

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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HERSHY STARKY, individually and on	:	
behalf of all others similarly situated,	:	23 CV _____
	:	
Plaintiff(s),	:	<b>NOTICE OF REMOVAL</b>
	:	
-against-	:	
	:	
NETWORK RECOVERY SERVICES,	:	
INC.,	:	
	:	
Defendant(s).	:	
	:	
-----	X	

TO: THE HONORABLE JUDGES OF THE  
UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

PLEASE TAKE NOTICE that the Defendant, Network Recovery Services, Inc. (“NRS”), by and through its undersigned counsel, Epstein Becker & Green, P.C., hereby removes Civil Action Index No. 035062/2022 from the Supreme Court of the State of New York, County of Rockland, to the United States District Court for the Southern District of New York, pursuant to 28 U.S.C. §§ 1331, 1441 and 1446, based upon the following:

1. On or about November 30, 2022, plaintiff commenced this action by filing a Complaint, in the Supreme Court of the State of New York, County of Rockland, entitled *Hershy Starky v. Network Recovery Services, Inc.*, Index No. 035062/2022. A copy of the Summons and Complaint is attached hereto as Exhibit A. On or about December 6, 2022, plaintiff filed a First Amended Complaint in the Supreme Court of the State of New York, County of Rockland, entitled *Hershy Starky v. Network Recovery Services, Inc.*, Index No. 035062/2022. Said action is now pending in that Court.

2. Upon information and belief, Plaintiff purported to serve the Summons and

First Amended Complaint (but not the original Complaint) through the New York Secretary of State, as statutory agent for NRS, on or about December 29, 2022. As of the date of the filing of this Notice, NRS has not received any notification from the Secretary of State of that service.

3. NRS first received notice of the First Amended Complaint on or about February 21, 2023, when plaintiff's counsel sent a copy to NRS via its counsel at Epstein Becker & Green, P.C. by email. A copy of the Summons and First Amended Complaint and Affidavit of Service that was sent to NRS on February 21, 2022 is attached as Exhibit B.

4. The papers attached as Exhibits A and B constitute all of the process and pleadings to date in this action.

5. NRS may remove this civil action to this Court on the basis that it presents a federal question. The claims in the First Amended Complaint are brought pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.*, thereby conferring federal jurisdiction, without regard to amount in controversy, pursuant to 28 U.S.C. § 1331, and NRS is entitled to remove pursuant to 28 U.S.C. § 1441.

6. This Notice of Removal is filed within the time provided by 28 U.S.C. § 1446(b) and the Federal Rules of Civil Procedure.

7. NRS has not yet answered or otherwise responded to the Summons, Complaint and First Amended Complaint filed in the State Court action.

8. Upon filing of this Notice of Removal, NRS will give written notice to Christofer Merritt, Esq., Stein Saks, PLLC, attorneys for plaintiff, and shall file a copy of the Notice of Removal with the Clerk of the Supreme Court of the State of New York, County of Rockland.

9. By filing this notice, NRS does not waive any defenses which may be

available to it.

WHEREFORE, NRS respectfully removes the above-entitled action now pending in the Supreme Court of the State of New York, County of New York, to the United States District Court for the Southern District of New York.

Dated: New York, New York  
March 3, 2023

Respectfully submitted,  
EPSTEIN BECKER & GREEN, P.C.

By: /s/Lori A. Medley

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Attorneys for Defendant  
*Network Recovery Services, Inc.*

# EXHIBIT A

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ROCKLAND

-----X  
HERSHY STARKY, individually and on behalf of all  
others similarly situated,

Plaintiff(s),

-against-

NETWORK RECOVERY SERVICES, INC.,

Defendant(s).  
-----X

Index No.:

**SUMMONS**

**Plaintiff designates  
ROCKLAND County as the  
place of trial. The basis for  
venue is Plaintiff's residence.**

To the above-named Defendant:

You are hereby summoned to answer the Complaint in this action and to serve a copy of your Answer, or if the Complaint is not served with this Summons, to serve a Notice of Appearance on the Plaintiff's Attorneys within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this Summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

Dated: Hackensack, New Jersey  
November 30, 2022

Sincerely,

Stein Saks, PLLC  
/s/ Christofer Merritt  
Christofer Merritt, Esq.  
One University Plaza, Suite 620  
Hackensack, NJ 07601  
P. (201) 282-6500  
cmerritt@steinsakslegal.com  
*Counsel for Plaintiff*

Defendant's Addresses for Service of Process:  
Network Recovery Services, Inc.  
c/o Office of Legal Affairs; New York-Presbyterian Hospital  
Attn: General Counsel  
466 Lexington Avenue - Box 36  
New York, New York 10017

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ROCKLAND

-----X  
HERSHY STARKY, individually and on behalf of all  
others similarly situated,

Plaintiff(s),

Index No.:

**COMPLAINT**

-against-

NETWORK RECOVERY SERVICES, INC.,

Defendant(s).

-----X

Plaintiff Hershy Starky ("Plaintiff"), brings this Class Action Complaint by and through his attorneys, Stein Saks, PLLC, against Defendant Network Recovery Services, Inc. ("Defendant"), individually and on behalf of all others similarly situated pursuant to Article 9 of the New York Laws of Civil Practice Law & Rules ("Article 9"), based upon information and belief of Plaintiff's counsel, except for allegations specifically pertaining to Plaintiff, which are based upon Plaintiff's personal knowledge.

**INTRODUCTION/PRELIMINARY STATEMENT**

1. The Fair Debt Collection Practices Act ("FDCPA" or "Act") was enacted in 1977 in response to the "abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many debt collectors." 15 U.S.C. §1692(a). The Act was promulgated because of the concern that "abusive debt collection practices contribute to the number of personal bankruptcies, to marital instability, to the loss of jobs, and to invasions of individual privacy." Id. It concluded that "existing laws...[we]re inadequate to protect consumers," and that "the effective collection of debts" does not require "misrepresentation or other abusive debt collection practices." 15 U.S.C. §§ 1692(b) & (c).
2. The purpose of the Act was not only to eliminate abusive debt collection practices, but also to ensure "that those debt collectors who refrain from using abusive debt collection

practices are not competitively disadvantaged.” 15 U.S.C. § 1692(e). After determining that the existing consumer protection laws were inadequate, 15 U.S.C. § 1692(b), the Act gave consumers a private cause of action against debt collectors who fail to comply with the Act. 15 U.S.C. § 1692k.

**JURISDICTION AND VENUE**

3. The Court has jurisdiction over this class action as Plaintiff was and is a resident of the County of Rockland, State of New York.
4. Venue is proper in this judicial district as this is where the Plaintiff resides and where the majority of the issues giving rise to the instant Complaint arose.

**NATURE OF THE ACTION**

5. Plaintiff brings this action for damages arising from the Defendant’s violations of the FDCPA, 15 U.S.C. § 1692 *et seq.*
6. Plaintiff is seeking damages and declaratory relief.

**PARTIES**

7. Plaintiff is a resident of the State of New York, County of Rockland.
8. At all times material hereto, Plaintiff was a “consumer” as said term is defined under 15 U.S.C. § 1692a(3) and as defined under 12 CFR § 1006.2(e).
9. Defendant is a foreign limited partnership and is registered to accept service via its registered agent Office of Legal Affairs; New York-Presbyterian Hospital, Attention: General Counsel at 466 Lexington Avenue – Box 36, New York, New York 10017.
10. Defendant is a “debt collector” as the phrase is defined in 15 U.S.C. § 1692(a)(6) and used in the FDCPA, as well as defined in 12 CFR § 1006.2(i)(1).

11. Defendant is a company that uses the mail, telephone, and facsimile and regularly engages in business, the principal purpose of which is to attempt to collect debts alleged to be due itself or another.

### **CLASS ALLEGATIONS**

12. Plaintiff brings this claim on behalf of the following case, pursuant to Article 9.

13. The Class consists of:

- a. all individuals with addresses in the State of New York;
- b. to whom Defendant sent an initial collection letter;
- c. attempting to collect a consumer debt;
- d. which was sent on a date on or after the CFPB Regulation F took effect on November 30, 2021;
- e. which failed to include all necessary information and notices under 12 CFR §§ 1006.34 and/or 1004.42; and
- f. which letter was sent on or after a date one (1) year prior to the filing of this action and on or before November 30, 2022.

