

**TROUTMAN PEPPER
HAMILTON SANDERS LLP**

Stephen J. Steinlight
875 Third Avenue
New York, NY 10022
Telephone: (212) 704-6000
Attorneys for Defendant Portfolio Recovery Associates, LLC

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

MICHAEL KLIMOVICH, on behalf of
himself and all others similarly situated,

Plaintiff,

-v-

PORTFOLIO RECOVERY ASSOCIATES,
LLC; JOHN DOES 1-50 and ABC CORP. 1-
50,

Defendants.

Civil Action No.:

**DEFENDANT PORTFOLIO RECOVERY ASSOCIATES, LLC'S
NOTICE OF REMOVAL**

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

Pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, Defendant Portfolio Recovery Associates, LLC (“PRA”), by counsel, hereby removes this civil action, pending in the Superior Court of New Jersey for the County of Essex, Law Division, Docket No. ESX-L-005232-22 (the “State Court Action”), to the United States District Court for the District of New Jersey. Removal is proper because this Court has subject matter jurisdiction over the action under federal question jurisdiction. *See* 28 U.S.C. § 1331. Accordingly, PRA removes this action to this Court, and in support thereof, states the following:

I. BACKGROUND

1. Pursuant to L. Civ. R. 10.1(a), the addresses of the named parties are as follows:
 - a. Michael Klimovich (“Plaintiff”), c/o Lawrence C. Hersh, Esq., Counsel for Plaintiff, 17 Sylvan Street, Suite 102B, Rutherford, New Jersey 07070.
 - b. Defendant PRA is a limited liability company located at 120 Corporate Boulevard, Norfolk, Virginia, 23502.
2. Plaintiff commenced the State Court Action against PRA by filing a Complaint in the Superior Court of New Jersey for the County of Essex, Law Division, on September 5, 2022 (the “Complaint”). A copy of all process, pleadings, and orders served on PRA is hereto as **Exhibit A**.
3. On February 17, 2023, PRA’s registered agent in New Jersey was served with the Complaint.
4. This Notice of Removal is being filed within thirty days of service of the Complaint on Defendant. This Notice of Removal is therefore timely under 28 U.S.C. § 1446(b).
5. The above-captioned action is a suit for alleged violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (“FDCPA”).

II. FEDERAL QUESTION JURISDICTION

6. This Court has original jurisdiction over Plaintiff’s FDCPA claim pursuant to 28 U.S.C. § 1331, which states that federal question jurisdiction is appropriately exercised over “all civil actions arising under the Constitution, laws, or treaties of the United States.”
7. Removal of this action is proper under 28 U.S.C. § 1441(a), which provides, in pertinent part, that “any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to

the district court of the United States for the district and division embracing the place where such action is pending.”

8. In his Complaint, Plaintiff alleges PRA violated various provisions of the FDCPA by including language in its written correspondence to Plaintiff that overshadowed Plaintiff’s debt verification rights and that was false and misleading. *See* Ex. A at ¶¶ 62, 68, 70, 74, 76, 83.

9. Federal question jurisdiction exists over this action because the allegations asserted by Plaintiff in the Complaint involve questions that will require resolution of significant, disputed issues arising under federal law. This case qualifies for federal question jurisdiction and is removable because Plaintiff’s Complaint alleges claims under, and requires a ruling on, the FDCPA.

10. Pursuant to 28 U.S.C. § 1441(b), removal is proper irrespective of the citizenship or residence of the parties.

III. VENUE

11. Venue is proper in this Court because this district and division encompass the Superior Court of New Jersey for the County of Essex, Law Division, the forum from which the case has been removed. *See* 28 U.S.C. § 1441.

IV. NOTICE

12. Concurrent with the filing of this Notice, PRA will file a Notice of Filing of Notice of Removal with the Clerk of the Superior Court of New Jersey for the County of Essex, a copy of which is attached hereto as **Exhibit B**.

13. Upon information and belief, the contents of **Exhibit A** and **Exhibit B** constitute the entire file of the action pending in the state court as required pursuant to 28 U.S.C. § 1446(a).

WHEREFORE, PRA hereby removes this action to this Court.

Dated: March 20, 2023
New York, New York

By: /s/ Stephen J. Steinlight
Stephen J. Steinlight
TROUTMAN PEPPER
HAMILTON SANDERS LLP
875 Third Avenue
New York, New York 10022
Telephone: (212) 704-6000
Facsimile: (212) 704-6288
Email: stephen.steinlight@troutman.com

Attorney for Defendant
Portfolio Recovery Associates, LLC

CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of March 2023, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, and sent, via FedEx Overnight Mail, to the following party. Service of the foregoing was within the time prescribed by the Rules of the Court.

Lawrence C. Hersh, Esq.
Counsel for Plaintiff
17 Sylvan Street, Suite 102B
Rutherford, New Jersey 07070

I certify that I am not aware of the claims specifically asserted in the Complaint being the subject of any other action pending in this Court. PRA reserves its right to seek arbitration in this matter.

