phenita Mouzon,

Plaintiff,

v.

NCB Management Services, Inc.,

Defendant.

Case No:

COMPLAINT

JURY TRIAL DEMANDED

Plaintiff Phenita Mouzon, by and through the undersigned counsel, complains, states, and alleges against defendant NCB Management Services, Inc. as follows:

INTRODUCTION

1. This is an action to recover damages for violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (the “FDCPA”).

JURISDICTION AND VENUE

2. This Court has federal subject matter jurisdiction pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1337 and 15 U.S.C. § 1692k(d). The Court has supplemental jurisdiction of any state law claims pursuant to 28 U.S.C. §1367.



3. This court has jurisdiction over defendant NCB Management Services, Inc. because it regularly conducts and transacts business in this state, and the conduct complained of herein occurred in this Judicial District.

4. Venue is proper in this Judicial District under 28 U.S.C. § 1391(b) because a substantial part of the conduct complained of herein occurred in this Judicial District.

PARTIES

5. Plaintiff Phenita Mouzon (“Plaintiff”) is a natural person who is a citizen of the State of New Jersey residing in Ocean County, New Jersey.

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

7. Defendant NCB Management Services, Inc. (“Defendant”) is a company existing under the laws of the State of Pennsylvania, with its principal place of business at Trevoze, Pennsylvania.

8. Defendant has transacted business within this state as is more fully set forth hereinafter in this Complaint.

9. Defendant regularly collects or attempts to collect debts asserted to be owed to others.

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

11. The principal purpose of Defendant’s business is the collection of such debts.

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

13. Defendant is a “debt collector” as that term is defined by 15 U.S.C. § 1692a(6).

14. The acts of Defendant as described in this Complaint were performed by Defendant



or on Defendant'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 "Defendant" in this Complaint shall mean Defendant or its owners, officers, agents, and/or employees.

FACTUAL ALLEGATIONS

15. Sometime prior to May 2020, Plaintiff financed a vehicle through Santander Consumer USA Inc. (the "Account").

16. At some point thereafter, Plaintiff fell behind on her payments.

17. On or about May 20, 2020, Santander Consumer USA, Inc. offered Plaintiff a settlement to pay the balance of the Account.

18. Plaintiff made all payments under the terms of the settlement with Santander Consumer USA Inc.

19. In fact, on or about June 12, 2020, Santander Consumer USA Inc. sent Plaintiff a letter stating the Account "was settled in full for less than the amount owed" and the "[account] has been settled in full."

20. Pursuant to the terms of the settlement Santander Consumer USA Inc. agreed to: (i) forgive the remaining portion of the outstanding balance on the Account, (ii) consider the Account as settled, (iii) adjust its records to reflect the settlement of the Account, (iv) report the status of the Account to the credit reporting agencies as settled for less than the full balance, and (v) release the title (if applicable).

21. At that point, Plaintiff believed the Account was settled.

22. At that point, Plaintiff believed Plaintiff was no longer liable for remainder of the debt as Plaintiff had made the payments pursuant to the settlement.

23. At that point, Plaintiff believed the remainder was forgiven.

24. At that point, Plaintiff believed that the matter was fully resolved.

25. Additionally, Santander Consumer USA Inc. sent Plaintiff a 1099-C for the portion of the Account that was forgiven, and Plaintiff reported such on her 2020 tax return filed with the IRS.

26. Nearly two years later, Plaintiff began receiving calls on her cellular phone from Defendant in an attempt to collect a portion of the Account, which was previously forgiven by Santander Consumer USA Inc. and reported on Plaintiff's tax filings with the IRS (the "alleged debt").

27. At an exact time known only to Defendant, the alleged Debt was assigned or otherwise transferred to Defendant for collection.

28. At the time the alleged Debt was assigned or otherwise transferred to Defendant for collection, the alleged Debt was in default.

29. Plaintiff did not owe the alleged debt that Defendant was attempting to collect.

30. Upon information and belief, Defendant receives placement of hundreds or thousands of accounts in CSV files or Excel spreadsheets and merely uploads said accounts to its account management system without reviewing any of the information regarding any individual account or balance allegedly owed.

31. Upon information and belief, after uploading pools of placement files to its account management system, it begins to attempt to collect the alleged debts without performing any inquiry into the account or balance allegedly owed.

32. The alleged debt does not arise from any business enterprise of Plaintiff.

33. The alleged debt is a "debt" as that term is defined by 15 U.S.C. § 1692a(5).

34. Defendant's collection attempts were false, misleading, and/or deceptive.

35. Defendant's collection attempts were harassing, oppressive, and/or abusive.

36. On or about April 22, 2022, Plaintiff received a voicemail stating, “Hi, this is Teresa Hammond. I’m calling from NCB Management Services Incorporated. Please contact me at 844-970-2028, Monday through Thursday 8 a.m. to 8 p.m., Fridays 8 a.m. to 5 p.m. Eastern Time. Thank you.”