14. The identities of all class members are readily ascertainable from the records of Defendant and those companies and entities on whose behalf they attempt to collect and/or have purchased debts.

15. Excluded from the Plaintiff Class is the Defendant and all officers, members, partners, managers, directors and employees of the Defendant and its respective immediate families, and legal counsel for all parties to this action, and all members of their immediate families.

16. There are questions of law and fact common to the Plaintiff Class, which common issues predominate over any issues involving only individual class members. The principal issue



is whether the Defendant's written communications to consumers, in the forms attached as Exhibit A, violate 15 U.S.C. §§ 1692e, 1692f, and/or 1692g.

17. Plaintiff's claims are typical of the class members, as all are based upon the same facts and legal theories. Plaintiff will fairly and adequately protect the interests of the Plaintiff Class defined in this complaint. Plaintiff has retained counsel with experience in handling consumer lawsuits, complex legal issues, and class actions, and neither Plaintiff nor his attorneys have any interests, which might cause them not to vigorously pursue this action.
18. This action has been brought, and may properly be maintained, as a class action pursuant to the provisions of Article 9 because there is a well-defined community interest in the litigation:
- a. **Numerosity:** Plaintiff is informed and believes, and on that basis alleges, that the Plaintiff Class defined above is so numerous that joinder of all members would be impractical.
  - b. **Common Questions Predominate:** Common questions of law and fact exist as to all members of the Plaintiff Class and those questions predominate over any questions or issues involving only individual class members. The principal issue is whether the Defendant's written communications to consumers, in the forms **attached as Exhibit A** violate 15 U.S.C. §§ 1692e, 1692f, and/or 1692g.
  - c. **Typicality:** Plaintiff's claims are typical of the claims of the class members. Plaintiff and all members of the Plaintiff Class have claims arising out of the Defendant's common uniform course of conduct complained of herein.
  - d. **Adequacy:** Plaintiff will fairly and adequately protect the interests of the class members insofar as Plaintiff has no interests that are adverse to the absent class

members. Plaintiff is committed to vigorously litigating this matter. Plaintiff has also retained counsel experienced in handling consumer lawsuits, complex legal issues, and class actions. Neither Plaintiff nor his counsel have any interests which might cause them not to vigorously pursue the instant class action lawsuit.

- e. **Superiority:** A class action is superior to the other available means for the fair and efficient adjudication of this controversy because individual joinder of all members would be impracticable. Class action treatment will permit a large number of similarly situated persons to prosecute their common claims in a single forum efficiently and without unnecessary duplication of effort and expense that individual actions would engender.

19. Certification of a class under Article 9 is also appropriate in that the questions of law and fact common to members of the Plaintiff Class predominate over any questions affecting an individual member, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

20. Depending on the outcome of further investigation and discovery, Plaintiff may, at the time of class certification motion, seek to certify a class(es) only as to particular issues.

#### **Factual Allegations**

21. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein with the same force and effect as if the same were set forth at length herein.

22. Upon information and belief, on or about March 9, 2022, Plaintiff allegedly incurred an obligation with Gracie Square Hospital (“Gracie Square”), arising out of transactions incurred primarily for personal, family, or household purposes.
23. The alleged Gracie Square obligation is a “debt” as defined by 15 U.S.C. § 1692a(5) and as defined by 12 CFR § 1006.2(h).
24. Gracie Square is a “creditor” as defined by 15 U.S.C. § 1692a(4) and as defined by 12 CFR § 1006.2(g).
25. Upon information and belief, Gracie Square contracted Defendant to collect the alleged debt.
26. Defendant collects and attempts to collect debts incurred or alleged to have been incurred for personal, family, or household purposes on behalf of creditors using the United States Postal Services, telephone, and internet.

Violation – October 14, 2022 Collection Letter

27. On or about October 14, 2022, Defendant sent Plaintiff a collection letter (“Letter”) regarding the alleged debt. *See* Letter attached as **Exhibit A**.
28. Pursuant to 15 U.S.C. § 1692l(d) “Except as provided in section 1029(a) of the Consumer Financial Protection Act of 2010 (12 U.S.C. 5519(a)), the Bureau may prescribe rules with respect to the collection of debts by debt collectors, as defined in this subchapter.”
29. Accordingly, the CFPB prepared and issued rules prescribed under 12 CFR § 1006, commonly referred to as Regulation F.
30. Defendant’s Letter fails to include all of the information necessitated by Regulation F, in violation of the FDCPA.
31. 12 CFR § 1006.1 provides:

(a) **Authority.** This part, known as Regulation F, is issued by the Bureau of Consumer Financial Protection pursuant to section 814(d) and 817 of the Fair Debt Collection Practices Act (FDCPA or Act), 15 U.S.C. 1692/(d), 1692o; title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), 12 U.S.C. 5481 *et seq.*; and paragraph (b)(1) of section 104 of the Electronic Signatures in Global and National Commerce Act (E-SIGN Act), 15 U.S.C. 7004.

(b) **Purpose.** This part carries out the purposes of the FDCPA, which include eliminating abusive debt collection practices by debt collectors, ensuring that debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and promoting consistent State action to protect consumers against debt collection abuses. This part also prescribes requirements to ensure that certain features of debt collection are disclosed fully, accurately, and effectively to consumers in a manner that permits consumers to understand the costs, benefits, and risks associated with debt collection in light of the facts and circumstances.

(c) **Coverage.**

(1) Except as provided in § 1006.108 and appendix A of this part regarding applications for State exemptions from the FDCPA, this part applies to debt collectors, as defined in § 1006.2(i), other than a person excluded from coverage by section 1029(a) of the Consumer Financial Protection Act of 2010, title X of the Dodd-Frank Act (12 U.S.C. 5519(a)).

(2) Section 1006.34(c)(2)(iii) and (3)(iv) applies to debt collectors only when they are collecting debt related to a consumer financial product or service as defined in § 1006.2(f).

32. 12 CFR § 1006.18(e) requires:

(1) **Initial Communications.** A debt collector must disclose in its initial communication with a consumer that the debt collector is attempting to collect a debt and that any information obtained will be used for that purpose.

33. 12 CFR § 1006.22 states that “[a] debt collector must not use unfair or unconscionable means to collect any debt, including, but not limited to, the conduct described in paragraphs (b) through (f) of this section.”

34. 12 CFR § 1006.34(c) further states:

**Validation information.** Pursuant to paragraph (a)(1) of this section, a debt collector must provide the following validation information.

- (1) **Debt collector communication disclosure.** The statement required by § 1006.18(e)
- (2) **Information about the debt.** Except as provided in paragraph (c)(5) of this section:
  - (i) The debt collector's name and the mailing address at which the debt collector accepts disputes and requests for original creditor information.
  - (ii) The consumer's name and mailing address
  - (iii) If the debt collector is collecting a debt related to a consumer financial product or service as defined in § 1006.2(f), the name of the creditor to whom the debt was owed on the itemization date.
  - (iv) The account number, if any, associated with the debt on the itemization date, or a truncated version of that number.
  - (v) The name of the creditor to whom the debt is currently owed.
  - (vi) The itemization date.
  - (vii) The amount of the debt on the itemization date.
  - (viii) An itemization of the current amount of the debt reflecting interest, fees, payments, and credits since the itemization date. A debt collector may disclose the itemization on a separate page provided in the same communication with a validation notice, if the debt collector includes on the validation notice, where the itemization would have appeared, a statement referring to that separate page.
  - (ix) The current amount of the debt.
- (3) **Information about consumer protections.**
  - (i) The date that the debt collector will consider the end date of the validation period and a statement that, if the consumer notifies the debt collector in writing on or before that date that the debt, or any portion of the debt, is disputed, the debt collector must cease collection of the debt, or the

disputed portion of the debt, until the debt collector sends the consumer either verification of the debt or a copy of a judgment.