/s/ Stephen J. Steinlight
Stephen J. Steinlight

EXHIBIT A



Notice of Service of Process

A3M / ALL
Transmittal Number: 26416710
Date Processed: 02/20/2023

Primary Contact: Sonia Gomez
Portfolio Recovery Associates, Inc.
130 Corporate Blvd
Norfolk, VA 23502-4952

Entity: Portfolio Recovery Associates, L.L.C.
Entity ID Number 1653471

Entity Served: Portfolio Recovery Associates, LLC

Title of Action: Michael Klimovich vs. Portfolio Recovery Associates, LLC

Matter Name/ID: Michael Klimovich vs. Portfolio Recovery Associates, LLC (13664386)

Document(s) Type: Summons/Complaint

Nature of Action: Class Action

Court/Agency: Essex County Superior Court, NJ

Case/Reference No: ESX-L-005232-22

Jurisdiction Served: New Jersey

Date Served on CSC: 02/17/2023

Answer or Appearance Due: 35 Days

Originally Served On: CSC

How Served: Personal Service

Sender Information: La.Wrence C. Hersh
201-507-6300

Notes: The document matches the original document as received.

Information contained on this transmittal form is for record keeping, notification and forwarding the attached document(s). It does not constitute a legal opinion. The recipient is responsible for interpreting the documents and taking appropriate action.

To avoid potential delay, please do not send your response to CSC

251 Little Falls Drive, Wilmington, Delaware 19808-1674 (888) 690-2882 | sop@cscglobal.com

LAWRENCE C. HERSH, ATTORNEY AT LAW
17 Sylvan Street, Suite 102B
Rutherford, NJ 07070
(201) 507-6300
Attorney for Plaintiff, and all others similarly situated.

MICHAEL KLIMOVICH, on behalf of himself and all others:
similarly situated,

Plaintiff,

vs.

PORTFOLIO RECOVERY ASSOCIATES, LLC; JOHN
DOES 1-50 and ABC CORP. 1-50,

Defendants.

X
:
:
Superior Court of New Jersey
Law Division
Essex County
:
:
Docket No. L-005232-22
:
:
CIVIL ACTION
:
:
SUMMONS
X

From The State Of New Jersey To The Defendant(s) Named Above:

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (A directory of the addresses of each deputy clerk of the Superior Court is available in the Civil Division Management Office in the county listed above and online at http://www.judiciary.state.nj.us/prose/10153_deptyclerklawref.pdf.) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, P.O. Box 971, Trenton, NJ 08625-0971. A filing fee payable to the Treasurer, State of New Jersey, and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee of \$175.00 and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages, or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live or the Legal Services of New Jersey Statewide Hotline at 1-888-LSNJ-LAW (1-888-576-5529). If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A directory with contact information for local Legal Services Offices and Lawyer Referral Services is available in the Civil Division Management office in the county listed above and online at http://www.judiciary.state.nj.us/prose/10153_deptyclerklawref.pdf.

/s/ Michelle M. Smith
Clerk of the Superior Court

DATED: September 15, 2022

Name of Defendant(s) to Be Served: **PORTFOLIO RECOVERY ASSOCIATES, LLC**
Address of Defendant to Be Served: **c/o Corporation Service Company, Princeton South Corporate Center, Suite 160, 100 Charles Ewing Blvd, Ewing, NJ 08628**

LAWRENCE C. HERSH (No. 003142002)
Attorney at Law
17 Sylvan Street, Suite 102B
Rutherford, NJ 07070
(201) 507-6300
Attorney for Plaintiff, and all others similarly situated

<hr/>		X
MICHAEL KLIMOVICH, on behalf of himself and all others similarly situated,	:	Superior Court of New Jersey
	:	Law Division
Plaintiff,	:	Essex County
	:	
vs.	:	Docket No.
	:	
	:	CIVIL ACTION
PORTFOLIO RECOVERY ASSOCIATES, LLC; JOHN DOES 1-50 and ABC CORP. 1-50,	:	CLASS ACTION COMPLAINT
	:	AND JURY TRIAL DEMAND
Defendants.	:	
	:	
<hr/>		X

Plaintiff MICHAEL KLIMOVICH (hereinafter "Plaintiff"), on behalf of himself and all others similarly situated, by and through his undersigned attorney, alleges against the above-named Defendants PORTFOLIO RECOVERY ASSOCIATES, LLC ("Defendant"), JOHN DOES 1-50 and ABC CORP. 1-50 (hereinafter "Defendant"), their employees, agents, and successors, the following:

PRELIMINARY STATEMENT

1. Plaintiff brings this action for statutory damages and declaratory and injunctive relief arising from the Defendant's violation of 15 U.S.C. § 1692 *et seq.*, the Fair Debt Collection Practices Act (hereinafter "FDCPA"), which prohibits debt

collectors from engaging in abusive, deceptive and unfair practices.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this matter alleging violations of the FDCPA, 15 U.S.C. §1692 *et seq.* pursuant to 15 U.S.C. §1692k(d).

3. Defendant regularly collects debts in Essex County, does business in Essex County and/or regularly files lawsuits in Essex County.

DEFINITIONS

4. As used in reference to the FDCPA, the terms “creditor,” “consumer,” “debt,” and “debt collector” are defined in § 803 of the FDCPA and 15 U.S.C. § 1692a.

PARTIES

5. The FDCPA, 15 U.S.C. § 1692 *et seq.*, which prohibits certain debt collection practices provides for the initiation of court proceedings to enjoin violations of the FDCPA and to secure such equitable relief as may be appropriate in each case.

6. Plaintiff is a natural person and resident of Bergen County, in the State of New Jersey, and is a “Consumer” as defined by 15 U.S.C. § 1692a(3).