37. The foregoing voicemail was the initial communication from Defendant.

38. Pursuant to the FDCPA, Defendant was required to make certain disclosures to Plaintiff, specifically that it is “*attempting to collect a debt and that any information obtained will be used for that purpose*”, pursuant to 15 U.S.C. § 1692e(11) (the “Mini Miranda Disclosure”).

39. The foregoing voicemail failed to include the Mini Miranda Disclosure.

40. Defendant was also required to make certain disclosures under 15 U.S.C. § 1692g in its initial communication with Plaintiff, or within five days thereafter.

41. Pursuant to the FDCPA § 1692g,

(a) ...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.

42. Defendant failed to provide Plaintiff with her statutory rights under 1692g in the initial communication, and did not send any written notice containing the requisite disclosures within five days, in violation of the FDCPA.

43. Plaintiff received subsequent calls and/or voicemails from Defendant, including, on or about May 19, 2022 and June 1, 2022.

44. On or about May 26, 2022, Plaintiff received notice that Defendant began reporting the portion of the Account which was previously forgiven by Santander Consumer USA Inc. to Plaintiff's credit reports.

45. Pursuant to Regulation F of 12 CFR § 1006.30 "Except as provided in paragraph (a)(2) of this section, a debt collector must not furnish to a consumer reporting agency, as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)), information about a debt before the debt collector:

- (i) Speaks to the consumer about the debt in person or by telephone; or
- (ii) Places a letter in the mail or sends an electronic message to the consumer about the debt and waits a reasonable period of time to receive a notice of undeliverability. During the reasonable period, the debt collector must permit receipt of, and monitor for, notifications of undeliverability from communications providers. If the debt collector receives such a notification during the reasonable period, the debt collector must not furnish information about the debt to a consumer reporting agency until the debt collector otherwise satisfies paragraph (a)(1) of this section."

46. Defendant did not provide Plaintiff any notice of the negative credit reporting prior to or within 30 days of the said reporting.

47. Defendant did not speak with Plaintiff in person or by telephone prior to reporting negative information regarding the alleged debt to Plaintiff's credit reports.

48. Defendant did not mail or send electronic communication to Plaintiff regarding the alleged debt prior to reporting negative information regarding the alleged debt to Plaintiff's credit reports.

49. Defendant's credit reporting was false, misleading, and/or deceptive.

50. Defendant knew or should have known the information it was reporting to Plaintiff's credit reports was false.

51. Plaintiff suffered a loss of creditworthiness as a result of Defendant's conduct.

52. Plaintiff has the interest and right to be free from collection efforts on debts Plaintiff does not owe.

53. Plaintiff has the interest and right to be free from collection efforts on debts Plaintiff previously settled.

54. Plaintiff has the interest and right to be free from false, misleading, and/or deceptive credit reporting.

55. Plaintiff has the interest and right to be free from harm to Plaintiff's credit rating.

56. Plaintiff has the interest and right to be free from the fear of being sued on debts Plaintiff does not owe.

57. Plaintiff has the interest and right to be free from false, deceptive and/or misleading communications from debt collectors, including Defendant.

58. Plaintiff has the interest and right to be free from harassing, oppressive, and/or abusive conduct from debt collectors, including Defendant.

59. As set forth herein, Defendant deprived Plaintiff of these rights.



60. Plaintiff's injury is "particularized" and "actual" in that the conduct that deprived Plaintiff of her rights was directed by Defendant to Plaintiff specifically.

61. Plaintiff's injury is directly traceable to Defendant's conduct because Defendant initiated the communications, and but for Defendant's conduct, Plaintiff would not have been deprived of her rights.

62. Plaintiff has been misled by Defendant's conduct.

63. Defendant'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 Defendant's conduct.

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

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

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

67. Plaintiff justifiably fears that, absent this Court's intervention, Defendant will ultimately cause Plaintiff to be sued for a debt Plaintiff does not owe.

68. As a result of Defendant's conduct, Plaintiff wasted time, was caused to be confused and unsure as to Plaintiff's rights, suffered emotional distress, and ultimately sought counsel and advice causing Plaintiff the risk of incurring damages including reasonable attorneys' fees in reviewing Plaintiff's rights under the law and prosecuting this claim.



69. As a result of Defendant's conduct, Plaintiff's counsel was caused to expend time, energy, and money to investigate Plaintiff's rights under the law and the legitimacy of the alleged Debt.

70. The deprivation of Plaintiff's rights will be redressed by a favorable decision herein.

71. A favorable decision herein would redress Plaintiff's injury with money damages.

72. A favorable decision herein would serve to deter Defendant from further similar conduct.

FIRST COUNT
Violation of 15 U.S.C. § 1692g

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

74. Among other things, 15 U.S.C. § 1692g provides that within five days after the initial communication with a consumer in connection with the collection of any debt, a debt collector shall, unless the information is contained in the initial communication or the consumer has paid the debt, send the consumer a written notice containing certain enumerated information.

75. 15 U.S.C. § 1692g(a) sets forth the validation notice requirements incumbent on debt collectors.

