

Elliot M. Elo, Esq.
The Law Office of Elliot M. Elo, Esq. PLLC,
42 West 48th Street, 2nd Floor
New York, NY, 10036
Tel: (212) 302-1257
*Attorney for Plaintiff, Danielle Sharples
on behalf of herself and all others similarly situated*

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

-----X

DANIELLE SHARPLES

JURY TRIAL DEMANDED

Plaintiff,

v.

Case No.

FIRST CREDIT SERVICES, INC.

Defendant.

-----X

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, by and through her counsel, Elliot Elo, Esq., as and for her complaint against Defendant, on behalf of herself and all others similarly situated, alleges as follows:

I. INTRODUCTION

1. This is an action for actual and statutory damages brought by Plaintiff, Danielle Sharples (hereinafter “Plaintiff”), an individual consumer, against, First Credit Services, Inc., (hereinafter “Defendant”), for violations of the Fair Debt Collection Practices Act, 15 U.S.C§ 1692 *et seq.* (hereinafter “FDCPA”), which prohibits debt collectors from engaging in abusive, deceptive, and unfair practices in their attempts to collect alleged debts from Plaintiff and others similarly situated.

2. Plaintiff alleges that Defendant’s collection practices violated the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (“FDCPA”).

3. The FDCPA broadly prohibits conduct which harasses, oppresses or abuses any debtor; any false, deceptive or misleading statements in connection with the collection of a debt; unfair or unconscionable collection methods; and requires certain disclosures. *See generally* 15 U.S.C. §§ 1692d, 1692e, 1692f and 1692g.

4. The FDCPA is generally characterized as a “strict liability” statute because “it imposes liability without proof of an intentional violation.” *Glover v. FDIC*, 698 F.3d 139 (3d. Cir. 2012) (citing *Allen ex rel. Martin v. LaSalle Bank, N.A.*, 629 F.3d 364, 368 & n. 7 (3d Cir. 2011)).

II. JURISDICTION AND VENUE

5. Jurisdiction of this Court arises under 15 U.S.C § 1692k(d) 28 U.S.C 1331.
6. Venue and personal jurisdiction in this District is proper because:
 - a. The acts giving rise to this lawsuit occurred with this District; and
 - b. Defendant transact business with this District.

III. PRELIMINARY STATEMENT

The Fair Debt Collection Practices Act (hereinafter “FDCPA”) has been in existence since 1977 to prevent abusive practices in the collection of consumer debts. Regulation F was introduced much later to further refine and enforce these practices.

While the FDCPA provides the foundation for consumer protections related to debt collection, it has some limitations. For instance, it does not include extensive provisions for new modes of communication, like electronic mail (hereinafter “email”) or social media.

Regulation F was introduced by the Consumer Financial Protection Bureau (CFPB) as an updated set of rules that supplement and detail requirements under the FDCPA. It aims to adapt to changes in the way debtors and collectors communicate brought by technological advances, and to provide clear rules that would prevent legal ambiguity.

The purpose of Regulation F is not to replace the FDCPA but to fortify and modernize it. It provides consumers with more clarity and agency in the interaction with debt collectors, yet still allowing the collection industry to carry out their operations effectively.

Regulation F § 1006.14 Harassing, Oppressive, or abusive conduct.

(h) Prohibited communication media— (1) In general. In connection with the collection of any debt, a debt collector must not communicate or attempt to communicate with a person through a medium of communication if the person has requested that the debt collector not use that medium to communicate with the person.

15 U.S.C § 1692c Communication in connection with debt collection

(a) Communication with the consumer generally

Without the prior consent of the consumer given directly to the debt collector or the express permission of a court of competent jurisdiction, a debt collector may not communicate with a consumer in connection with the collection of any debt—

(1) at any unusual time or place or a time or place known or which should be known to be inconvenient to the consumer. In the absence of knowledge of circumstances to the contrary, a debt collector shall assume that the convenient time for communicating with a consumer is after 8 o'clock antemeridian and before 9 o'clock postmeridian, local time at the consumer's location;

IV. PARTIES

7. Plaintiff is a natural person residing in New Milford, Bergen County, New Jersey.
8. Plaintiff is a consumer as defined by the Fair Debt Collection Practices Act, 15 U.S.C. §1692a(3).
9. Upon information and belief, Defendant is a New Jersey corporation with its principal place of business located at 9 Wills Way, Piscataway, NJ 08854.
10. Plaintiff's alleged "debt", as defined by the FDCPA, 15 U.S.C 1692a(5), arose from a transaction entered into primarily for personal use.
11. Defendant, is a post-default purchaser of consumer debts.