7. Based upon information and belief, Defendant PORTFOLIO RECOVERY ASSOCIATES, LLC (“PRA” OR “Defendant”) is a Delaware limited liability company engaged in the business of buying defaulted credit card debts and collecting debts in this state with its principal place of business located in Norfolk, Virginia.

8. Defendants JOHN DOES 1-50 and ABC CORP. 1-50 are fictitious

defendants. JOHN DOES 1-50 are fictitious individuals. ABC CORP. 1-50 are business entities including, but not limited to a corporation, limited liability company and/or partnership, which are in the business of buying and/or collecting on defaulted consumer debt. In the event any named defendant is not the real name of the defendant, or he or it is known by any other name, plaintiff reserves the right to amend this complaint to properly name the defendant.

9. Each Defendant regularly collects debts and does business in Essex County.

10. Each Defendant is a company that acts as a debt collector, as defined by § 1692a of the FDCPA, because it regularly uses the mails and/or the telephone, in its business, the principal purpose of which is to collect, or attempt to collect, directly or indirectly, defaulted consumer debts

11. Each Defendant operates a nationwide defaulted debt collection business, and attempts to collect debts from consumers in virtually every state, including consumers in the State of New Jersey via collection letters, phone calls, credit reports and lawsuits.

12. In fact, each Defendant was acting as a debt collector, as that term is defined in the FDCPA, as to the defaulted consumer debt it attempted to collect from Plaintiff.

13. Each Defendant's principal, if not sole, business purpose is the collection of defaulted consumer debts originated by others.

14. Each Defendant is a "Debt Collector" as that term is defined by 15 U.S.C. §1692(a)(6).

CLASS ACTION ALLEGATIONS

15. Plaintiff brings this action as a state wide class action, pursuant to Rule 4:32 of the New Jersey Rules of Court, on behalf of himself and all New Jersey consumers and their successors in interest (the "Class"), who have received debt collection letters and/or notices from the Defendant which are in violation of the FDCPA, as described in this Complaint.

16. This Action is properly maintained as a class action pursuant to Rule 4:32. The Classes consist of:

- All New Jersey consumers who were sent collection letters and/or notices from Portfolio Recovery Associates, LLC which included the alleged conduct and practices described herein.
- The Class period begins one-year prior to September 3, 2022. The class definition may be subsequently modified or refined.

17. The Class satisfies all the requirements of R. 4:32 for maintaining a class action:

- Upon information and belief, the Class is so numerous that joinder of all members is impracticable because there are hundreds and/or thousands of persons who have received debt collection letters and/or notices from the Defendant that violate specific provisions of the FDCPA. Plaintiff is complaining of a standard form letter and/or notice that is sent to hundreds of persons (See Exhibits A and B, except that the undersigned attorney has, partially redacted the financial account numbers in an effort to protect Plaintiff's privacy);

- There are questions of law and fact which are common to the Class and which predominate over questions affecting any individual Class member. These common questions of law and fact include, without limitation:
 - a. Whether Defendant violated various provisions of the FDCPA.
 - b. Whether Plaintiff and the Class have been injured by the Defendant; conduct;
 - c. Whether Plaintiff and the Class have sustained damages and are entitled to restitution as a result of Defendant's wrongdoing, and if so, what is the proper measure and appropriate statutory formula to be applied in determining such damages and restitution; and
 - d. Whether Plaintiff and the Class are entitled to declaratory and/or injunctive relief.
- Plaintiff's claims are typical of the Class, which all arise from the same operative facts and are based on the same legal theories;
- Plaintiff has no interest adverse or antagonistic to the interest of the other members of the Class;
- Plaintiff will fairly and adequately protect the interest of the Class and has retained experienced and competent attorneys to represent the Class;
- A Class Action is superior to other methods for the fair and efficient adjudication of the claims herein asserted. Plaintiff anticipates that no

unusual difficulties are likely to be encountered in the management of this class action;

- A Class Action will permit large numbers of similarly situated persons to prosecute their common claims in a single forum simultaneously and without the duplication of effort and expense that numerous individual actions would engender. Class treatment will also permit the adjudication of relatively small claims by many Class members who could not otherwise afford to seek legal redress for the wrongs complained of herein. Absent a Class Action, class members will continue to suffer losses of statutory protected rights as well as monetary damages. If the Defendant's conducts are allowed to proceed without remedy it will continue to reap and retain the proceeds of its ill-gotten gains;
- Defendant has acted on grounds generally applicable to the entire Class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the Class as a whole.

STATEMENT OF FACTS

18. Plaintiff is at all times relevant to this lawsuit, a "consumer" as that term is defined by 15 U.S.C. §1692a(3).

19. Defendant collects and attempt 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 Service, telephone and/or the Internet.

20. Defendant is a "debt collector" as defined by 15 U.S.C. §1692a(6).

21. Sometime prior to September 3, 2021, Plaintiff allegedly incurred a financial obligation to Comenity Capital Bank (“Comenity”) related to a consumer credit card account. (“the Debt”).

22. The Debt arose out of a transaction in which money, property, insurance or services, which are the subject of the transaction, are primarily for personal, family or household purposes.

23. Plaintiff used the subject credit card to purchase products and/or services, including health and beauty items, food, groceries and other household goods.

24. The Debt is a "debt" as defined by 15 U.S.C. § 1692a(5).

25. Comenity is a "creditor" as defined by 15 U.S.C. § 1692a(4).

26. Sometime prior to September 3, 2021, Comenity, either directly or through intermediate transactions, assigned, sold, placed and/or transferred all interest in the Debt to Defendant PRA.