- (ii) The date that the debt collector will consider the end date of the validation period and a statement that, if the consumer requests in writing on or before that date the name and address of the original creditor, the debt collector must cease collection of the debt until the debt collector sends the consumer the name and address of the original creditor, if different from the current creditor.
- (iii) The date that the debt collector will consider the end date of the validation period and a statement that, unless the consumer contacts the debt collector to dispute the validity of the debt, or any portion of the debt, on or before that date, the debt collector will assume that the debt is valid.
- (iv) If the debt collector is collecting debt related to a consumer financial product or service as defined in § 1006.2(f), a statement that informs the consumer that additional information regarding consumer protections in debt collection is available on the Bureau's website at [www.cfpb.gov/debt-collection](http://www.cfpb.gov/debt-collection).
- (v) If the debt collector sends the validation notice electronically, a statement explaining how a consumer can, as described in paragraphs (c)(4)(i) and (ii) of this section, dispute the debt or request original-creditor information electronically.

(4) ***Consumer-response information.*** The following information, segregated from the validation information required by paragraphs (c)(1) through (3) of this section and from any optional information included pursuant to paragraphs (d)(3)(i) and (ii), (d)(3)(iii)(A), (d)(3)(iv) and (v), (d)(3)(vii) and (viii) of this section, and, if provided on a validation notice, located at the bottom of the notice under the headings, "How do you want to respond?" and "Check all that apply:"

- (i) ***Dispute prompts.*** The following statements, listed in the following order, and using the following phrasing or substantially similar phrasing, each next to a prompt:

(A) "I want to dispute the debt because I think:";

(B) "This is not my debt.";

(C) “The amount is wrong.”; and

(D) “Other (please describe on reverse or attach additional information).”

- (ii) **Original-creditor information prompt.** The statement, “I want you to send me the name and address of the original creditor.”, using that phrase or a substantially similar phrase next to a prompt.
- (iii) **Mailing addresses.** Mailing addresses for the consumer and the debt collector, which are the debt collector’s and the consumer’s names and mailing addresses as disclosed pursuant to § 1006.34(c)(2)(i) and (ii).

35. 12 CFR § 1006.34(d)(1) further states that “[t]he validation information required by paragraph (c) of this section must be clear and conspicuous.”

36. Additionally, 12 CFR § 1006.42 requires:

(a) **Sending required disclosures –**

- (1) **In General.** A debt collector who sends disclosures required by the Act and this part in writing or electronically must do so in a manner that is reasonably expected to provide actual notice, and in a form that the consumer may keep and access later.

37. Defendant’s October 14, 2022 correspondence fails to include all of the information described above.

38. The Letter failed to include multiple disclosures and statements required pursuant the rules promulgated by the CFPB.

39. Specifically, the Letter fails to include an itemization date of any kind, any reference to an itemization date, or a statement specifying the creditor on such date in violation of 12 CFR § 1006.34(c)(2).

40. The Letter further fails to provide any itemization or other breakdown of the debt with regard to interest, fees, payments, and credits since the itemization date as required by 1006.34(c).

41. Additionally, the Letter failed to provide any of the specific dates required under 12 CFR § 1006.34(c)(3) and thus it failed to properly advise Plaintiff of the relevant information concerning consumer protections.
42. The Letter further failed to provide the necessary Consumer-response information required under 12 CFR § 1006.34(c)(4).
43. In addition to failing to provide all of the information required by the various subsections of 12 CFR § 1006.34(c), the Letter also failed to clearly and conspicuously provide the validation information generally, in violation of 12 CFR § 1006.34(d).
44. Defendant also failed to provide the required disclosures in a manner that was reasonably expected to provide actual notice in violation of 12 CFR § 1006.42.
45. As a result, Plaintiff was unable to determine precisely when the validation periods would end, which the CFPB determined was necessary to have a fully informed consumer.
46. Defendant's omissions and misrepresentations caused a negative shadow over its debt collection practice in general.
47. When they go astray, debt collectors often introduce a tacit element of confusion into their dunning letter to leave the consumer somewhat uninformed.
48. This strategy helps debt collectors to achieve leverage over consumers by keeping key pieces of information away from them.
49. To that end, one important element of consumer protection revolves around keeping the consumer informed.
50. When a consumer has as much information as the debt collector, they are most capable of handling repayment in full or part, disputing the debt, or otherwise communicating with the debt collector on a more equal playing field.



51. However, when a debt collector withholds key information about the debt from the consumer, they encourage rash decision-making and consumers are left without any power to face a debt collector in a meaningful way.
52. Accordingly, when a consumer is faced with something less than the total story behind owing a debt, they often give up and choose to pay an unwarranted debt to avoid further trouble.
53. As a result of Defendant's multiple FDCPA violations, Plaintiff was unable to evaluate his options of how to handle this debt.
54. Because of this, Plaintiff expended time, money, and effort in determining the proper course of action.
55. These violations by Defendant were knowing, willful, negligent, and/or intentional, and Defendant did not maintain procedures reasonably adapted to avoid such violations.
56. Knowing the state of affairs and the swift tricks that debt collectors attempt against consumers, Congress passed laws to protect consumers.
57. Congress is empowered to pass laws and is well-positioned to create laws that will better society at large.
58. As it relates to this case, Congress identified a concrete and particularized harm with a close common-law analogue of the traditional torts of fraud, negligent misrepresentation, negligent infliction of emotional distress, and conversion.
59. Congress further empowered the CFPB to promulgate rules for debt collectors to follow in their attempts to collect a debt.

- 60. As noted above, the CFPB set forth a series of rules under Regulation F, the primary purpose of such rules to ensure that the consumer is completely advised as to the status of the debt and the same were prepared with the least sophisticated consumer in mind.
- 61. Defendant's debt collection efforts with respect to this alleged debt from Plaintiff caused Plaintiff to suffer concrete and particularized harm, inter alia, because the FDCPA provides Plaintiff with the legally protected right to not be misled or treated unfairly with respect to any action regarding the collection of any consumer debt.
- 62. Defendant's violations were material misrepresentations because they are likely to affect Plaintiff's choice or conduct regarding how to respond to an outstanding debt claim and are likely to mislead Plaintiff, who was acting reasonably under the circumstances.
- 63. Specifically, Defendant's careless, deceptive, misleading, and unfair representations and/or omissions with respect to its collection efforts were material misrepresentations that affected and frustrated Plaintiff's ability to intelligently respond to Defendant's collection efforts.
- 64. Plaintiff was made uncertain and misled to his detriment by the statements and/or omissions in the dunning letter, and relied on the contents of the letter to his detriment.
- 65. Plaintiff would have pursued a different course of action were it not for Defendant's statutory violations.
- 66. Because of this, Plaintiff expended time and money in determining the proper course of action.
- 67. Due to Plaintiff's reliance on the Letter, and the resulting inaction/failure to pay, the funds Plaintiff could have used to pay all or some of the debt was spent elsewhere.

68. In reliance on the Letter, Plaintiff expended time and money in an effort to mitigate the risk of future financial harm in the form of dominion and control over his funds.
69. In addition, Plaintiff suffered emotional and physical harm because of Defendant's improper acts, including, but not limited to, fear, anxiety, stress, increased heartrate, and difficulty with sleep.
70. Defendant's actions created an appreciable risk to Plaintiff of being unable to properly respond or handle Defendant's debt collection.
71. When a debt collector fails to effectively inform the consumer of their rights and legal status of their debts, in violation of statutory law, the debt collector has harmed the consumer.
72. Defendant's Letter failed to include all necessary information, including but not limited to specific information regarding the debt and Plaintiff's rights in connection with the same.
73. As a result of Defendant's deceptive, misleading, and false debt collection practices, Plaintiff has been damaged.
74. Defendant's actions created an appreciable risk to Plaintiff of being unable to properly respond or handle Defendant's debt collection.
75. As a result of Defendant's deceptive, misleading, unfair, unconscionable, and false debt collection practices, Plaintiff has been damaged.

**FIRST CAUSE OF ACTION**  
**Violations of the 15 U.S.C. § 1692e *et seq.***

76. Plaintiff repeats, reiterates, and incorporates the allegations contained in paragraphs above herein with the same force and effect as if the same were set forth at length herein.
77. Defendant's debt collection efforts attempted and/or directed towards the Plaintiff violated various provisions of the FDCPA, including but not limited to 15 U.S.C. § 1692e.

