

1 James K. Schultz, Esq. (SBN 309945)
2 Debbie P. Kirkpatrick (SBN 207112)
3 SESSIONS ISRAEL & SHARTLE, L.L.P.
4 1550 Hotel Circle North, Suite 260
5 San Diego, CA 92108
6 Tel: 619/758-1891
7 Fax: 877/334-0661
8 jschultz@sessions.legal
9 dkirkpatrick@sessions.legal

10 *Attorney for NCB Management Services, Inc.*

11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA

13 VANESSA VELASCO,

14 Plaintiff,

15 vs.

16 NCB MANAGEMENT SERVICES,
17 INC., AND DOES 1-10, INCLUSIVE,

18 Defendant.

) Case No.:

) NOTICE OF REMOVAL OF ACTION
) UNDER 28 U.S.C. § 1441(a)
) [FEDERAL QUESTION]

19
20 TO THE CLERK OF THE ABOVE-ENTITLED COURT:

21 PLEASE TAKE NOTICE THAT Defendant, NCB Management Services,
22 Inc. ("NCB") hereby removes to this Court the state court action described below.

23 1. This action is a civil action of which this Court has original jurisdiction
24 under 28 U.S.C. § 1331, and is one which may be removed to this Court by defendant
25 pursuant to the provisions of 28 U.S.C. § 1441(a) in that it arises under the Fair Debt
26 Collection Practices Act, 15 U.S.C. § 1692, *et seq.*

1 2. On or about December 16, 2022, the action was commenced in the
2 Superior Court of the State of California, County of Santa Barbara, entitled, *Vanessa*
3 *Velasco v. NCB Management Services, Inc. and Does 1-10, Inclusive*, Case No.
4 22CV04999 (the “State Court Action”). A copy of the Plaintiff’s Summons and
5 Complaint (“Complaint”) is attached hereto as Exhibit A.

6 3. NCB was served with a copy of the Complaint on December 29, 2022.
7 Thus, pursuant to 28 U.S.C. § 1446(b), NCB has timely filed this Notice of Removal.

8 4. A copy of this Notice of Removal is being served upon Plaintiff and
9 will be filed in the State Court Action.

10 5. The State Court Action is located within the Central District of
11 California. Therefore, venue for purposes of removal is proper because the United
12 States District Court for the Central District of California embraces the place in
13 which the removed action was pending. 28 U.S.C. § 1441(a).

14 6. Removal of the State Court Action is therefore proper under 28 U.S.C.
15 §§ 1441 and 1446.

16
17 Dated: 1/26/23

SESSIONS, ISRAEL & SHARTLE, L.L.P.

18 */s/Debbie P. Kirkpatrick*

19 Debbie P. Kirkpatrick

20 Attorney for Defendant

21 NCB Management Services, Inc.
22
23
24
25
26
27

Exhibit A

SUM-100

**SUMMONS
(CITACION JUDICIAL)**

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

ELECTRONICALLY FILED
Superior Court of California
County of Santa Barbara
Darrel E. Parker, Executive Officer
12/16/2022 2:39 PM
By: Isabel Navarro, Deputy

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

NCB Management Services, Inc., And Does 1-10, Inclusive,

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

Vanessa Velasco

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. ¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lee la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida el secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es):

Santa Maria Division
312 East Cook Street, Bldg. E, Santa Maria, CA 93454

CASE NUMBER: (Número del Caso):
22CV04999

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: (El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

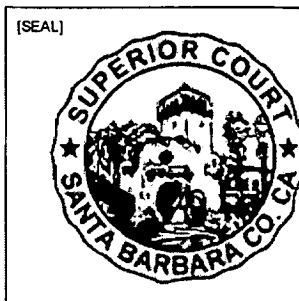
Michael F. Cardoza, Lauren B. Veggian; 548 Market St. #80594, San Francisco, CA 94104; (415) 488-8041

DATE: 12/16/2022
(Fecha)

Clerk, by /s/ Isabel Navarro, Deputy
(Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