27. At the time the Debt was assigned, placed or transferred to PRA, the Debt was in default.

28. Defendant caused to be delivered to Plaintiff a letter dated September 3, 2021 concerning the alleged Debt, which sought to collect an amount owed of \$6,886.62. Attached as **Exhibit A** is a copy of the September 3, 2021 collection letter.

29. This and all other collection letters referenced herein were sent or caused to be sent by a person or persons employed by Defendant as a “debt collector” as defined by 15 U.S.C. § 1692a(6).

30. This and all other collection letters referenced herein were each a “communication” as defined by 15 U.S.C. § 1692a(2).

31. Upon receipt, Plaintiff read each of the collection letters referenced herein.

32. The September 3 collection letter was Defendant's initial written communication letter to Plaintiff.

33. The September 3 collection letter was sent or caused to be sent by a person employed by Defendants as a "debt collector" as defined by 15 U.S.C. § 1692a(6).

34. The Collection Letter was a "communication" as defined by 15 U.S.C. § 1692a(2).

35. Upon receipt, Plaintiff read the Collection Letter.

36. As the initial written communication, the September 3 collection letter was required to contain a notification of Plaintiff's verification rights within the meaning of 15 U.S.C. § 1692g(a).

37. 15 U.S.C. § 1692g provides that within five days after the initial communication with a consumer in connection with the collection of any debt, a debt collector shall, unless the information is contained in the initial communication or the consumer has paid the debt, send the consumer a written notice containing certain enumerated information.

38. 15 U.S.C. § 1692g(a)(3) provides that the written notice must contain a statement that unless the consumer, within thirty days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector.

39. 15 U.S.C. § 1692g(a)(4) provides that the written notice must contain a statement that if the consumer notifies the debt collector in writing within the thirty-day period that the debt, or any portion thereof, is disputed, the debt collector will obtain

verification of the debt or a copy of a judgment against the consumer and a copy of such verification or judgment will be mailed to the consumer by the debt collector.

40. In order to be entitled to obtain verification of the debt or a copy of a judgment against the consumer, the consumer must dispute the debt in writing.

41. 15 U.S.C. § 1692g(a)(5) provides that the written notice must contain a statement that, upon the consumer's written request within the thirty-day period, the debt collector will provide the consumer with the name and address of the original creditor, if different from the current creditor.

42. In order to be entitled to obtain the name and address of the original creditor, if different from the current creditor, the consumer must request such in writing.

43. A debt collector has the obligation not just to convey the 15 U.S.C. § 1692g required disclosures, but also to convey such clearly.

44. Even if a debt collector conveys the required information accurately, the debt collector nonetheless violates the FDCPA if that information is overshadowed or contradicted by other language in the communication.

45. Even if a debt collector conveys the required information accurately, the debt collector nonetheless violates the FDCPA if that information is overshadowed by other collection activities during the 30-day validation period following the communication.

46. 15 U.S.C. § 1692g(b) provides that collection activities and communication during the 30-day period may not overshadow or be inconsistent with the disclosure of the consumer's right to dispute the debt or request the name and address of the original creditor.

47. A collection activity or communication overshadows or contradicts the validation notice if it would make the least sophisticated consumer uncertain or confused as to his or her rights.

48. The front side of the collection letter included the following statement (“The Statement”):

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice that you dispute the validity of this debt or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor if different from the current creditor.

49. The Statement presumably attempted to comply with the requirements of section 1692g(a)(3)-(5).

50. The Statement does not direct the consumer to dispute the Debt with a particular address for an in writing dispute.

51. The front of the collection letter includes three separate addresses:

2975 E Cottonwood Pkwy
Suite 100
Salt Lake City UT 84121

P.O. Box 12914
Norfolk, VA 23541

Dept 922
PO Box 4115
Concord CA 94524

52. The back of the September 3 collection letter provides (“the Dispute Language”):

DISPUTES: Call 1-800-772-1413 or write to: Portfolio Recovery Associates,

LLC, Disputes Department, 140 Corporate Blvd., Norfolk VA 23502

DISPUTES E-MAIL ADDRESS: PRA_Disputes@portfoliorecovery.com

53. The least sophisticated consumer would be confused as to which of the multiple addresses contained in the letter is to be used in order to seek the name and address of the original creditor if different from the current creditor as provided for by section 1692g(a)(5).

54. The least sophisticated consumer may be dissuaded from requesting the information required to be provided under section 1692g(a)(5) since he or she may not know which of the multiple addresses should be used in order to obtain the requested information.

55. Alternatively, the least sophisticated consumer may believe that he or she would have to send letters to each of the multiple addresses, in order to obtain the requested information and thus decide that doing so would be too onerous or too difficult to do.

56. Furthermore, the Dispute Language does not specify how a dispute should be made.

57. The Dispute Language suggests that disputes can be made by calling, writing or emailing.

58. If the least sophisticated consumer wanted to dispute the debt as provided for under 1692g(a)(4) he or she would not know if such written dispute would have to be made by letter, email or both based upon the dispute language contained on the back of the September 3 collection letter.

59. The least sophisticated consumer may be dissuaded from disputing the

debt at all, since he or she may not know whether the dispute should be made by regular mail or email, or both.

