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 9 **UNITED STATES DISTRICT COURT**
 10 **NORTHERN DISTRICT OF CALIFORNIA**

11 THOMASITO BAMBA,
 12 Plaintiff,
 13 vs.
 14 RASH CURTIS & ASSOCIATES.,
 15 Defendant.

Case No.:

COMPLAINT FOR VIOLATIONS OF:

- (1) THE FAIR DEBT COLLECTION PRACTICES ACT 15 U.S.C. §§ 1692, ET SEQ.; AND
- (2) THE ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT, CAL. CIV. CODE §§ 1788, ET SEQ.

JURY TRIAL DEMANDED

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INTRODUCTION

1. The United States Congress has found abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many debt collectors, and has determined 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. Congress wrote the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692, *et seq.* to eliminate abusive debt collection practices by debt collectors, to insure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and to promote consistent State action to protect consumers against debt collection abuses.
2. The California legislature has determined that the banking and credit system and grantors of credit to consumers are dependent upon the collection of just and owing debts and that unfair or deceptive collection practices undermine the public confidence that is essential to the continued functioning of the banking and credit system and sound extensions of credit to consumers. The Legislature has further determined that there is a need to ensure that debt collectors exercise this responsibility with fairness, honesty, and due regard for the debtor’s rights and that debt collectors must be prohibited from engaging in unfair or deceptive acts or practices.¹
3. The California legislature has also found that the collection of debt purchased by debt buyers has become a significant focus of public concern due to the adequacy of documentation required to be maintained by the industry in support of collection activities and litigation. In that regard, setting specific documentation and process standards will protect consumers, provide needed clarity to courts, and establish clearer criteria for debt buyers and the collection industry.

¹ Cal. Civ. Code §§ 1788.1 (a)-(b)





- 1 4. Plaintiff THOMASITO BAMBA (“Plaintiff”), through Plaintiff’s attorneys,
2 brings this action to challenge the actions of RASH CURTIS & ASSOCIATES
3 (“Defendant”) with regard to attempts by Defendant to unlawfully and abusively
4 collect a debt allegedly owed by Plaintiff, and this conduct caused Plaintiff
5 damages.
- 6 5. Plaintiff makes these allegations on information and belief, with the exception of
7 those allegations that pertain to a plaintiff, or to a plaintiff’s counsel, which
8 Plaintiff alleges on personal knowledge.
- 9 6. While many violations are described below with specificity, this Complaint
10 alleges violations of the statute cited in its entirety.
- 11 7. Unless otherwise stated, all the conduct engaged in by Defendant took place in
12 California.
- 13 8. Any violations by Defendant were knowing, willful, and intentional, and
14 Defendant did not maintain procedures reasonably adapted to avoid any such
15 violation.
- 16 9. Unless otherwise indicated, the use of Defendant’s name in this Complaint
17 includes all agents, employees, officers, members, directors, heirs, successors,
18 assigns, principals, trustees, sureties, subrogees, representatives, and insurers of
19 named Defendant.

20 **JURISDICTION AND VENUE**

- 21 10. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331 and 15 U.S.C. §
22 1692(k); and 28 U.S.C. § 1367 for substantially related state law claims.
- 23 11. This action arises out of Defendant’s violations of the Fair Debt Collection
24 Practices Act, 15 U.S.C. §§ 1692, et seq. (“FDCPA”) and the Rosenthal Fair
25 Debt Collection Practices Act, Cal. Civ. Code §§ 1788, et seq. (“RFDCPA”).
- 26 12. Because Defendant conducts business within the State of California, personal
27 jurisdiction is established.
- 28 13. Venue is proper in the United States District Court, Northern District of

1 California pursuant to 28 U.S.C. § 1391 for the following reasons: (i) Plaintiff
2 resides in the County of Sonoma, State of California which is within this judicial
3 district; (ii) the conduct and harm complained of herein occurred within this
4 judicial district; and (iii) Defendant conducted business within this judicial
5 district at all times relevant.

6 **PARTIES**

7 14. Plaintiff is a natural person who resides in the County of Sonoma, State of
8 California, from whom a debt collector sought to collect a consumer debt which
9 was due and owing or alleged to be due and owing from Plaintiff.

10 15. Plaintiff is a “consumer” as that term is defined by 15 U.S.C. § 1692a(3), and is
11 a “debtor” as that term is defined by California Civil Code § 1788.2(h).