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

79. Defendant violated § 1692e:

- a. In that the Letter omits a required representation of the character, amount, and/or legal status of the debt in violation of § 1692e(2)(A);
  - b. By failing to include all of the necessary information regarding the debt, including the itemizations date, the name of the creditor to whom the debt was owed on the itemization date, the total amount due at the itemization date, and an itemization of the current amount of debt reflecting interest, fees, payments, and credits since the itemization date in violation of § 1006.34(c)(2);
  - c. By failing to include any specification as to the dates that the validation period would end in violation of § 1006.34(c)(3);
  - d. By failing to include the dispute prompts prepared by the CFPB, or anything resembling the same, in violation of § 1006.34(c)(4); and
  - e. By making a false and misleading representation in violation of § 1692e(10).
80. By reason thereof, Defendant is liable to Plaintiff for judgment that Defendant's conduct violated the FDCPA by failing to comply with the rules set forth in 15 U.S.C. § 1692e *et seq.* and 12 CFR § 1006 *et seq.*, actual damages, statutory damages, costs, and attorneys' fees.

**SECOND CAUSE OF ACTION**  
**Violations of 15 U.S.C. § 1692f *et seq.***

81. Plaintiff repeats the allegations contained in the above paragraphs as if set forth herein.

82. Defendant's debt collection efforts attempted and/or directed towards the Plaintiff violated various provisions of the FDCPA, including but not limited to 15 U.S.C. § 1692f.

83. Pursuant to 15 U.S.C. § 1692f, a debt collector may not use unfair or unconscionable means to collect or attempt to collect any debt.

84. Defendant violated § 1692f:

- a. By omitting a material terms and notices from the dunning letter to disadvantage the Plaintiff from making an educated decision regarding the subject debt;

85. By reason thereof, Defendant is liable to Plaintiff for judgment in that Defendant's conduct violated Section 1692f *et seq.* of the FDCPA, actual damages, statutory damages, costs and attorneys' fees.

**THIRD CAUSE OF ACTION**  
**VIOLATIONS OF 15 U.S.C. § 1692g *et seq.***

86. Plaintiff repeats, reiterates, and incorporates the allegations contained in the paragraphs above herein with the same force and effect as if the same were set forth at length.

87. Defendant's debt collection efforts attempted and/or directed towards the Plaintiff violated various provisions of the FDCPA, including, but not limited to, 15 U.S.C. § 1692g.

88. Pursuant to 15 U.S.C. § 1692g(a)(1) and (2), a debt collector must provide notice of a debt, including the amount of the debt and the name of the creditor to whom the debt is owed.

89. Defendant violated § 1692g(a):

- a. As the Letter fails to include all the information required under Regulation F to be considered a valid initial collection letter.

90. By reason thereof, Defendant is liable to Plaintiff for judgment in that Defendant's conduct violated Section 1692g *et seq.* of the FDCPA, actual damages, statutory damages, costs, and attorneys' fees.

**DEMAND FOR TRIAL BY JURY**

91. Plaintiff demands and hereby respectfully requests a trial by jury for all claims and issues this complaint to which Plaintiff is or may be entitled to a jury trial.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff demands judgment from Defendant as follows:

- a) Declaring that this action is properly maintainable as a Class Action and certifying Plaintiff as Class representative, and Christofer Merritt, Esq. as Class Counsel;
- b) Awarding Plaintiff and the Class statutory damages;
- c) Awarding Plaintiff and the Class actual damages;
- d) Awarding Plaintiff costs of this Action, including reasonable attorneys' fees and expenses;
- e) Awarding pre-judgment interest and post-judgment interest; and
- f) Awarding Plaintiff and the Class such other and further relief as this Court may deem just and proper

Dated: November 30, 2022

/s/ Christofer Merritt  
**Stein Saks, PLLC**  
By: Christofer Merritt, Esq.  
One University Plaza, Suite 620  
Hackensack, NJ 07601  
Phone: (201) 282-6500  
Fax: (201)-282-6501  
cmerritt@steinsakslegal.com  
*Attorneys for Plaintiff*

# Exhibit A

P.O. Box 28898  
New York, NY 10087-8898

**ACCOUNT IDENTIFICATION**

Client Name: Gracie Square Hospital  
Patient Name: HERSHY STARK  
Account #: [REDACTED]  
Hospital #: [REDACTED]  
Date(s) Of Service: 03/09/22  
Balance Due: \$400.00

**DEMAND FOR PAYMENT**

Our above referenced client, the creditor of your past due account, has referred your past due account to our agency for collection. Your account is listed as delinquent with a balance due in the amount of \$400.00. It is important that you make payment in full.

If your account has already been paid, please provide us with proof of payment. Please send a copy of your cancelled check, money order receipt, payment receipt or copy of the explanation of benefits provided by your insurance carrier to the address at the top of this letter.

If your account has not been paid you may send your check or money order or pay by using one of the Credit Cards indicated below. If you have (had) valid insurance for the dates of service that you believe covers these charges, please complete the insurance information section on the reverse side of the return portion of this notice. Please detach the bottom portion of this notice and forward it with your payment or correspondence in the envelope provided.

Although we have requested that you make payment, or provide proof of payment if payment has been made, you still have a right to obtain more information about this debt or dispute this debt, either orally by calling your Account Representative at 516-240-6637, or by writing to Network Recovery Services, Inc at the address listed on the top of this letter. **YOUR RIGHTS ARE DESCRIBED ON THE REVERSE SIDE OF THIS NOTICE.**

**IF YOU ARE EXPERIENCING FINANCIAL HARDSHIP AND ARE UNABLE TO PAY THIS BILL, FINANCIAL AID MAY BE AVAILABLE IF YOU QUALIFY. PLEASE CONTACT US TO OBTAIN INFORMATION ABOUT FINANCIAL AID AND HOW TO APPLY FOR IT.**

Sincerely,  
LUCIA CARD  
Account Representative  
516-240-6637

**THIS IS A COMMUNICATION FROM A DEBT COLLECTOR. THIS IS AN ATTEMPT TO COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.**

\*\*\*Detach and Return with Payment or Correspondence\*\*\*

IONNREC01500

ONNREC01  
PO Box 1280  
Oaks PA 19456-1281  
ADDRESS SERVICE REQUESTED

Client Name: Gracie Square Hospital  
Patient Name: HERSHY STARK  
Account #: [REDACTED]  
Hospital #: [REDACTED]  
Date(s) Of Service: 03/09/22  
Balance Due: \$400.00

October 14, 2022

**NETWORK RECOVERY SERVICES INC**  
P.O. Box 28898  
New York, NY 10087-8898



500 339786370



HERSHY STARKY



<input type="checkbox"/>		IF PAYING BY CREDIT CARD, FILL OUT BELOW	
<input type="checkbox"/>		CARD NUMBER	
<input type="checkbox"/>		CARD HOLDER NAME	EXP. DATE
<input type="checkbox"/>		SIGNATURE	AMOUNT AUTHORIZED





If you do not dispute the validity of the debt, or any portion thereof, either orally or in writing, within thirty days after you receive this notice we will assume this to be a valid debt owed by you.

If you notify us in writing within thirty days after you receive this notice that the debt, or any portion thereof, is disputed, we will obtain verification of this debt or a copy of a judgment and mail a copy of such verification or judgment to you.

In the event the name and address of the current creditor is different from the original creditor, and you, within thirty days after you receive this notice, request in writing the name and address of the original creditor, we will supply this information to you.