60. Alternatively, the least sophisticated consumer may believe that he or she would have to send two dispute letters, one by regular mail and one by email, in order to dispute the Debt, and thus decide that doing so would be too onerous or too difficult to do.

61. Furthermore, based upon the Dispute Language, the least sophisticated consumer may believe that that a dispute could be made orally under section 1692g(a)(4), even though such a dispute must be made in writing.

62. Thus the Dispute Language on the back of the letter is confusing, deceptive and misleading and overshadows Plaintiff's debt verification rights.

63. The use of multiple addresses by Defendants overshadowed Plaintiff's right to dispute the Debt and obtain verification of the Debt.

64. In the last year, Defendant sent collection letters to numerous New Jersey consumers in which Defendants included multiple addresses in an initial written communication to a consumer.

65. Additionally, the upper right corner of the September 3 collection letter provides:

Account Number: 6044192177286796
Seller: SYNCHRONY BANK
Merchant: PAYPAL
Original Creditor: COMENITY CAPITAL BANK
Original Creditor Address: 2795 E COTTONWOOD PKWY
SUITE 100 SALT LAKE CITY UT 84121
Creditor to Whom Debt is Owed: PORTFOLIO RECOVERY
ASSOCIATES, LLC
Balance: \$6,886.62

66. The September 3 collection letter identifies 4 different entities: a Seller, a Merchant, Original Creditor and Creditor to Whom Debt is Owed.

67. The least sophisticated consumer reading the September 3 collection letter would be confused as to who are all of these entities and who is the current creditor.

68. Defendant's identification of multiple entities in the September 3 collection letter overshadows Defendant's verification rights and renders the letter false, misleading and/or deceptive.

69. The back of the September 3 collection letter also provides:

NOTICE: If this account is eligible to be reported to the credit reporting agencies by our company, we are required by law to notify you that a negative credit report reflecting on your credit records may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit obligation.

70. This statement is false, deceptive and confusing since there is no such law, federal or state, requiring Defendant to notify Plaintiff, "that a negative credit report reflecting on your credit records may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit obligation."

71. Defendant also caused to be delivered to Plaintiff a letter dated September 17, 2021 seeking to collect the Debt. Attached as **Exhibit B** is a copy of the September 17, 2021 collection letter.

72. The September 17 collection letter sought to collect \$6,886.62 from Plaintiff.

73. The September 17 collection letter was sent within the 30 day period for Plaintiff to dispute the debt as set forth in the September 3 collection letter.

74. The September 17 collection letter overshadowed Plaintiff's right to

dispute the debt, since the September 17 letter failed to inform Plaintiff that this collection letter did not alter or amend Plaintiff's validation rights as described in Defendant's previous collection letter to Plaintiff

75. As such, at the time that Plaintiff received the September 17 collection letter, Plaintiff's validation rights set forth in the September 3 letter had not yet expired.

76. Thus, the language in the September 17 collection letter overshadowed Plaintiff's validation rights as set forth in the September 3 collection letter.

77. PRA knew or should have known that its actions violated the FDCPA.

78. Defendant could have taken the steps necessary to bring their actions within compliance with the FDCPA but neglected to do so and failed to adequately review its actions to ensure compliance with the law.

POLICIES AND PRACTICES COMPLAINED OF

79. It is Defendant's policy and practice to send written collection communications, in the form annexed hereto as **Exhibit A and B**, which violate the FDCPA, by *inter alia*:

- (a) Using false, deceptive or misleading representations or means in connection with the collection of a debt;
- (b) Threatening to take any action that cannot legally be taken or that is not intended to be taken;
- (c) Using unfair or unconscionable means to collect or attempt to collect any debt and/or;
- (d) Overshadowing Plaintiff's right to dispute the Debt.

80. On information and belief, Defendant sent written communications in the form annexed hereto as Exhibits A or B to at least 30 natural persons in the State of New Jersey.

COUNT I

**FAIR DEBT COLLECTION PRACTICES ACT 15 U.S.C. §1692
VIOLATIONS**

81. Plaintiff repeats the allegations contained in paragraphs 1 through 80 as if the same were set forth at length.

82. Defendant violated 15 U.S.C. §1692 et seq. of the FDCPA in connection with its collection attempts against Plaintiff and others similarly situated.

83. By sending a collection letter, the same as or substantially similar to Exhibits A and/or B, Defendant violated:

- A. 15 U.S.C. §1692e, by using a false, deceptive or misleading representation or means in connection with the collection of any debt;
- B. 15 U.S.C. §1692e(5) of the FDCPA prohibits a debt collector from threatening to take any action that cannot legally be taken or that is not intended to be taken.
- C. 15 U.S.C. § 1692e(10) by using a false representation or deceptive means to collect or attempt to collect a debt from Plaintiff;
- D. 15 U.S.C. §1692f by using unfair or unconscionable means to collect or attempt to collect any debt;
- E. 15 U.S.C. §1692g(a) by failing to effectively convey Plaintiff's right to dispute and seek validation of the Debt; and,

F. 15 U.S.C. §1692g(b), by engaging in collection activity which overshadows or is inconsistent with the consumer's right to dispute the debt.