1. as an individual defendant.
2. as the person sued under the fictitious name of (specify):
3. on behalf of (specify): NCB MANAGEMENT SERVICES, INC.
under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify):
4. by personal delivery on (date):

The Cardoza Law Corporation
Michael F. Cardoza, Esq. (SBN: 194065)
Mike.Cardoza@cardozalawcorp.com
Lauren B. Veggian, Esq. (SBN: 309929)
Lauren.Veggian@cardozalawcorp.com
548 Market St., #80594
San Francisco, CA 94104
Telephone: (415) 488-8041
Facsimile: (415) 651-9700
Attorneys for Plaintiff,
Vanessa Velasco

ELECTRONICALLY FILED
Superior Court of California
County of Santa Barbara
Darrel E. Parker, Executive Officer
12/16/2022 2:39 PM
By: Isabel Navarro , Deputy

THE CARDOZA LAW CORPORATION
548 MARKET ST. #80594
SAN FRANCISCO, CA 94104

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA BARBARA
UNLIMITED JURISDICTION**

22CV04999

VANESSA VELASCO,

Plaintiff,

v.

**NCB MANAGEMENT SERVICES,
INC., AND DOES 1-10, INCLUSIVE,**

Defendant.

Case No.:

**COMPLAINT FOR DAMAGES FOR
VIOLATIONS OF:**

**FAIR DEBT COLLECTION
PRACTICES ACT, 15 U.S.C. §§
1692 ET SEQ.**

DEMAND FOR JURY TRIAL

///

///

///

///

///

THE CARDOZA LAW CORPORATION
548 MARKET ST. #80594
SAN FRANCISCO, CA 94104

INTRODUCTION

1. This is a case about a debt collector who reported information to the credit bureaus that it knew was false.

2. Vanessa Velasco ("Plaintiff"), by her attorney, brings this action for actual damages, statutory damages, attorney fees, and costs, against NCB Management Services, Inc. ("Defendant") for violations of the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692 et seq. ("FDCPA") which prohibits creditors and debt collectors from engaging in abusive, deceptive and unfair practices.

3. Plaintiff makes these allegations on information and belief, with the exception of those allegations that pertain to the Plaintiff, or to the Plaintiff's counsel, which Plaintiff alleges on personal knowledge.

4. While many violations are described below with specificity, this Complaint alleges violations of the statutes cited in their entirety.

5. Unless otherwise stated, all the conduct engaged in by the Defendant took place in California.

6. All violations by Defendant were knowing, willful, and intentional, and Defendant did not maintain procedures reasonably adapted to avoid any such violations.

7. Unless otherwise indicated, the use of a Defendant's name in this Complaint includes all agents, principles, managing agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers of that Defendant named.

JURISDICTION AND VENUE

8. Jurisdiction of this Court is proper because the events leading to Plaintiff's causes of action occurred in the County of Santa Barbara and in the State of California.

9. This action arises out of Defendants' violations of the FDCPA.

10. Because Defendant does business within the State of California, personal jurisdiction is established.

11. Venue is proper pursuant to Cal. Code Civ. Proc. (hereinafter "CCP") § 395(a) because the injury to Plaintiff's person and property occurred in Santa Barbara County, pursuant to CCP

1 § 395(b) because the Plaintiff resides in Santa Barbara County at this commencement of the
2 action, and pursuant to Cal. Civ. Code § 1780 because a substantial portion of the transaction
3 (in its making and performance) occurred in Santa Barbara County.

