

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

MICHAEL SMILING,

Plaintiff,

-vs-

CREDIT CONTROL, LLC,

Defendant.

CASE NO.

COMPLAINT AND DEMAND FOR JURY TRIAL

COMES NOW Plaintiff, MICHAEL SMILING (hereinafter “Plaintiff”), by and through his undersigned counsel, for his cause of action against Defendant, CREDIT CONTROL, LLC (hereinafter “Credit Control”), and in support thereof respectfully alleges violations of the Fair Debt Collection Practices Act (“FDCPA”) 15 U.S.C. § 1692 *et seq.*

PRELIMINARY STATEMENT

1. This is an action for actual damages, statutory damages, compensatory damages, punitive damages, costs, and attorney’s fees brought pursuant to the FDCPA.

JURISDICTION, VENUE, AND PARTIES

2. Jurisdiction for this Court is conferred by 28 U.S.C. § 1331, Federal Question Jurisdiction, as this action involves violations of the FDCPA.

3. Venue is proper for this Court pursuant to 28 U.S.C. § 1391(b)(2), as this is the judicial district in which a substantial part of the events or omissions giving rise to the claims occurred.

4. Venue is proper in this District as Plaintiff is a natural person and resident of Hillsborough County, Florida; the violations described in this Complaint occurred in this District; and Credit Control transacts business within this District.

5. Plaintiff is a “consumer” as defined by 15 U.S.C. § 1692a(3).

6. Credit Control is a corporation with its principal place of business in the State of Missouri and is authorized to do business in the State of Florida through its registered agent, C T Corporation System, located at 1200 South Pine Island Road, Plantation, Florida 33324.

7. Credit Control is a “debt collector” as defined by 15 U.S.C. § 1692a(6). Upon information and belief, Credit Control is regularly engaged in the business of collecting or attempting to collect debts owed or due or asserted to be owed or due another.

8. Credit Control attempted numerous times to collect a debt which did not belong to Plaintiff.

FACTUAL ALLEGATIONS

9. Plaintiff is alleged to a debt to Credit Control on behalf of original creditor, Charter Communications/Spectrum Mobile.

10. Plaintiff was a prior customer of Charter Communication/Spectrum Mobile, and prior to switching phone carriers, Plaintiff made timely payment to Charter Communications leaving a zero balance.

11. On or about September 6, 2023, Plaintiff received an email from Charter Communications/Spectrum Mobile confirming his device payment plan was paid in full.

12. On or about November 8, 2023, Plaintiff received a collection notice from Credit Control attempting to collect from Plaintiff an erroneous debt owed in the amount of \$20.49 on behalf of Charter Communications/Spectrum Mobile account number ending in x0035 with the Credit Control reference number 41419789.

13. On or about November 24, 2023, Plaintiff received another collection notice from Credit Control attempting to collect from Plaintiff the same erroneous debt owed in the amount of \$20.49 on behalf of Charter Communications/Spectrum Mobile account number ending in x0035 with the Credit Control reference number 41419789.

14. On or about December 4, 2023, Plaintiff received a third collection notice from Credit Control attempting to collect from Plaintiff the same erroneous debt owed in the amount of \$20.49 on behalf of Charter Communications/Spectrum Mobile account number ending in x0035 with the Credit Control reference number 41419789.

15. On or about December 8, 2023, Plaintiff received a fourth collection notice from Credit Control attempting to collect from Plaintiff the same erroneous debt owed in the amount of \$20.49 on behalf of Charter Communications/Spectrum Mobile account number ending in x0035 with the Credit Control reference number 41419789.

16. On or about December 12, 2023, Plaintiff received a fifth collection notice from Credit Control attempting to collect from Plaintiff the same erroneous debt owed in the amount of \$20.49 on behalf of Charter Communications/Spectrum Mobile account number ending in x0035 with the Credit Control reference number 41419789.

17. To date, Plaintiff has received at least five (5) total communications from Credit Control attempting to collect the erroneous Charter Communications/Spectrum Mobile debt.

18. Credit Control was attempting to collect from Plaintiff a debt that was not accurate and not owed by Plaintiff.

19. Credit Control was attempting to collect a debt that was illegitimate.

20. Due to the actions and/or inactions of Credit Control, Plaintiff suffered from unnecessary and unwanted stress, anxiety, worry, fear, frustration, sleeplessness, nervousness, embarrassment, and humiliation.

CAUSES OF ACTION

COUNT I

Violation of 15 U.S.C §1692f(1) as to Defendant, Credit Control, LLC

21. Plaintiff re-alleges and reincorporates paragraphs one (1) through twenty (20) above as if fully stated herein.

22. Credit Control has repeatedly attempted to collect a debt from Plaintiff that it knew or had reason to know was illegitimate.

23. Credit Control violated 15 U.S.C. § 1692f(1) by attempting to collect a debt not authorized by agreement or otherwise permitted by law.

24. Credit Control had all the information it needed to determine that the debt was erroneous and did not belong to Plaintiff, yet repeatedly attempted to collect that debt regardless.

25. As a result of the conduct, action and inaction of Credit Control, Plaintiff suffered from stress, anxiety, worry, fear, frustration, sleeplessness, nervousness, embarrassment, and humiliation, and the damages otherwise outlined

in this Complaint. Plaintiff is in fear that the collection notices Credit Control has sent will harm his credit reputation.

26. Plaintiff is entitled to recover actual, statutory, compensatory, and punitive damages from Credit Control pursuant to the FDCPA.

27. Plaintiff is entitled to recover reasonable attorney's fees and costs from Credit Control in the amount to be determined by the Court pursuant to the FDCPA.

WHEREFORE, Plaintiff, MICHAEL SMILING, respectfully requests that this Court award actual, statutory, compensatory, and punitive damages against Defendant, CREDIT CONTROL, LLC, jointly and severally; award Plaintiff his attorney's fees and costs; award pre-judgment and post-judgment interest at the legal rate, and grant all such additional relief as the Court deems just, equitable, and proper.

JURY DEMAND

Pursuant to Federal Rule of Civil Procedure 38, Plaintiff hereby demands a trial by jury of all issues triable by jury.

DATED this 30th day of January 2024.

Respectfully submitted,

/s/ Frank H. Kerney, III, Esq.

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