If you intend to submit your dispute via mail, please send to:

NETWORK RECOVERY SERVICES, INC.  
P.O. Box 28898  
NEW YORK, NY 10087-8898

**INSURANCE INFORMATION**

PATIENT'S NAME		DATE OF BIRTH	SOCIAL SECURITY NUMBER	
BLUE CROSS/BLUE SHIELD ID NO.		SUFFIX	YOUR TELEPHONE NUMBER	
INSURANCE COMPANY NAME & ADDRESS (INCLUDE SIGNED CLAIM FORM)				
POLICY NUMBER	POLICYHOLDER'S NAME		RELATION TO PATIENT	POLICYHOLDER'S DATE OF BIRTH
MEDICAID ID NUMBER		MEDICARE ID NUMBER		SUFFIX

# EXHIBIT B

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ROCKLAND

-----X  
HERSHY STARKY, individually and on behalf of all  
others similarly situated,

Plaintiff(s),

-against-

NETWORK RECOVERY SERVICES, INC.,

Defendant(s).  
-----X

Index No.:

**SUMMONS**

**Plaintiff designates  
ROCKLAND County as the  
place of trial. The basis for  
venue is Plaintiff's residence.**

To the above-named Defendant:

You are hereby summoned to answer the Complaint in this action and to serve a copy of your Answer, or if the Complaint is not served with this Summons, to serve a Notice of Appearance on the Plaintiff's Attorneys within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this Summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

Dated: Hackensack, New Jersey  
November 30, 2022

Sincerely,

Stein Saks, PLLC  
/s/ Christofer Merritt  
Christofer Merritt, Esq.  
One University Plaza, Suite 620  
Hackensack, NJ 07601  
P. (201) 282-6500  
cmerritt@steinsakslegal.com  
*Counsel for Plaintiff*

Defendant's Addresses for Service of Process:  
Network Recovery Services, Inc.  
c/o Office of Legal Affairs; New York-Presbyterian Hospital  
Attn: General Counsel  
466 Lexington Avenue - Box 36  
New York, New York 10017

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ROCKLAND

-----X  
HERSHY STARKY, individually and on behalf of all  
others similarly situated,

Plaintiff(s),

Index No.: 035062/2022

-against-

**FIRST AMENDED  
COMPLAINT**

NETWORK RECOVERY SERVICES, INC.,

Defendant(s).

-----X

Plaintiff Hershy Starky ("Plaintiff"), brings this Class Action Complaint by and through his attorneys, Stein Saks, PLLC, against Defendant Network Recovery Services, Inc. ("Defendant"), individually and on behalf of all others similarly situated pursuant to Article 9 of the New York Laws of Civil Practice Law & Rules ("Article 9"), based upon information and belief of Plaintiff's counsel, except for allegations specifically pertaining to Plaintiff, which are based upon Plaintiff's personal knowledge.

**INTRODUCTION/PRELIMINARY STATEMENT**

1. The Fair Debt Collection Practices Act ("FDCPA" or "Act") was enacted in 1977 in response to the "abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many debt collectors." 15 U.S.C. §1692(a). The Act was promulgated because of the concern that "abusive debt collection practices contribute to the number of personal bankruptcies, to marital instability, to the loss of jobs, and to invasions of individual privacy." Id. It concluded that "existing laws...[we]re inadequate to protect consumers," and that "the effective collection of debts" does not require "misrepresentation or other abusive debt collection practices." 15 U.S.C. §§ 1692(b) & (c).
2. The purpose of the Act was not only to eliminate abusive debt collection practices, but also to ensure "that those debt collectors who refrain from using abusive debt collection

practices are not competitively disadvantaged.” 15 U.S.C. § 1692(e). After determining that the existing consumer protection laws were inadequate, 15 U.S.C. § 1692(b), the Act gave consumers a private cause of action against debt collectors who fail to comply with the Act. 15 U.S.C. § 1692k.

**JURISDICTION AND VENUE**

- 3. The Court has jurisdiction over this class action as Plaintiff was and is a resident of the County of Rockland, State of New York.
- 4. Venue is proper in this judicial district as this is where the Plaintiff resides and where the majority of the issues giving rise to the instant Complaint arose.

**NATURE OF THE ACTION**

- 5. Plaintiff brings this action for damages arising from the Defendant’s violations of the FDCPA, 15 U.S.C. § 1692 *et seq.*
- 6. Plaintiff is seeking damages and declaratory relief.

**PARTIES**

- 7. Plaintiff is a resident of the State of New York, County of Rockland.
- 8. At all times material hereto, Plaintiff was a “consumer” as said term is defined under 15 U.S.C. § 1692a(3) and as defined under 12 CFR § 1006.2(e).
- 9. Defendant is a foreign limited partnership and is registered to accept service via its registered agent Office of Legal Affairs; New York-Presbyterian Hospital, Attention: General Counsel at 466 Lexington Avenue – Box 36, New York, New York 10017.
- 10. Defendant is a “debt collector” as the phrase is defined in 15 U.S.C. § 1692(a)(6) and used in the FDCPA, as well as defined in 12 CFR § 1006.2(i)(1).

11. Defendant is a company that uses the mail, telephone, and facsimile and regularly engages in business, the principal purpose of which is to attempt to collect debts alleged to be due itself or another.

**CLASS ALLEGATIONS**

12. Plaintiff brings this claim on behalf of the following case, pursuant to Article 9.

13. The Class consists of:

- a. all individuals with addresses in the State of New York;
- b. to whom Defendant sent an initial collection letter;
- c. attempting to collect a consumer debt;
- d. on behalf of Gracie Square Hospital;
- e. which was sent on a date on or after the CFPB Regulation F took effect on November 30, 2021;
- f. which failed to include all necessary information and notices under 12 CFR §§ 1006.34 and/or 1004.42; and
- g. which letter was sent on or after a date one (1) year prior to the filing of this action and on or before December 6, 2022.

14. The identities of all class members are readily ascertainable from the records of Defendant and those companies and entities on whose behalf they attempt to collect and/or have purchased debts.

15. Excluded from the Plaintiff Class is the Defendant and all officers, members, partners, managers, directors and employees of the Defendant and its respective immediate families, and legal counsel for all parties to this action, and all members of their immediate families.

16. There are questions of law and fact common to the Plaintiff Class, which common issues predominate over any issues involving only individual class members. The principal issue is whether the Defendant’s written communications to consumers, in the forms attached as Exhibit A, violate 15 U.S.C. §§ 1692e, 1692f, and/or 1692g.

17. Plaintiff’s claims are typical of the class members, as all are based upon the same facts and legal theories. Plaintiff will fairly and adequately protect the interests of the Plaintiff Class defined in this complaint. Plaintiff has retained counsel with experience in handling consumer lawsuits, complex legal issues, and class actions, and neither Plaintiff nor his attorneys have any interests, which might cause them not to vigorously pursue this action.

18. This action has been brought, and may properly be maintained, as a class action pursuant to the provisions of Article 9 because there is a well-defined community interest in the litigation:

- a. **Numerosity:** Plaintiff is informed and believes, and on that basis alleges, that the Plaintiff Class defined above is so numerous that joinder of all members would be impractical.
- b. **Common Questions Predominate:** Common questions of law and fact exist as to all members of the Plaintiff Class and those questions predominate over any questions or issues involving only individual class members. The principal issue is whether the Defendant’s written communications to consumers, in the forms **attached as Exhibit A** violate 15 U.S.C. §§ 1692e, 1692f, and/or 1692g.
- c. **Typicality:** Plaintiff’s claims are typical of the claims of the class members. Plaintiff and all members of the Plaintiff Class have claims arising out of the Defendant’s common uniform course of conduct complained of herein.

- d. **Adequacy:** Plaintiff will fairly and adequately protect the interests of the class members insofar as Plaintiff has no interests that are adverse to the absent class members. Plaintiff is committed to vigorously litigating this matter. Plaintiff has also retained counsel experienced in handling consumer lawsuits, complex legal issues, and class actions. Neither Plaintiff nor his counsel have any interests which might cause them not to vigorously pursue the instant class action lawsuit.
- e. **Superiority:** A class action is superior to the other available means for the fair and efficient adjudication of this controversy because individual joinder of all members would be impracticable. Class action treatment will permit a large number of similarly situated persons to prosecute their common claims in a single forum efficiently and without unnecessary duplication of effort and expense that individual actions would engender.

19. Certification of a class under Article 9 is also appropriate in that the questions of law and fact common to members of the Plaintiff Class predominate over any questions affecting an individual member, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

20. Depending on the outcome of further investigation and discovery, Plaintiff may, at the time of class certification motion, seek to certify a class(es) only as to particular issues.

#### **Factual Allegations**

21. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein with the same force and effect as if the same were set forth at length herein.