12 16. Defendant is, and at all times mentioned herein was, a business operating under a
13 fictitious name, with a primary place of business and/or headquarters is located
14 in Vacaville, CA

15 17. At all times relevant herein, Defendant conducted business in the State of
16 California and in the County of Sonoma, and within this judicial district.

17 18. Defendant, in the ordinary course of business, regularly, on behalf of themselves
18 or others, engages in debt collection as that term is defined by California Civil
19 Code § 1788.2(b), and is therefore a “debt collector” as that term is defined by
20 California Civil Code § 1788.2(c) and 15 U.S.C. § 1692a(6).

21 19. This case involves money, property or their equivalent, due or owing or alleged
22 to be due or owing from a natural person by reason of a consumer credit
23 transaction. As such, this action arises out of a “consumer debt” and “consumer
24 credit” as those terms are defined by Cal. Civ. Code § 1788.2(f) and a “debt” as
25 that term is defined by 15 U.S.C. 1692a(5).

26 **FACTUAL ALLEGATIONS**

27 20. Plaintiff is an individual residing within the County of Sonoma, in the State of
28 California.



- 1 21. Plaintiff is informed and believes, and thereon alleges, that at all times relevant,
2 Defendant conducted business in the State of California.
- 3 22. Sometime before June 2023, Plaintiff allegedly incurred financial obligations to
4 an original creditor that were money, property, or their equivalent, (the “Debt”)
5 which were due or owing, or alleged to be due or owing, from a natural person to
6 another person and were therefore “debt(s)” as that term is defined by 15 U.S.C.
7 § 1692a(5) and Cal. Civ. Code § 1788.2(d), and a “consumer debt” as that term
8 is defined by Cal. Civ. Code § 1788.2(f).
- 9 23. Sometime before June 2023, Plaintiff allegedly fell behind in the payments owed
10 on the Debt.
- 11 24. Afterwards, sometime before June 2023, the alleged debt was allegedly assigned,
12 placed, or otherwise transferred, to Defendant for collection. Thereafter,
13 Defendant began contacting Plaintiff in attempt to collect upon the Debt.
- 14 25. On June 14, 2023, Plaintiff’s attorneys sent Defendant a fax related to the Debt,
15 putting Defendant on notice that Plaintiff was represented by counsel, and
16 specifically represented with regard to an account or file number 5092080-1 and
17 Dates of Service 11/11/208 to 12/1/2018.
- 18 26. On June 15, 2023, Defendant sent Plaintiff’s attorneys an itemized billing
19 record. In doing so, Defendant acknowledged that it was aware Plaintiff was
20 represented by an attorney with regard to the alleged debt.
- 21 27. Despite Plaintiff’s attorneys’ correspondence to Defendant on June 14, 2023,
22 putting it on direct notice that Plaintiff was represented by counsel related to the
23 Debt, on or around June 16, 2023, Defendant sent Plaintiff numerous debt
24 collection letters regarding several accounts in an attempt to collect upon the
25 alleged Debt. These debt collection letters to Plaintiff included the reference
26 “RE: SEVERAL” and included several different account numbers, but lacked
27 any reference to the creditor or entity to which the alleged debt was purportedly
28 owed.

1 28. This communication to Plaintiff was a “communication” as that term is defined
2 by 15 U.S.C. § 1692a(2). This communication by Defendant was a “debt
3 collection” as that phrase is defined by Cal. Civ. Code 1788.2(b).

4 29. Through this conduct, Defendant violated 15 U.S.C. § 1692c(a)(2) by
5 communicating with Plaintiff while Defendant knew, or should have known, that
6 Plaintiff was represented by an attorney with regard to the alleged debt. This
7 section of the FDCPA is incorporated into the RFDCPA through Cal. Civ. Code
8 § 1788.17; thus, Defendant also violated Cal. Civ. Code § 1788.17.

9 30. Defendant’s communications to Plaintiff in connection with the attempted
10 collection of the alleged Debt were unsolicited and not in response to an inquiry
11 from Plaintiff. Defendant’s communication was neither made to advise Plaintiff
12 that further debt collection efforts were being terminated, nor made to notify
13 Plaintiff that Defendant could or would invoke a specified remedy. Instead,
14 Defendant’s communications aimed to collect Plaintiff’s Debt without any
15 permission from Plaintiff and after Defendant received Plaintiff’s express written
16 request that Defendant cease further telephonic communications regarding the
17 Debt and that Defendant only respond to the dispute and only in writing.

