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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

Jason Young, individually and on behalf
of all others similarly situated,

Plaintiff,

-v.-
Resurgent Capital Services L.P.;

Defendants.

Case No.:

**CLASS ACTION COMPLAINT
AND DEMAND FOR
JURY TRIAL**

Plaintiff Jason Young brings this Class Action Complaint by and through his attorneys against the Defendants Resurgent Capital Services L.P. (“Resurgent” or “Defendant”), individually and on behalf of a class of all others similarly situated, pursuant to Rule 23 of the Federal Rules of Civil Procedure, based upon information and belief of the Plaintiff’s counsel, except for allegations specifically pertaining to the Plaintiff, which are based upon the Plaintiff’s personal knowledge.

1 4. Venue is proper in this judicial district pursuant to 28 U.S.C.
2 § 1391(b)(2) as this is where a substantial part of the events or omissions giving
3 rise to the claim occurred and where the Plaintiff resides.
4

5 **NATURE OF THE ACTION**

6 5. Plaintiff brings this class action on behalf of a class of Washington
7 consumers under Section 1692 et seq. of Title 15 of the United States Code, also
8 known as the Fair Debt Collections Practices Act (“FDCPA”), and
9

10 6. Plaintiff is seeking damages and declaratory relief.
11

12 **PARTIES**

13 7. Plaintiff is a resident of the State of Washington.
14

15 8. Defendant Resurgent is a "debt collector" as the phrase is defined in 15
16 U.S.C. § 1692(a)(6) and used in the FDCPA
17

18 9. Resurgent’s registered agent for service is Corporation Service
19 Company, 300 Deschutes Way SW, Suite 208 MC-CSC1, Tumwater, WA 98501.
20

21 10. Upon information and belief, Resurgent is a company that uses the mail
22 and telephone and regularly engages in business the principal purpose of which is
23 to attempt to collect debts alleged to be due another.
24

25 **CLASS ALLEGATIONS**

26 11. Plaintiff brings this claim on behalf of the following class, pursuant to
27 Fed. R. Civ. P. 23(a) and 23(b)(3).
28

1 12. The Class consists of:

- 2 a. all individuals with addresses in the State of Washington;
- 3
- 4 b. to whom the Defendant Resurgent sent an initial collection letter;
- 5
- 6 c. attempting to collect a consumer debt;
- 7
- 8 d. that falsely claimed that the entire balance owed includes \$0.00 of
- 9 interest, despite the same including interest; and
- 10
- 11 e. which letter was sent on or after a date one year prior to the filing
- 12 of this action and on or before a date twenty-one (21) days after the
- 13 filing of this action.

14 13. The identities of all class members are readily ascertainable from the

15 records of Defendant and those companies and entities on whose behalf they

16 attempt to collect and/or have purchased debts.

17

18 14. Excluded from the Plaintiff Class are the Defendant and all officers,

19 members, partners, managers, directors and employees of the Defendant and their

20 respective immediate families, and legal counsel for all parties to this action, and

21 all members of their immediate families.

22

23 15. There are questions of law and fact common to the Plaintiff Class, which

24 common issues predominate over any issues involving only individual class

25 members. The principal issue is whether the Defendant's written communication to

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1 consumers, in the form attached as Exhibit A, violate 15 U.S.C. §§ 1692e and
2 1692g.

3
4 16. Plaintiff's claims are typical of the class members, as all are based upon
5 the same facts and legal theories. The Plaintiff will fairly and adequately protect
6 the interests of the Plaintiff Class defined in this complaint. The Plaintiff has
7 retained counsel with experience in handling consumer lawsuits, complex legal
8 issues, and class actions, and neither the Plaintiff nor his attorneys have any
9 interests, which might cause them not to vigorously pursue this action.
10

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12 17. This action has been brought, and may properly be maintained, as a class
13 action pursuant to the provisions of Rule 23 of the Federal Rules of Civil
14 Procedure because there is a well-defined community interest in the litigation:
15

16 a. **Numerosity:** Plaintiff is informed and believes, and on that basis
17 alleges, that the Plaintiff Class defined above is so numerous that
18 joinder of all members would be impractical.
19

20 b. **Common Questions Predominate:** Common questions of law and
21 fact exist as to all members of the Plaintiff Class and those
22 questions predominate over any questions or issues involving only
23 individual class members. The principal issue is whether the
24 Defendant's written communication to consumers, in the form
25 attached as Exhibit A, violate 15 U.S.C. §§ 1692e and 1692g.
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- 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 the Plaintiff has no interests that are averse 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 the Plaintiff nor 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.

1 18. Certification of a class under Rule 23(b)(3) of the Federal Rules of Civil
2 Procedure is also appropriate in that the questions of law and fact common to
3 members of the Plaintiff Class predominate over any questions affecting an
4 individual member, and a class action is superior to other available methods for the
5 fair and efficient adjudication of the controversy.
6

7
8 19. Depending on the outcome of further investigation and discovery,
9 Plaintiff may, at the time of class certification motion, seek to certify a class(es)
10 only as to particular issues pursuant to Fed. R. Civ. P. 23(c)(4).
11

12 **FACTUAL ALLEGATIONS**

13 20. Plaintiff repeats the above allegations as if set forth here.
14

15 21. Some time prior to August 30, 2022, Plaintiff allegedly incurred an
16 obligation to non-party First National Bank Omaha (“First National”).
17

18 22. The obligation arose out of transactions incurred primarily for personal,
19 family, or household purposes, specifically credit from First National used for
20 those purposes.
21

22 23. The alleged First National obligation is a "debt" as defined by 15
23 U.S.C. § 1692a (5).
24

25 24. Upon information and belief, through one or more transactions, LVNV
26 Funding LLC (“LVNV”) acquired the debt from First National.
27

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

1 35. This language is further misleading and deceptive because it does not
2 actually state whether the account is accruing interest and fees.