22. Upon information and belief, on or about March 9, 2022, Plaintiff allegedly incurred an obligation with Gracie Square Hospital (“Gracie Square”), arising out of transactions incurred primarily for personal, family, or household purposes.
23. The alleged Gracie Square obligation is a “debt” as defined by 15 U.S.C. § 1692a(5) and as defined by 12 CFR § 1006.2(h).
24. Gracie Square is a “creditor” as defined by 15 U.S.C. § 1692a(4) and as defined by 12 CFR § 1006.2(g).
25. Upon information and belief, Gracie Square contracted Defendant to collect the alleged debt.
26. Defendant collects and attempts to collect debts incurred or alleged to have been incurred for personal, family, or household purposes on behalf of creditors using the United States Postal Services, telephone, and internet.

Violation – October 14, 2022 Collection Letter

27. On or about October 14, 2022, Defendant sent Plaintiff a collection letter (“Letter”) regarding the alleged debt. *See* Letter attached as **Exhibit A**.
28. Pursuant to 15 U.S.C. § 1692l(d) “Except as provided in section 1029(a) of the Consumer Financial Protection Act of 2010 (12 U.S.C. 5519(a)), the Bureau may prescribe rules with respect to the collection of debts by debt collectors, as defined in this subchapter.”
29. Accordingly, the CFPB prepared and issued rules prescribed under 12 CFR § 1006, commonly referred to as Regulation F.
30. Defendant’s Letter fails to include all of the information necessitated by Regulation F, in violation of the FDCPA.
31. 12 CFR § 1006.1 provides:

(a) **Authority.** This part, known as Regulation F, is issued by the Bureau of Consumer Financial Protection pursuant to section 814(d) and 817 of the Fair Debt Collection Practices Act (FDCPA or Act), 15 U.S.C. 1692/(d), 1692o; title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), 12 U.S.C. 5481 *et seq.*; and paragraph (b)(1) of section 104 of the Electronic Signatures in Global and National Commerce Act (E-SIGN Act), 15 U.S.C. 7004.

(b) **Purpose.** This part carries out the purposes of the FDCPA, which include eliminating abusive debt collection practices by debt collectors, ensuring that debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and promoting consistent State action to protect consumers against debt collection abuses. This part also prescribes requirements to ensure that certain features of debt collection are disclosed fully, accurately, and effectively to consumers in a manner that permits consumers to understand the costs, benefits, and risks associated with debt collection in light of the facts and circumstances.

(c) **Coverage.**

(1) Except as provided in § 1006.108 and appendix A of this part regarding applications for State exemptions from the FDCPA, this part applies to debt collectors, as defined in § 1006.2(i), other than a person excluded from coverage by section 1029(a) of the Consumer Financial Protection Act of 2010, title X of the Dodd-Frank Act (12 U.S.C. 5519(a)).

(2) Section 1006.34(c)(2)(iii) and (3)(iv) applies to debt collectors only when they are collecting debt related to a consumer financial product or service as defined in § 1006.2(f).

32. 12 CFR § 1006.18(e) requires:

(1) **Initial Communications.** A debt collector must disclose in its initial communication with a consumer that the debt collector is attempting to collect a debt and that any information obtained will be used for that purpose.

33. 12 CFR § 1006.22 states that “[a] debt collector must not use unfair or unconscionable means to collect any debt, including, but not limited to, the conduct described in paragraphs (b) through (f) of this section.”

34. 12 CFR § 1006.34(c) further states:

**Validation information.** Pursuant to paragraph (a)(1) of this section, a debt collector must provide the following validation information.

- (1) **Debt collector communication disclosure.** The statement required by § 1006.18(e)
- (2) **Information about the debt.** Except as provided in paragraph (c)(5) of this section:
  - (i) The debt collector's name and the mailing address at which the debt collector accepts disputes and requests for original creditor information.
  - (ii) The consumer's name and mailing address
  - (iii) If the debt collector is collecting a debt related to a consumer financial product or service as defined in § 1006.2(f), the name of the creditor to whom the debt was owed on the itemization date.
  - (iv) The account number, if any, associated with the debt on the itemization date, or a truncated version of that number.
  - (v) The name of the creditor to whom the debt is currently owed.
  - (vi) The itemization date.
  - (vii) The amount of the debt on the itemization date.
  - (viii) An itemization of the current amount of the debt reflecting interest, fees, payments, and credits since the itemization date. A debt collector may disclose the itemization on a separate page provided in the same communication with a validation notice, if the debt collector includes on the validation notice, where the itemization would have appeared, a statement referring to that separate page.
  - (ix) The current amount of the debt.
- (3) **Information about consumer protections.**
  - (i) The date that the debt collector will consider the end date of the validation period and a statement that, if the consumer notifies the debt collector in writing on or before that date that the debt, or any portion of the debt, is disputed, the debt collector must cease collection of the debt, or the

disputed portion of the debt, until the debt collector sends the consumer either verification of the debt or a copy of a judgment.

- (ii) The date that the debt collector will consider the end date of the validation period and a statement that, if the consumer requests in writing on or before that date the name and address of the original creditor, the debt collector must cease collection of the debt until the debt collector sends the consumer the name and address of the original creditor, if different from the current creditor.
- (iii) The date that the debt collector will consider the end date of the validation period and a statement that, unless the consumer contacts the debt collector to dispute the validity of the debt, or any portion of the debt, on or before that date, the debt collector will assume that the debt is valid.
- (iv) If the debt collector is collecting debt related to a consumer financial product or service as defined in § 1006.2(f), a statement that informs the consumer that additional information regarding consumer protections in debt collection is available on the Bureau's website at [www.cfpb.gov/debt-collection](http://www.cfpb.gov/debt-collection).
- (v) If the debt collector sends the validation notice electronically, a statement explaining how a consumer can, as described in paragraphs (c)(4)(i) and (ii) of this section, dispute the debt or request original-creditor information electronically.

(4) ***Consumer-response information.*** The following information, segregated from the validation information required by paragraphs (c)(1) through (3) of this section and from any optional information included pursuant to paragraphs (d)(3)(i) and (ii), (d)(3)(iii)(A), (d)(3)(iv) and (v), (d)(3)(vii) and (viii) of this section, and, if provided on a validation notice, located at the bottom of the notice under the headings, "How do you want to respond?" and "Check all that apply:"

- (i) ***Dispute prompts.*** The following statements, listed in the following order, and using the following phrasing or substantially similar phrasing, each next to a prompt:

(A) "I want to dispute the debt because I think:";

(B) "This is not my debt.";

(C) “The amount is wrong.”; and

(D) “Other (please describe on reverse or attach additional information).”

(ii) **Original-creditor information prompt.** The statement, “I want you to send me the name and address of the original creditor.”, using that phrase or a substantially similar phrase next to a prompt.

(iii) **Mailing addresses.** Mailing addresses for the consumer and the debt collector, which are the debt collector’s and the consumer’s names and mailing addresses as disclosed pursuant to § 1006.34(c)(2)(i) and (ii).

35. 12 CFR § 1006.34(d)(1) further states that “[t]he validation information required by paragraph (c) of this section must be clear and conspicuous.”

36. Additionally, 12 CFR § 1006.42 requires:

(a) **Sending required disclosures –**

(1) **In General.** A debt collector who sends disclosures required by the Act and this part in writing or electronically must do so in a manner that is reasonably expected to provide actual notice, and in a form that the consumer may keep and access later.

37. Defendant’s October 14, 2022 correspondence fails to include all of the information described above.

38. The Letter failed to include multiple disclosures and statements required pursuant the rules promulgated by the CFPB.

39. Specifically, the Letter fails to include an itemization date of any kind, any reference to an itemization date, or a statement specifying the creditor on such date in violation of 12 CFR § 1006.34(c)(2).

40. The Letter further fails to provide any itemization or other breakdown of the debt with regard to interest, fees, payments, and credits since the itemization date as required by 1006.34(c).