Defendant's business model is to pay less than ten cents on the dollar for an individual's defaulted debt and then seek to collect the full amount of that defaulted debt from the individual.

12. Debt collection is the principal purpose of Defendant's business.
13. Defendant has no principal purpose other than purchasing defaulted debts and then seeking to collect said debts.
14. Debt collection is Defendant's business.
15. Defendant is in the business of debt-buying.
16. Defendant exists for the purpose of purchasing defaulted debts at a discount and then seeking to collect the full amount of the defaulted debts.
17. Defendant business is the purchasing of debts for the purpose of collecting on those debts.
18. Defendant's *raison d'être* is obtaining payment on the debts that it acquires.
19. Defendant is licensed as a "debt collector" with the state of New Jersey.
20. Defendant is a "debt collector" as that term is defined by 15 U.S.C. § 1692a(6).
21. Defendant is engaged in the collection of debt from consumers by means of the United States Postal Service (hereinafter "the USPS") and

through calling debtors via the telephone. Defendant regularly attempt to collect consumers' debts alleged to be due to another company.

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

V. FACTS OF THE COMPLAINT

23. On or about November 6, 2023 Plaintiff noticed on her Credit Karma app a collections account from Defendant. Defendant reported and her credit report noted the amount of \$443.00, RETRO FITNESS HACKENSACK, the Original creditor.
24. On or about November 7, 2023, Plaintiff mailed a dispute letter disputing an alleged debt owed to RETRO FITNESS HACKENSACK Using the USPS, Tracking 9589 0710 5270 0439 6518 49.
25. Within the dispute letter Plaintiff informed Defendant that the only convenient way to contact her was via her electronic mail address (hereinafter email) and provided her email in the letter.
26. On or about November 9, 2023, Plaintiff received a letter from Defendant stating "Our office is in receipt of your letter of dispute..."
27. Plaintiff has suffered actual damages as a result of these illegal collection tactics by this Defendant in the form of invasion of privacy, inclusion upon intrusion, personal embarrassment, loss of productive

time, emotional distress, frustration, anger, humiliation and amongst other negative emotions.

28. Defendant violated 15 U.S.C 1692c(a)(1) for communicating with the Plaintiff using a method Defendant knew was no longer convenient for Plaintiff thereby embarrassing Plaintiff in front of her family and friends.

VI. FIRST CLAIM FOR RELIEF
(Defendant FIRST CREDIT SERVICES, INC.)
15 U.S.C. §1692c(a)(1)

29. Plaintiff re-alleges and reincorporates all previous paragraphs as if fully set out herein.

30. The Debt Collectors violated the FDCPA.

31. The Debt Collectors' violations include, but are not limited to, the following:

(a) The Debt Collectors violated 15 U.S.C § 1692c(a)(1) of the FDCPA by communicating with the Plaintiff at a place Defendant knew was no longer convenient.

32. As a result of the above violations of the FDCPA, the Defendant are liable to Plaintiff for actual damages, statutory damages and costs.

VII. JURY DEMAND AND PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully demands a jury trial and requests that judgment be entered in favor of Plaintiff and against the Defendant for:

- A. Judgment for the violations occurred under the FDCPA;
- B. Actual damages pursuant to 15 U.S.C 1692k(1)(2);
- C. Statutory damages pursuant to 15 U.S.C 1692k(2);
- D. Costs and reasonable attorney's fees pursuant to 15 U.S.C 1692k(3);
- E. For such other and further relief as the Court may deem just and proper.

Respectfully submitted:

/s/ Elliot Elo

Elliot M. Elo, Esq. PLLC,
42 West 48th Street,
2nd Floor
New York, NY, 10036
(212) 302-1257 (telephone)
ElliotEloEsq@aol.com (email)