3
4 36. As a result of the Defendant's actions, Plaintiff was unable to evaluate
5 how much is truly being alleged as the correct balance, is being misled as to the
6 total owed, and cannot properly evaluate the demand for payment or how to
7 address it.
8

9 37. The amount stated as due is therefore false, deceptive, misleading, and
10 unfair.
11

12 38. Because of the Defendant's improper collection actions Plaintiff was
13 unable to properly respond to the Letter.
14

15 39. Plaintiff would have pursued a different course of action were it not for
16 the Defendant's violations.
17

18 40. Because of the Defendant's improper collection the Plaintiff was
19 prevented from taking certain actions he would have, or could have, otherwise
20 taken had the Defendant's Letter not contained false, deceptive, misleading, or
21 unfair content.
22

23 41. Plaintiff was left uncertain as to the debt and the amount involved here
24 and how this implicates his alleged responsibilities for making payment thereon.
25

26 42. Plaintiff was misled by the Letter.
27
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1 43. Plaintiff was therefore unable to evaluate his options of how to handle
2 this debt.

3
4 44. Because of the Defendant's actions, the funds the Plaintiff could have
5 used to pay all or part of the alleged debt were prioritized elsewhere.

6 45. Plaintiff expended time, money, and effort in determining the proper
7 course of action.

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9 46. In reliance on the Letter, Plaintiff expended time and money in an effort
10 to mitigate the risk of future financial harm in the form of dominion and control
11 over his funds.

12
13 47. In reliance on the Letter, Plaintiff expended time and money in an effort
14 to mitigate the risk of future financial and reputational harm in the form of debt
15 collection informational furnishment, and ultimate dissemination, to third parties.

16
17 48. Plaintiff's reliance on the Letter, and the resulting inaction/non-payment,
18 caused the Defendant's furnishment, and the ultimate dissemination, of negative
19 credit reporting to the Plaintiff's financial and reputational detriment.

20
21 49. Thus, Defendant's improper acts, and the Plaintiff's reliance thereon,
22 caused the Plaintiff reputational harm.

23
24 50. Additionally, Defendant's improper acts, and the Plaintiff's reliance
25 thereon, caused the Plaintiff financial harm.

1 51. Defendant's improper acts, and the Plaintiff's reliance thereon, also
2 caused the Plaintiff emotional harm in the form of shock and apprehension.

3 52. Plaintiff's reputational and emotional harm manifested itself physically
4 in the form of restlessness.

5 53. Congress is empowered to pass laws and is well-positioned to create
6 laws that will better society at large.

7 54. As it relates to this case, Congress identified concrete and particularized
8 harms with close common-law analogues to the traditional torts of fraud, negligent
9 misrepresentation, negligent infliction of emotional distress, defamation and
10 conversion.

11 55. These violations by Defendant were knowing, willful, negligent and/or
12 intentional, and the Defendant did not maintain procedures reasonably adopted to
13 avoid any such violations.

14 56. Defendant's collection efforts with respect to this alleged debt from
15 Plaintiff caused the Plaintiff to suffer concrete and particularized harm, *inter alia*,
16 because the FDCPA provides the Plaintiff with the legally protected right to be not
17 to be misled or treated unfairly with respect to any action for the collection of any
18 consumer debt.

19 57. Defendant's false, deceptive, misleading and/or unfair representations
20 with respect to its collection efforts were material misrepresentations that affected
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1 and frustrated Plaintiff's ability to intelligently respond to the Defendant's
2 collection efforts because the Plaintiff could not adequately respond to the
3 Defendant's demand for payment of this debt.
4

5 58. Plaintiff was misled to his detriment by the statements in the Letter, and
6 relied on the contents of the Letter to his detriment.
7

8 59. As a result of the Defendant's deceptive, misleading and false debt
9 collection practices, Plaintiff has been damaged.
10

11 **COUNT I**
12 **VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT**
13 **15 U.S.C. §1692e et seq.**

14 60. Plaintiff repeats the above allegations as if set forth here.

15 61. Defendant's debt collection efforts attempted and/or directed towards
16 the Plaintiff violated various provisions of the FDCPA, including but not limited
17 to, 15 U.S.C. § 1692e.
18

19 62. Pursuant to 15 U.S.C. § 1692e, a debt collector may not use any false,
20 deceptive, or misleading representation or means in connection with the collection
21 of any debt.
22

23 63. Defendant violated said section, as described above, by making a false
24 and misleading representation in violation of §§ 1692e (2), 1692e (5), 1692e (10);
25 and 1692e.
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6. Awarding the Plaintiff and the Class such other and further relief as this Court may deem just and proper.

Dated: May 5, 2023

Respectfully submitted,

s/ Michael Brubaker
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