4 **FDCPA**

5 12. In enacting the FDCPA, Congress found that:

- 6 a. There is abundant evidence of the use of abusive, deceptive, and unfair debt collection
7 practices by many debt collectors. Abusive debt collection practices contribute to the
8 number of personal bankruptcies, to marital instability, to the loss of jobs, and to invasions
9 of individual privacy.
- 10 b. Existing laws and procedures for redressing these injuries are inadequate to protect
11 consumers.
- 12 c. Means other than misrepresentation or other abusive debt collection practices are
13 available for the effective collection of debts.
- 14 d. Abusive debt collection practices are carried on to a substantial extent in interstate
15 commerce and through means and instrumentalities of such commerce. Even where
16 abusive debt collection practices are purely intrastate in character, they nevertheless
17 directly affect interstate commerce.
- 18 e. It is the purpose of this title to eliminate abusive debt collection practice by debt collectors,
19 to ensure that those debt collectors who refrain from using abusive debt collection
20 practices are not competitively disadvantaged, and to promote consistent State action to
21 protect Consumers against debt collection abuses. 15 U.S.C. § 1692.

22 13. The FDCPA is a strict liability statute. That is, a plaintiff need not prove intent or knowledge
23 on the part of the debt collector to establish liability. *See Gonzales v. Arrow Fin. Servs.,*
24 *LLC*, 660 F.3d 1055, 1060-61 (9th Cir. 2011); *Donohue v. Quick Collect*, 592 F.3d 1027,
25 1030 (“[t]he FDCPA is a strict liability statute that makes debt collectors liable for violations
26 that are not knowing or intentional”).

27 14. To further protect consumers, claims under the FDCPA are to be judged according to the
28 “least sophisticated debtor” or “least sophisticated consumer” standard. *Gonzales* at 1061.

1 This standard is lower than the “reasonable debtor” standard, and is specifically designed to
2 protect consumers of below average and sophistication or intelligence. *Id.* In addition, a
3 plaintiff need not even have actually been misled or deceived by the debt collector’s
4 communication. Rather, liability depends on whether the *hypothetical* least sophisticated
5 debtor – someone who is uninformed and naïve – would have likely been misled. *Id.*; *see*
6 *also Tourgeman v. Collins Financial Servs.*, 755 F.3d 1109, 1119 (9th Cir. 2014).

7 PARTIES

- 8 15. Plaintiff is a natural person who resides in Santa Barbara County, California. Plaintiff is a
9 “consumer” as that term is defined by 15 U.S.C. § 1692a(3) and a “Debtor” as that term is
10 defined by California Civil Code § 1788.2(h).
- 11 16. Defendant NCB Management Services, Inc. (“NCB”) is a Pennsylvania corporation
12 operating from an address of 1 Allied Drive, Feasterville-Treose, PA 19053, and is a “Debt
13 Collector” as that term is defined by 15 U.S.C. § 1692a(6) because it regularly uses the mails
14 and/or the telephone to collect, or attempt to collect, directly or indirectly, defaulted consumer
15 debts that it did not originate. It operates a nationwide debt collection business and attempts to
16 collect debts from consumers in virtually every state, including consumers in the State of
17 California. Its principal, if not sole, business purpose is the collection of defaulted consumer
18 debts originated by others, and, in fact was acting as a debt collector as to the delinquent
19 consumer debt it attempted to collect from Plaintiff.
- 20 17. The true names and capacities, whether individual, corporate (including officers and
21 directors thereof), associate or otherwise of Defendants sued herein as Does 1 through 10,
22 inclusive, are unknown to Plaintiff, who therefore sues these Defendants by such fictitious
23 names, pursuant to the Cal. Code of Civ. Proc. § 474. Plaintiff is informed and believes, and
24 thereon allege that each Named Defendant and each Defendant designated as a Doe is
25 involved in or is in some manner responsible as an officer, director, managing agent,
26 principal, beneficiary, agent, co-conspirator, joint venturer, alter ego, third-party beneficiary,
27 or otherwise, for the agreements, transactions, events and/or acts hereinafter described, and
28 thereby proximately caused injuries and damages to Plaintiff. Plaintiff request that when the

THE CARDOZA LAW CORPORATION
548 MARKET ST. #80594
SAN FRANCISCO, CA 94104

1 true names and capacities of these DOE Defendants are ascertained, they may be inserted in
2 all subsequent proceedings, and that this action may proceed against them under their true
3 names.