WHEREFORE, Plaintiff, on behalf of himself and others similarly situated, demands judgment against Defendants as follows:

- (a) Declaring that this action is properly maintainable as a Class Action and certifying Plaintiff as Class representative and attorney Lawrence Hersh, Esq., as Class Counsel under R. 4:32;
- (b) Awarding Plaintiff and the Class maximum statutory damages;
- (c) Awarding pre-judgment interest;
- (d) Awarding post-judgment interest;
- (e) Awarding reasonable attorneys' fees, costs and expenses; and
- (f) Awarding Plaintiff and the Class such other and further relief as the Court may deem just and proper.

Dated: Rutherford, New Jersey
September 5, 2022

Respectfully submitted,

By: s/ Lawrence C. Hersh
Lawrence C. Hersh, Esq.
17 Sylvan Street, Suite 102B
Rutherford, NJ 07070
(201) 507-6300
*Attorney for Plaintiff and all others
similarly situated*

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury as to all issues.

Dated: September 5, 2022

By: /s/ Lawrence C. Hersh
Lawrence C. Hersh

DESIGNATION OF TRIAL COUNSEL

Lawrence C. Hersh, Esq. is designated as trial counsel in this matter.

By: /s/ Lawrence C. Hersh
Lawrence C. Hersh

Dated: September 5, 2022

CERTIFICATION PURSUANT TO R. 4:5-1

I certify that the matters in controversy in this action are not the subject of any other action pending in any other court or of a pending arbitration proceeding, and that no other action or arbitration proceeding is contemplated.

By: /s/ Lawrence C. Hersh
Lawrence C. Hersh

Dated: September 5, 2022

Portfolio Recovery Associates, LLC

09/03/2021

Dear MICHAEL KLIMOVICH,

Your account was sold to Portfolio Recovery Associates, LLC. Your bank or creditor made a business decision to sell your debt.

Please reach out to us. Our goal is to work collaboratively to help you resolve your debt.

Portfolio Recovery Associates, LLC purchased your account on 08/19/2021. All future payments for this account, including credit counseling service payments, should be directed to us.

We know life happens. Please visit our website. It will help you understand the process, your options, and—most importantly—how we're committed to working together to design a payment plan to resolve your outstanding obligation.

Sincerely,
PORTFOLIO RECOVERY ASSOCIATES, LLC

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice that you dispute the validity of this debt or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor if different from the current creditor.

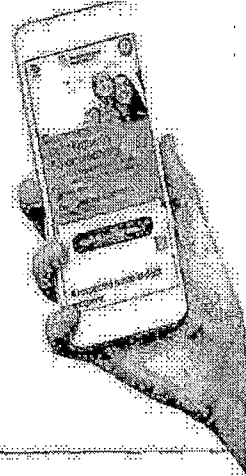
Account Number: [REDACTED] 796
Seller: SYNCHRONY BANK
Merchant: PAYPAL
Original Creditor: COMENITY CAPITAL BANK
Original Creditor Address: 2795 E COTTONWOOD PKWY SUITE 100 SALT LAKE CITY UT 84121
Creditor to Whom Debt is Owed: PORTFOLIO RECOVERY ASSOCIATES, LLC
Balance: \$6,886.62

Contact Us

Paying your bill is easy with any of these options:

www.PRApay.com
1-800-772-1413
Mon. to Fri. 8am - 11pm
Sat. 8am - 8pm
Sun. 11am - 10pm (EST)

Pay by mail -
checks and payments to:
PORTFOLIO RECOVERY ASSOCIATES, LLC
P.O. Box 12914
Norfolk VA 23541



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

Notice: See Reverse Side for Important Information

001

DEPT 922
PO BOX 4115
CONCORD CA 94524

Account Number: [REDACTED] 798
Payment Amount: _____

CHANGE SERVICE REQUESTED

[REDACTED]

MICHAEL KLIMOVICH
13 DONNA DR
CLIFTON NJ 07013-3601

Pay Online at www.PRApay.com
or mail to:

PORTFOLIO RECOVERY ASSOCIATES, LLC
P.O. Box 12914
Norfolk VA 23541

MAKE ALL CHECKS PAYABLE TO: PORTFOLIO RECOVERY ASSOCIATES, LLC

SEND ALL PAYMENTS TO: PORTFOLIO RECOVERY ASSOCIATES, LLC, P.O. Box 12914, Norfolk, VA 23541

HOURS OF OPERATION: Mon. to Fri. 8am - 11pm, Sat. 8am - 8pm, Sun. 11am - 10pm (EST)

FOR THE HEARING IMPAIRED: TDD: 1-800-828-1120

COMPANY ADDRESS: Portfolio Recovery Associates, LLC, 120 Corporate Boulevard, Norfolk, VA 23502

DISPUTES: Call 1-800-772-1413 or write to: Portfolio Recovery Associates, LLC, Disputes Department, 140 Corporate Blvd., Norfolk, VA 23502

DISPUTES E-MAIL ADDRESS: PRA_Disputes@portfoliorecovery.com

QUALITY SERVICE AVAILABLE Mon. - Fri. 8 AM to 6 PM (ET)

Not happy with the way you were treated? Our company strives to provide professional and courteous service to all our customers. Contact one of our staff to discuss issues related to our quality of service to you by phone at 1-800-772-1413 or by e-mail at PRACustomerCare@portfoliorecovery.com.

NOTICE: If this account is eligible to be reported to the credit reporting agencies by our company, we are required by law to notify you that a negative credit report reflecting on your credit records may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit obligation.



[December 19, 2019]

FACTS

WHAT DOES PRA DO WITH YOUR PERSONAL INFORMATION?

Why?