18 31. Through the above conduct, Defendant violated 15 U.S.C § 1692d by engaging
19 in conduct, the natural consequence of which was to harass, oppress or abuse
20 Plaintiff. This section of the FDCPA is incorporated into the RFDCPA through
21 Cal. Civ. Code § 1788.17. Thus, Defendant has also violated Cal. Civ. Code §
22 1788.17.

23 32. Through the above conduct, Defendant violated 15 U.S.C. § 1692e and §
24 1692e(10) by using deceptive means and misleading communications in
25 connection with its attempted collection of an alleged debt from Plaintiff. This
26 section of the FDCPA is incorporated into the RFDCPA through Cal. Civ. Code
27 § 1788.17; thus, Defendant also violated Cal. Civ. Code § 1788.17.
28



- 1 33. Through the above conduct, Defendant violated 15 U.S.C. § 1692f by engaging
2 in unfair or unconscionable means to collect or attempt to collect the alleged
3 debt. This section of the FDCPA is incorporated into the RFDCPA through Cal.
4 Civ. Code § 1788.17; thus, Defendant also violated Cal. Civ. Code § 1788.17.
- 5 34. Through all the above-mentioned conduct, Defendant took action against
6 Plaintiff concerning the alleged debt in violation of the statutes discussed above.
7 Specifically, Defendant has violated 15 U.S.C. §§ 1692c(a)(2), 1692d, 1692e
8 and 1692f which are each incorporated into the RFDCPA through Cal. Civ.
9 Code § 1788.17. Thus, Defendant has also violated Cal. Civ. Code § 1788.17.
- 10 35. As a result of Defendant's unfair, oppressive, and abusive conduct in connection
11 with their debt collection activity, Plaintiff has suffered invasion of privacy,
12 nuisance, and mental anguish by way of stress, frustration, and anxiety over the
13 fact that Defendant repeatedly continued its collection communications to
14 Plaintiff despite receiving Plaintiff's written request that Defendant cease and
15 desist communication with Plaintiff.

16 **CAUSES OF ACTION**

17 **COUNT I**

18 **VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT**

19 **15 U.S.C. §§ 1692, et seq. (FDCPA)**

- 20 36. Plaintiff incorporates by reference all of the above paragraphs of this Complaint
21 as though fully stated herein.
- 22 37. The foregoing acts and omissions constitute numerous and multiple violations of
23 the FDCPA.
- 24 38. As a result of each and every violation of the FDCPA, Plaintiff is entitled to any
25 actual damages pursuant to 15 U.S.C. § 1692k(a)(1); statutory damages for a
26 knowing or willful violation in the amount up to \$1,000.00 pursuant to 15 U.S.C.
27 § 1692k(a)(2)(A); and reasonable attorney's fees and costs pursuant to 15 U.S.C.
28 § 1692k(a)(3) from Defendant.



COUNT II

VIOLATION OF THE ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT

Cal. Civ. Code §§ 1788, et seq. (RFDCPA)

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

40. The foregoing acts and omissions constitute numerous and multiple violations of the RFDCPA.

41. As a result of each and every violation of the RFDCPA, Plaintiff is entitled to any actual damages pursuant to Cal. Civ. Code § 1788.30(a); statutory damages for a knowing or willful violation in the amount up to \$1,000.00 pursuant to Cal. Civ. Code § 1788.30(b); and reasonable attorney's fees and costs pursuant to Cal. Civ. Code § 1788.30(c) from Defendant.

PRAYER FOR RELIEF

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

- an award of actual damages, in an amount to be determined at trial, pursuant to 15 U.S.C. § 1692k(a)(1), against Defendant;
- an award of actual damages, in an amount to be determined at trial, pursuant to Cal. Civ. Code § 1788.30(a), against Defendant;
- an award of statutory damages of \$1,000.00, pursuant to 15 U.S.C. § 1692k(a)(2)(A), against Defendant;
- an award of statutory damages of \$1,000.00, pursuant to Cal. Civ. Code § 1788.30(b), against Defendant;
- an award of costs of litigation and reasonable attorney's fees, pursuant to 15 U.S.C. § 1692k(a)(3), against Defendant;
- an award of costs of litigation and reasonable attorney's fees, pursuant to Cal. Civ. Code § 1788.30(c), against Defendant; and
- any and all other relief that this Court deems just and proper.



TRIAL BY JURY

42. Plaintiff is entitled to, and demands, a trial by jury on all issues so triable.

Dated: July 11, 2023

Respectfully submitted,

KAZEROUNI LAW GROUP, APC

By: s/ Mona Amini
David J. McGlothlin, Esq.
Mona Amini, Esq.
Attorneys for Plaintiff



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