4 **FACTUAL ALLEGATIONS**

- 5 18. Plaintiff is an individual residing in Santa Barbara County, California.
- 6 19. Plaintiff is informed and believes, and thereon alleges, that at all times relevant, Defendant
7 conducted and continues to conduct business in the State of California.
- 8 20. Defendant's business consists solely of the collection of delinquent consumer debts.
- 9 21. Defendant is seeking to collect from Plaintiff for a personal debt related to a personal installment
10 loan.
- 11 22. On or about July 15, 2022, Plaintiff wrote to Defendant to let it know that she did not dispute
12 the debt and asked Defendant to update its credit reporting accordingly.
- 13 23. On or about July 25, 2022, Plaintiff received notification from the U.S. Postal Service that
14 Defendant had received her letter.
- 15 24. On or about September 1, 2022, Defendant nevertheless reported to at least one credit bureau
16 that Plaintiff's account was disputed.
- 17 25. On information and belief, Defendant has, in the twelve months prior to the filing of this lawsuit,
18 knowingly transmitted credit information that it knew to be inaccurate to multiple credit bureaus
19 on multiple occasions.

20 **ACTUAL DAMAGES**

- 21 26. As a result of Defendant's willful conduct, Plaintiff has suffered actual damages in the form
22 of invasion of privacy, personal embarrassment, loss of personal reputation, loss of productive
23 time, nausea, and feelings of fear, anxiety, hopelessness, anger, persecution, emotional distress,
24 frustration, upset, and humiliation, amongst other negative emotions.

25 **CAUSE OF ACTION CLAIMED BY PLAINTIFF**

26 **VIOLATION OF § 1692E OF THE FDCPA**

- 27 27. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully
28 stated herein.

1 28. A debt collector violates § 1692e of the FDCPA when it uses any false, deceptive, or misleading
2 representation or means in connection with the collection of any debt.

3 29. Defendant violated § 1692e when it, among other qualifying actions and omissions, willfully
4 communicated credit information which it knew to be false.

5 **PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiff prays that judgment be entered against Defendant for:

- 7 a) Award of actual damages pursuant to 15 U.S.C. § 1692k(a)(1) (FDCPA) against
- 8 Defendant and for Plaintiff, and,
- 9 b) Award of statutory damages in the amount of \$1000.00 pursuant to 15 U.S.C. §
- 10 1692k(a)(1) (FDCPA) against Defendant and for Plaintiff, and,
- 11 c) Award of costs of litigation and reasonable attorney’s fees pursuant to 15 U.S.C. §
- 12 1692k(a)(1) (FDCPA) against Defendant and for Plaintiff, and,
- 13 d) Award to Plaintiff of such other and further relief as may be just and proper.

14 **TRIAL BY JURY**

15 30. Pursuant to the Seventh Amendment to the Constitution of the United States of America,
16 Plaintiff is entitled to, and demand, a trial by jury.

17
18 Respectfully Submitted,

19 **THE CARDOZA LAW CORPORATION**

20
21 DATED: December 16, 2022

22 BY: _____
23 MICHAEL F. CARDOZA, ESQ.
24 LAUREN B. VEGGIAN, ESQ.
25 ATTORNEYS FOR PLAINTIFF,
26 VANESSA VELASCO
27
28

THE CARDOZA LAW CORPORATION
548 MARKET ST. #80594
SAN FRANCISCO, CA 94104


Confirmation #: 27861518

Case Title: Vanessa VelascovsNCB Management Services
 Inc

Thank you for choosing One Legal. If you have any questions about this order, please email us at support@onelegal.com.