76. Defendant failed to provide Plaintiff with the full, prerequisite validation notice providing Plaintiff with notice of her rights to dispute the alleged debt, or any portion thereof, along with other required information, pursuant to 15 U.S.C. § 1692g within the time period for such validation notice provided thereunder.

77. For the foregoing reasons, Defendant violated 15 U.S.C. § 1692g(a) and is liable to Plaintiff therefor.

SECOND COUNT

Violation of 15 U.S.C. §§ 1692e, 1692e(2)(A), and 1692e(10)

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

79. 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.

80. 15 U.S.C. § 1692e(2)(A) prohibits the false representation of the character, amount, or legal status of any debt.

81. 15 U.S.C. § 1692e(10) prohibits the use of any false representation or deceptive means to collect or attempt to collect any debt.

82. 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).

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

84. As set forth in the relevant paragraphs of this Complaint, Plaintiff did not owe the alleged debt.

85. As such, Defendant's allegation that Plaintiff owed the alleged debt 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.

86. Defendant's allegation that Plaintiff owed the alleged debt 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).



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

88. Defendant's allegation that Plaintiff owed the alleged debt by furnishing negative information to Plaintiff's credit reports regarding the alleged debt 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.

89. Defendant's allegation that Plaintiff owed the alleged debt by furnishing negative information to Plaintiff's credit reports regarding the alleged debt 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).

90. Defendant's allegation that Plaintiff owed the alleged debt by furnishing negative information to Plaintiff's credit reports regarding the alleged debt is a false representation made in an attempt to collect the alleged Debt in violation of 15 U.S.C. § 1692e(10).

91. For the foregoing reasons, Defendant violated 15 U.S.C. §§ 1692e, 1692e(2)(A) and 1692e(10) and is liable to Plaintiff therefor.

THIRD COUNT
Violation of 15 U.S.C. § 1692e(8)

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

93. 15 U.S.C. § 1692e(8) prohibits communicating or threatening to communicate to any person credit information which is known or which should be known to be false.

94. Defendant failed to act with any reasonable level of diligence or care prior to furnishing negative and false information to Plaintiff's credit reports.

95. Defendant failed to inform Plaintiff prior to or within 30 days of Defendant furnishing negative and false information to Plaintiff's credit reports.

96. Defendant's negligent conduct was solely for the sake of maximizing profits which

had a negative impact on Plaintiff.

97. Upon information and belief, Defendant has a pattern and practice of furnishing negative and false information to consumers' credit reports.

98. Defendant knew or should have known the data it was furnishing to Plaintiff's credit reports was false.

99. If not for Defendant's conduct, such information would not have been reported to Plaintiff's credit reports.

100. For the foregoing reasons, Defendant violated 15 U.S.C. § 1692e(8) and is liable to Plaintiff therefor.

FOURTH COUNT

Violation of 15 U.S.C. §§ 1692e and 1692e(11)

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

102. 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.

103. 15 U.S.C. § 1692e(11) requires a debt collector to inform a consumer in an initial communication, that it is attempting to collect a debt and that any information obtained will be used for that purpose.

104. Defendant's initial voicemail communication failed to disclose to Plaintiff that any information collected by Defendant would be used for debt collection purposes, in violation of §1692e(11) of the FDCPA.

105. The omission of the necessary Mini Miranda Disclosure required in an initial communication with a consumer is misleading to the least sophisticated consumer regarding the nature of Defendant's call, and the request for a return call.

106. An unsophisticated consumer would be confused and misled by Defendants' lack

of Mini Miranda Disclosure, in violation of §1692e of the FDCPA.

107. For the foregoing reasons, Defendant violated 15 U.S.C. §§ 1692e and 1692e(11) and is liable to Plaintiff therefor.

FIFTH COUNT
Violation of 15 U.S.C. § 1692d

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

109. 15 U.S.C. § 1692d provides, generally, that a debt collector may not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt.

110. 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. § 1692d.

111. An allegation by a debt collector that a consumer owes a certain amount of money when the consumer does not owe that amount is a violation of 15 U.S.C. § 1692d.

112. As set forth in the relevant paragraphs of this Complaint, Plaintiff did not owe the alleged debt.

113. As such, Defendant's allegation that Plaintiff owed the alleged debt, when the debt was not owed, was harassing, oppressive, and/or abusive conduct in connection with the collection of the alleged debt in violation of 15 U.S.C. § 1692d.

114. For the foregoing reasons, Defendant violated 15 U.S.C. § 1692d and is liable to Plaintiff therefor.

JURY DEMAND

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

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment be entered as follows:

- a. Finding Defendant’s actions violate the FDCPA; and
- b. Awarding damages to Plaintiff pursuant to 15 U.S.C. § 1692k; and
- c. Awarding Plaintiff’s attorneys’ fees pursuant to 15 U.S.C. § 1692k, calculated on a “lodestar” basis; and
- d. Awarding the costs of this action to Plaintiff; and
- e. Awarding pre-judgment interest and post-judgment interest to Plaintiff; all together with
- f. Such other and further relief that the Court determines is just and proper.

DATED: July 27, 2022

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