Financial companies choose how they share your personal information. Federal law gives consumers the right to limit some but not all sharing. Federal law also requires us to tell you how we collect, share, and protect your personal information. Please read this notice carefully to understand what we do.

What?

The types of personal information we collect and share depend on the product or service you have with us. This information can include:

- Social Security number or other government-issued identification numbers;
- Income and employment information;
- Account balances and transaction history;
- Payment history and credit history.

How?

All financial companies need to share customers' personal information to run their everyday business. In the section below, we list the reasons financial companies can share their customers' personal information; the reasons PRA chooses to share; and whether you can limit this sharing.

Reasons we can share your personal information	Does PRA share?	Can you limit this sharing?
For our everyday business purposes— such as to process your transactions, maintain your account(s); respond to court orders and legal investigations or report to credit bureaus	Yes	No
For our marketing purposes— to offer our products and services to you	Yes	No
For joint marketing with other financial companies	No	We don't share
For our affiliates' everyday business purposes— such as information about your transactions and experiences	Yes	No
For our affiliates' everyday business purposes— such as information about your creditworthiness	No	We don't share
For nonaffiliates to market to you	No	We don't share

Do you need to?

Call us at 1-833-332-5865.

Who is providing this notice?

You are receiving this notice from Portfolio Recovery Associates, LLC ("PRA").

What we do

How does PRA protect my personal information?

To protect your personal information from unauthorized access and use, we use security measures that comply with federal law. These measures include computer safeguards and secured files and buildings.

How does PRA collect my personal information?

We collect your personal information, for example, when you

- Provide account information or give us your contact information;
- Pay your bills;
- Use your debit card;
- Give us your income information;
- Provide employment information

We also collect your personal information from others, such as credit bureaus, prior owners of your account, our affiliates or subsidiaries, government agencies, or other companies.

Why can't I limit all sharing?

Federal law gives you the right to limit only

- sharing for affiliates' everyday business purposes—information about your creditworthiness
- affiliates from using your information to market to you
- sharing for nonaffiliates to market to you

State laws and individual companies may give you additional rights to limit sharing. See below for more on your rights under state law.

Definitions

Affiliates

Companies related by common ownership or control. They can be financial and nonfinancial companies.

- Our affiliates include companies with a PRA name, such as PRA Group, Inc. and PRA Receivables Management, LLC.

Nonaffiliates

Companies not related by common ownership or control. They can be financial and nonfinancial companies.

- PRA does not share with nonaffiliates so they can market to you

Joint marketing

A formal agreement between nonaffiliated financial companies that together market financial products or services to you.

- PRA does not jointly market

State-Specific Information

California Residents – In accordance with the California Financial Information Privacy Act, we will not share information we collect about California residents with nonaffiliates except as permitted by law, such as with the consent of the customer or to service the customer's accounts. We also will limit the sharing of information about you with our affiliates to the extent required by applicable California law.

Vermont Residents – In accordance with Vermont law, we will not share information we collect about Vermont residents with nonaffiliates except as permitted by law, such as with the consent of the customer or to service the customer's accounts. We will not share creditworthiness information about Vermont residents among PRA's affiliates except with the authorization or consent of the Vermont resident.

EXHIBIT B

Portfolio Recovery
Associates, LLC

Account Details

Account Number: [REDACTED] 796
Seller: SYNCHRONY BANK
Merchant: PAYPAL
Original Creditor: COMENITY CAPITAL BANK
Creditor to Whom Debt is Owed: PORTFOLIO RECOVERY
ASSOCIATES, LLC ("PRA, LLC")
Balance: \$6,886.62

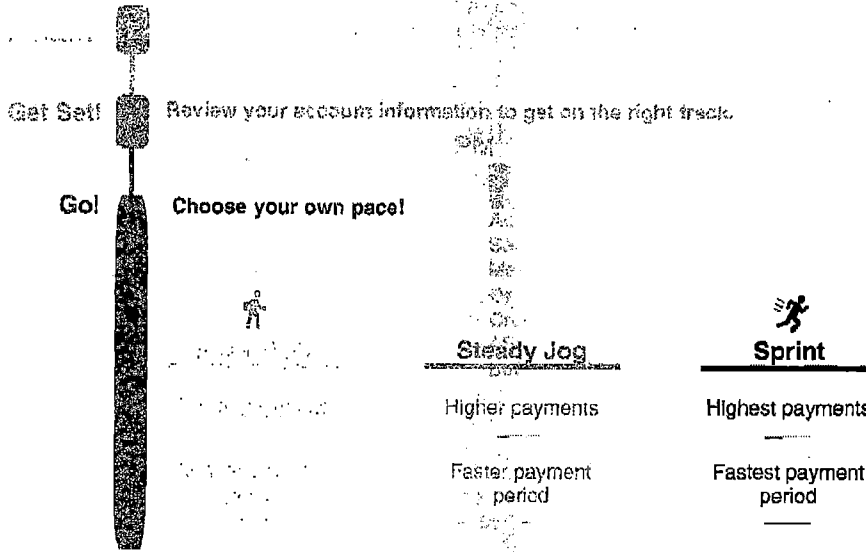
09/17/2021

Resolve this debt, step by step!

Dear MICHAEL KLIMOVICH,

PRA, LLC makes tackling your debt easier than you think.

Follow these simple steps:



You are closer to your goal than you think!