CASE INFORMATION

Court Name: Santa Barbara County,
 Superior Court of California
Court Branch: Cook
Case Title: Vanessa VelascovsNCB
 Management Services Inc
Case Category: Civil - Unlimited
Case Type: Civil Rights
Case #: 22CV04999

ORDER DETAILS

Order Type: eFiling-eService
Filing order #: 19705343
Date/Time Submitted: 1/25/2023 2:13 PM PT
Client Billing Code: 9646-53561
Contact Name: Debbie Kirkpatrick
Attorney Name: Debbie Kirkpatrick
Email Notification: Contact

DOCUMENTS

| Document Type | Document Title | Pages Uploaded |
|------------------------|--|----------------|
| Answer/Response/Denial | Answer to Complaint and Affirmative Defenses | 3 |

eSERVICE RECIPIENTS

| Name | Email |
|-----------------|----------------------------------|
| Michael Cardoza | mike.cardoza@cardozalawcorpt.com |
| Lauren Veggian | laren.veggian@cardozalawcopr.com |

1 James K. Schultz, Esq. (SBN 309945)
 2 Debbie P. Kirkpatrick (SBN 207112)
 3 SESSIONS ISRAEL & SHARTLE, L.L.P.
 4 1550 Hotel Circle North, Suite 260
 5 San Diego, CA 92108
 6 Tel: 619/758-1891
 7 Fax: 877/334-0661
 8 jschultz@sessions.legal
 9 dkirkpatrick@sessions.legal

10 Attorney for NCB Management Services, Inc.

11 SUPERIOR COURT OF CALIFORNIA
 12 COUNTY OF SANTA BARBARA

13 VANESSA VELASCO,

14 Plaintiff,

15 vs.

16 NCB MANAGEMENT SERVICES,
 17 INC., AND DOES 1-10, INCLUSIVE,

18 Defendants.
19
20
21

) Case No.: 22CV04999

) ANSWER TO COMPLAINT AND
) AFFIRMATIVE DEFENSES

22 NCB Management Services, Inc. (hereinafter “NCB”), by and through
 23 undersigned counsel, responds to the Complaint filed by Plaintiff Vanessa Velasco
 24 as follows:

25 ///

26 ///

27 ///

GENERAL DENIAL

Pursuant to California Code of Civil Procedure section 431.30(d), NCB denies generally each and every allegation of Plaintiff’s Complaint.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

NCB alleges Plaintiff’s Complaint should be dismissed because the various causes of action fail to state claims upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

NCB alleges Plaintiff consented to and/or invited the conduct for which she seeks relief.

THREE AFFIRMATIVE DEFENSE

NCB alleges any harm suffered by Plaintiff was legally and proximately caused by persons, individuals, corporations, or entities beyond the control or supervision of NCB, or for whom NCB is not responsible or liable.

FOURTH AFFIRMATIVE DEFENSE

NCB alleges, pursuant to 15 U.S.C. § 1692k(c), to the extent that a violation(s) is established, which is expressly denied, any such violation(s) was not intentional and resulted from a *bona fide* error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

WHEREFORE, NCB respectfully requests that:

1. Plaintiff take nothing by way of her Complaint;
2. Judgment of dismissal be entered in favor of NCB;
3. NCB be awarded costs and attorney’s fees it has incurred in defending this lawsuit.
4. NCB be granted such other and further relief as the Court deems just and proper.

1 Dated: 1/25/23

SESSIONS, ISRAEL & SHARTLE, L.L.P.

2
3 /s/Debbie P. Kirkpatrick
4 Debbie P. Kirkpatrick
5 Attorney for Defendant
6 NCB Management Services, Inc.
7
8
9

10 **CERTIFICATE OF SERVICE**

11 I hereby certify that on January 25, 2023, a copy of the foregoing was
12 electronically filed with the Clerk of the Court, Superior Court of California, County
13 of Santa Barbara, and served via Email upon the following:
14

15 Michael F. Cardoza, Esq.
16 Lauren B. Veggian, Esq.
17 CARDOZA LAW CORPORATION
18 mike.cardoza@cardozalawcorp.com
lauren.veggian@cardozalawcorp.com

19 /s/ Debbie P. Kirkpatrick
20 Debbie P. Kirkpatrick
21
22
23
24
25
26
27
28