41. Additionally, the Letter failed to provide any of the specific dates required under 12 CFR § 1006.34(c)(3) and thus it failed to properly advise Plaintiff of the relevant information concerning consumer protections.
42. The Letter further failed to provide the necessary Consumer-response information required under 12 CFR § 1006.34(c)(4).
43. In addition to failing to provide all of the information required by the various subsections of 12 CFR § 1006.34(c), the Letter also failed to clearly and conspicuously provide the validation information generally, in violation of 12 CFR § 1006.34(d).
44. Defendant also failed to provide the required disclosures in a manner that was reasonably expected to provide actual notice in violation of 12 CFR § 1006.42.
45. As a result, Plaintiff was unable to determine precisely when the validation periods would end, which the CFPB determined was necessary to have a fully informed consumer.
46. Defendant's omissions and misrepresentations caused a negative shadow over its debt collection practice in general.
47. When they go astray, debt collectors often introduce a tacit element of confusion into their dunning letter to leave the consumer somewhat uninformed.
48. This strategy helps debt collectors to achieve leverage over consumers by keeping key pieces of information away from them.
49. To that end, one important element of consumer protection revolves around keeping the consumer informed.
50. When a consumer has as much information as the debt collector, they are most capable of handling repayment in full or part, disputing the debt, or otherwise communicating with the debt collector on a more equal playing field.

51. However, when a debt collector withholds key information about the debt from the consumer, they encourage rash decision-making and consumers are left without any power to face a debt collector in a meaningful way.
52. Accordingly, when a consumer is faced with something less than the total story behind owing a debt, they often give up and choose to pay an unwarranted debt to avoid further trouble.
53. As a result of Defendant's multiple FDCPA violations, Plaintiff was unable to evaluate his options of how to handle this debt.
54. Because of this, Plaintiff expended time, money, and effort in determining the proper course of action.
55. These violations by Defendant were knowing, willful, negligent, and/or intentional, and Defendant did not maintain procedures reasonably adapted to avoid such violations.
56. Knowing the state of affairs and the swift tricks that debt collectors attempt against consumers, Congress passed laws to protect consumers.
57. Congress is empowered to pass laws and is well-positioned to create laws that will better society at large.
58. As it relates to this case, Congress identified a concrete and particularized harm with a close common-law analogue of the traditional torts of fraud, negligent misrepresentation, negligent infliction of emotional distress, and conversion.
59. Congress further empowered the CFPB to promulgate rules for debt collectors to follow in their attempts to collect a debt.

- 60. As noted above, the CFPB set forth a series of rules under Regulation F, the primary purpose of such rules to ensure that the consumer is completely advised as to the status of the debt and the same were prepared with the least sophisticated consumer in mind.
- 61. Defendant's debt collection efforts with respect to this alleged debt from Plaintiff caused Plaintiff to suffer concrete and particularized harm, inter alia, because the FDCPA provides Plaintiff with the legally protected right to not be misled or treated unfairly with respect to any action regarding the collection of any consumer debt.
- 62. Defendant's violations were material misrepresentations because they are likely to affect Plaintiff's choice or conduct regarding how to respond to an outstanding debt claim and are likely to mislead Plaintiff, who was acting reasonably under the circumstances.
- 63. Specifically, Defendant's careless, deceptive, misleading, and unfair representations and/or omissions with respect to its collection efforts were material misrepresentations that affected and frustrated Plaintiff's ability to intelligently respond to Defendant's collection efforts.
- 64. Plaintiff was made uncertain and misled to his detriment by the statements and/or omissions in the dunning letter, and relied on the contents of the letter to his detriment.
- 65. Plaintiff would have pursued a different course of action were it not for Defendant's statutory violations.
- 66. Because of this, Plaintiff expended time and money in determining the proper course of action.
- 67. Due to Plaintiff's reliance on the Letter, and the resulting inaction/failure to pay, the funds Plaintiff could have used to pay all or some of the debt was spent elsewhere.



68. In reliance on the Letter, Plaintiff expended time and money in an effort to mitigate the risk of future financial harm in the form of dominion and control over his funds.
69. In addition, Plaintiff suffered emotional and physical harm because of Defendant's improper acts, including, but not limited to, fear, anxiety, stress, increased heartrate, and difficulty with sleep.
70. Defendant's actions created an appreciable risk to Plaintiff of being unable to properly respond or handle Defendant's debt collection.
71. When a debt collector fails to effectively inform the consumer of their rights and legal status of their debts, in violation of statutory law, the debt collector has harmed the consumer.
72. Defendant's Letter failed to include all necessary information, including but not limited to specific information regarding the debt and Plaintiff's rights in connection with the same.
73. As a result of Defendant's deceptive, misleading, and false debt collection practices, Plaintiff has been damaged.
74. Defendant's actions created an appreciable risk to Plaintiff of being unable to properly respond or handle Defendant's debt collection.
75. As a result of Defendant's deceptive, misleading, unfair, unconscionable, and false debt collection practices, Plaintiff has been damaged.

**FIRST CAUSE OF ACTION**  
**Violations of the 15 U.S.C. § 1692e *et seq.***

76. Plaintiff repeats, reiterates, and incorporates the allegations contained in paragraphs above herein with the same force and effect as if the same were set forth at length herein.
77. Defendant's debt collection efforts attempted and/or directed towards the Plaintiff violated various provisions of the FDCPA, including but not limited to 15 U.S.C. § 1692e.

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

79. Defendant violated § 1692e:

- a. In that the Letter omits a required representation of the character, amount, and/or legal status of the debt in violation of § 1692e(2)(A);
  - b. By failing to include all of the necessary information regarding the debt, including the itemizations date, the name of the creditor to whom the debt was owed on the itemization date, the total amount due at the itemization date, and an itemization of the current amount of debt reflecting interest, fees, payments, and credits since the itemization date in violation of § 1006.34(c)(2);
  - c. By failing to include any specification as to the dates that the validation period would end in violation of § 1006.34(c)(3);
  - d. By failing to include the dispute prompts prepared by the CFPB, or anything resembling the same, in violation of § 1006.34(c)(4); and
  - e. By making a false and misleading representation in violation of § 1692e(10).
80. By reason thereof, Defendant is liable to Plaintiff for judgment that Defendant's conduct violated the FDCPA by failing to comply with the rules set forth in 15 U.S.C. § 1692e *et seq.* and 12 CFR § 1006 *et seq.*, actual damages, statutory damages, costs, and attorneys' fees.

**SECOND CAUSE OF ACTION**  
**Violations of 15 U.S.C. § 1692f *et seq.***

81. Plaintiff repeats the allegations contained in the above paragraphs as if set forth herein.

82. Defendant's debt collection efforts attempted and/or directed towards the Plaintiff violated various provisions of the FDCPA, including but not limited to 15 U.S.C. § 1692f.

83. Pursuant to 15 U.S.C. § 1692f, a debt collector may not use unfair or unconscionable means to collect or attempt to collect any debt.

84. Defendant violated § 1692f:

- a. By omitting a material terms and notices from the dunning letter to disadvantage the Plaintiff from making an educated decision regarding the subject debt;

85. By reason thereof, Defendant is liable to Plaintiff for judgment in that Defendant’s conduct violated Section 1692f *et seq.* of the FDCPA, actual damages, statutory damages, costs and attorneys’ fees.

**THIRD CAUSE OF ACTION**  
**VIOLATIONS OF 15 U.S.C. § 1692g *et seq.***

86. Plaintiff repeats, reiterates, and incorporates the allegations contained in the paragraphs above herein with the same force and effect as if the same were set forth at length.

87. Defendant’s debt collection efforts attempted and/or directed towards the Plaintiff violated various provisions of the FDCPA, including, but not limited to, 15 U.S.C. § 1692g.

88. Pursuant to 15 U.S.C. § 1692g(a)(1) and (2), a debt collector must provide notice of a debt, including the amount of the debt and the name of the creditor to whom the debt is owed.

89. Defendant violated § 1692g(a):

- a. As the Letter fails to include all the information required under Regulation F to be considered a valid initial collection letter.

90. By reason thereof, Defendant is liable to Plaintiff for judgment in that Defendant’s conduct violated Section 1692g *et seq.* of the FDCPA, actual damages, statutory damages, costs, and attorneys’ fees.