Learn more at
PRApay.com

You can also call 1-800-772-1413 to discuss your account with us

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54BE2

DEPT 922
PO BOX 4115
CONCORD CA 94524

Account Number: [REDACTED] 796

Payment Amount: _____

CHANGE SERVICE REQUESTED



MICHAEL KLIMOVICH
13 DONNA DR
CLIFTON NJ 07013-3601

Pay Online at www.PRApay.com
or mail to:

PORTFOLIO RECOVERY ASSOCIATES, LLC
P.O. Box 12914
Norfolk VA 23541

MAKE ALL CHECKS PAYABLE TO: PORTFOLIO RECOVERY ASSOCIATES, LLC

SEND ALL PAYMENTS TO: PORTFOLIO RECOVERY ASSOCIATES, LLC, P.O. Box 12914, Norfolk, VA 23541

HOURS OF OPERATION: Mon. to Fri. 8am - 11pm, Sat. 8am - 3pm, Sun. 11am - 10pm (EST)

FOR THE HEARING IMPAIRED: TDD: 1-800-828-1120

COMPANY ADDRESS: Portfolio Recovery Associates, LLC, 120 Corporate Boulevard, Norfolk, VA 23502

DISPUTES: Call 1-800-772-1413 or write to: Portfolio Recovery Associates, LLC, Disputes Department, 140 Corporate Blvd., Norfolk, VA 23502

DISPUTES E-MAIL ADDRESS: PRA_Disputes@portfoliorecovery.com

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COUNTY LAWYER REFERRAL/LEGAL SERVICES CONTACT INFORMATION

<p>New Jersey Bar Association Lawyer Referral Service (732)249-5000</p> <p>Legal Services of New Jersey, Inc. (908)572-9100</p>	<p><u>Gloucester County</u> Gloucester County Bar Association Lawyer Referral Service (856)848-4407</p> <p>*Regional Legal Services (856)848-5360</p>	<p><u>Passaic County</u> Passaic County Bar Association Lawyer Referral Service (973)278-9223</p> <p>Passaic County Legal Aid (973)523-2900</p>
<p><u>Atlantic County</u> Atlantic County Bar Association Lawyer Referral Service (609)345-3444</p> <p>Cape-Atlantic Legal Services (609)348-4200</p>	<p><u>Hudson County</u> Hudson County Bar Association Lawyer Referral Service (201)798-2727</p> <p>Hudson County Legal Services (201)792-6363</p>	<p><u>Salem County</u> Salem County Bar Association Lawyer Referral Service (856)935-5629</p> <p>*Regional Legal Services (856)496-4570</p>
<p><u>Bergen County</u> Bergen County Bar Association Lawyer Referral Service (201)488-0044</p> <p>Bergen County Legal Services (201)487-2166</p>	<p><u>Hunterdon County</u> Hunterdon County Bar Association Lawyer Referral Service (908)200-7822</p> <p>Hunterdon County Legal Services (908)782-7979</p>	<p><u>Somerset County</u> Somerset County Bar Association Lawyer Referral Service (908)685-2323</p> <p>Somerset-Sussex Legal Services (908)231-0840</p>
<p><u>Burlington County</u> Burlington County Bar Association Lawyer Referral Service (609)261-4862</p> <p>*Regional Legal Services (609)261-1088</p>	<p><u>Mercer County</u> Mercer County Bar Association Lawyer Referral Service (609)585-6200</p> <p>Legal Aid Society-Mercer County (609)695-6249</p>	<p><u>Sussex County</u> Sussex County Bar Association Lawyer Referral Service (973)267-5882</p> <p>Somerset-Sussex Legal Services (973)383-7400</p>
<p><u>Camden County</u> Camden County Bar Association Lawyer Referral Service (856)482-0618</p> <p>*Regional Legal Services (856)964-2010</p>	<p><u>Middlesex County</u> Middlesex County Bar Association Lawyer Referral Service (732)828-0053</p> <p>Middlesex County Legal Services (732)828-3433</p>	<p><u>Union County</u> Union County Bar Association Lawyer Referral Service (908)353-4715</p> <p>Union County Legal Services (908)354-4340</p>
<p><u>Cape May County</u> Cape May County Bar Association Lawyer Referral Service (609)463-0313</p> <p>Cape-Atlantic Legal Services (609)465-3001</p>	<p><u>Monmouth County</u> Monmouth County Bar Association Lawyer Referral Service (732)431-5544</p> <p>Ocean-Monmouth Legal Services (732)414-6750</p>	<p><u>Warren County</u> Warren County Bar Association Lawyer Referral Service (908)387-1835</p> <p>Warren County Legal Services (908)475-2010</p>
<p><u>Cumberland County</u> Cumberland County Bar Assoc. Lawyer Referral Service (856)696-5550</p> <p>Legal Aid Society (856)691-0494</p>	<p><u>Morris County</u> Morris County Bar Association Lawyer Referral Service (973)267-5882</p> <p>Legal Aid Society of Morris (973)285-6911</p>	
<p><u>Essex County</u> Essex County Bar Association Lawyer Referral Service (973)622-6204</p> <p>Essex County Legal Aid Assoc. (973)622-0063</p>	<p><u>Ocean County</u> Ocean County Bar Association Lawyer Referral Service (732)431-5544</p> <p>Ocean-Monmouth Legal Services (732)608-7794</p>	<p>* Camden Regional Legal Services, Inc. serves Burlington, Cumberland, Gloucester and Salem Counties.</p>