**DEMAND FOR TRIAL BY JURY**

91. Plaintiff demands and hereby respectfully requests a trial by jury for all claims and issues this complaint to which Plaintiff is or may be entitled to a jury trial.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff demands judgment from Defendant as follows:

- a) Declaring that this action is properly maintainable as a Class Action and certifying Plaintiff as Class representative, and Christofer Merritt, Esq. as Class Counsel;
- b) Awarding Plaintiff and the Class statutory damages;
- c) Awarding Plaintiff and the Class actual damages;
- d) Awarding Plaintiff costs of this Action, including reasonable attorneys' fees and expenses;
- e) Awarding pre-judgment interest and post-judgment interest; and
- f) Awarding Plaintiff and the Class such other and further relief as this Court may deem just and proper

Dated: December 6, 2022

/s/ Christofer Merritt  
**Stein Saks, PLLC**  
By: Christofer Merritt, Esq.  
One University Plaza, Suite 620  
Hackensack, NJ 07601  
Phone: (201) 282-6500  
Fax: (201)-282-6501  
cmerritt@steinsakslegal.com  
*Attorneys for Plaintiff*

# Exhibit A

P.O. Box 28898  
New York, NY 10087-8898

**ACCOUNT IDENTIFICATION**

Client Name: Gracie Square Hospital  
Patient Name: HERSHY STARK  
Account #: [REDACTED]  
Hospital #: [REDACTED]  
Date(s) Of Service: 03/09/22  
Balance Due: \$400.00

**DEMAND FOR PAYMENT**

Our above referenced client, the creditor of your past due account, has referred your past due account to our agency for collection. Your account is listed as delinquent with a balance due in the amount of \$400.00. It is important that you make payment in full.

If your account has already been paid, please provide us with proof of payment. Please send a copy of your cancelled check, money order receipt, payment receipt or copy of the explanation of benefits provided by your insurance carrier to the address at the top of this letter.

If your account has not been paid you may send your check or money order or pay by using one of the Credit Cards indicated below. If you have (had) valid insurance for the dates of service that you believe covers these charges, please complete the insurance information section on the reverse side of the return portion of this notice. Please detach the bottom portion of this notice and forward it with your payment or correspondence in the envelope provided.

Although we have requested that you make payment, or provide proof of payment if payment has been made, you still have a right to obtain more information about this debt or dispute this debt, either orally by calling your Account Representative at 516-240-6637, or by writing to Network Recovery Services, Inc at the address listed on the top of this letter. **YOUR RIGHTS ARE DESCRIBED ON THE REVERSE SIDE OF THIS NOTICE.**

**IF YOU ARE EXPERIENCING FINANCIAL HARDSHIP AND ARE UNABLE TO PAY THIS BILL, FINANCIAL AID MAY BE AVAILABLE IF YOU QUALIFY. PLEASE CONTACT US TO OBTAIN INFORMATION ABOUT FINANCIAL AID AND HOW TO APPLY FOR IT.**

Sincerely,  
LUCIA CARD  
Account Representative  
516-240-6637

**THIS IS A COMMUNICATION FROM A DEBT COLLECTOR. THIS IS AN ATTEMPT TO COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.**

\*\*\*Detach and Return with Payment or Correspondence\*\*\*

IONNREC01500

ONNREC01  
PO Box 1280  
Oaks PA 19456-1281  
ADDRESS SERVICE REQUESTED

Client Name: Gracie Square Hospital  
Patient Name: HERSHY STARK  
Account #: [REDACTED]  
Hospital #: [REDACTED]  
Date(s) Of Service: 03/09/22  
Balance Due: \$400.00

October 14, 2022

**NETWORK RECOVERY SERVICES INC**  
P.O. Box 28898  
New York, NY 10087-8898

500 339786370  
[Barcode]  
HERSHY STARKY  
[REDACTED]



<input type="checkbox"/>		IF PAYING BY CREDIT CARD, FILL OUT BELOW	
<input type="checkbox"/>		CARD NUMBER	
<input type="checkbox"/>		CARD HOLDER NAME	EXP. DATE
<input type="checkbox"/>		SIGNATURE	AMOUNT AUTHORIZED



If you do not dispute the validity of the debt, or any portion thereof, either orally or in writing, within thirty days after you receive this notice we will assume this to be a valid debt owed by you.

If you notify us in writing within thirty days after you receive this notice that the debt, or any portion thereof, is disputed, we will obtain verification of this debt or a copy of a judgment and mail a copy of such verification or judgment to you.

In the event the name and address of the current creditor is different from the original creditor, and you, within thirty days after you receive this notice, request in writing the name and address of the original creditor, we will supply this information to you.

If you intend to submit your dispute via mail, please send to:

NETWORK RECOVERY SERVICES, INC.  
P.O. Box 28898  
NEW YORK, NY 10087-8898

**INSURANCE INFORMATION**

PATIENT'S NAME		DATE OF BIRTH	SOCIAL SECURITY NUMBER
BLUE CROSS/BLUE SHIELD ID NO.		SUFFIX	YOUR TELEPHONE NUMBER
INSURANCE COMPANY NAME & ADDRESS (INCLUDE SIGNED CLAIM FORM)			
POLICY NUMBER	POLICYHOLDER'S NAME	RELATION TO PATIENT	POLICYHOLDER'S DATE OF BIRTH
MEDICAID ID NUMBER	MEDICARE ID NUMBER	SUFFIX	



# NYSCEF Confirmation Notice

## Rockland County Supreme Court

The NYSCEF website has received an electronic filing on 12/06/2022 12:24 PM. Please keep this notice as a confirmation of this filing.

**035062/2022**

**HERSHY STARKY v. NETWORK RECOVERY SERVICES INC**

**Assigned Judge: None Recorded**

### Documents Received on 12/06/2022 12:24 PM

<b>Doc #</b>	<b>Document Type</b>
3	COMPLAINT (AMENDED)
4	EXHIBIT(S) A (Redacted per 202.5(e) or 206.5(e))

### Filing User

Christofer Dean Merritt | c.d.merritt12@gmail.com  
1 University Plz Ste 620, Hackensack, NJ 07601

### E-mail Notifications

An email regarding this filing has been sent to the following on 12/06/2022 12:24 PM:

**CHRISTOFER D. MERRITT - c.d.merritt12@gmail.com**

### Email Notifications NOT Sent

<b>Role</b>	<b>Party</b>	<b>Attorney</b>
Respondent	NETWORK RECOVERY SERVICES INC	No consent on record.

\* Court rules require hard copy service upon non-participating parties and attorneys who have opted-out or declined consent.

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**Donna G. Silberman, silbermd@co.rockland.ny.us**

Phone: 845-638-5094 Fax: 845-638-5221 Website: <http://rocklandgov.com/departments/clerks-office/>

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**NYSCEF Resource Center, nyscef@nycourts.gov**

Phone: (646) 386-3033 | Fax: (212) 401-9146 | Website: [www.nycourts.gov/efile](http://www.nycourts.gov/efile)



SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ROCKLAND

HERSHY STARKY, individually and on behalf of all others  
similarly situated,

Plaintiff,

-against-

NETWORK RECOVERY SERVICES, INC.,

Defendant.

**Affidavit of Service**

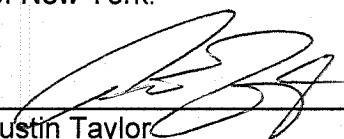
Index No.: 035062/2022

STATE OF NEW YORK     )  
  )SS.:  
COUNTY OF ALBANY     )


**AUSTIN TAYLOR**, being duly sworn, deposes and says: that I am over the age of eighteen (18) years, and reside in the state of New York;

On December 29, 2022 at 3:39 p.m. I served a SUMMONS, COMPLAINT (with Exhibit A), NYSCEF CONFIRMATION NOTICE, NOTICE OF ELECTRONIC FILING, upon Defendant NETWORK RECOVERY SERVICES, INC., by personally delivering to and leaving with SUE ZOUKY, a white female approximately 65 years of age, said to be a Business Document Specialist, in the Corporation Division of the Department of State, of the State of New York, at 99 Washington Avenue Albany, New York, two true copies thereof, and at the same time paid the required fee of Forty (\$40.00) Dollars, pursuant to §306 of the Business Corporation Law of the State of New York.

That deponent personally knew said SUE ZOUKY to be a Business Document Specialist in the Corporation Division of the Department of State of the State of New York, and a person duly authorized to accept service upon the Secretary of State of New York.

  
Austin Taylor

Sworn before me this  
30<sup>th</sup> day of December, 2022

  
\_\_\_\_\_  
Notary Public - State of New York

**CHRISTOPHER E. NEUMEISTER**  
Notary Public, State of New York  
Reg. No. 01NE6409273  
Qualified in Albany County  
Commission Expires September 28, 2024