

FILED BY KYC D.C.
APR 25 2024
ANGELA E. NOBLE
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S. D. OF FLA. - MIAMI

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
IN MIAMI DIVISION

KANIJA SCOTT.,

Plaintiff,

vs.

SUNRISE CREDIT SERVICES INC.

Defendant.

) Case No. 24-cv-21585-RAR

) **COMPLAINT**

) Jury Trial: Yes No

INTRODUCTION

COMES NOW the Plaintiff, in the above-styled cause, and for Plaintiff's Complaint against the Defendant states as follows:

1. This is a civil action for actual and statutory damages and cost brought by Kanija Scott ("hereinafter "Plaintiff") an individual consumer, against defendants, Sunrise Credit Services INC. (hereinafter "Defendant") for violations of the Fair Debt Collection Practices Act, 15 U.S.C § 1692 et seq., 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.

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

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

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

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

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

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

20 **15 U.S.C § 1692c Communication in connection with debt collection**

21 (a) Communication with the consumer generally Without the prior consent of the
22 consumer given directly to the debt collector or the express permission of a court of competent
23 jurisdiction, a debt collector may not communicate with a consumer in connection with the
24 collection of any debt—

1 (1) at any unusual time or place or a time or place known or which should be known to
2 be inconvenient to the consumer. In the absence of knowledge of circumstances to the contrary, a
3 debt collector shall assume that the convenient time for communicating with a consumer is after
4 8 o'clock antemeridian and before 9 o'clock postmeridian, local time at the consumer's location;

5
6 **JURISDICTION AND VENUE**
7

8 3. Jurisdiction of this court arises under 15 U.S.C § 1692k(d), and 28 U.S.C. § 1331. The
9 venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2) because a substantial
10 part of the events, omissions, or conduct giving rise to Plaintiff's claim occurred in this judicial
11 district. Defendant transact business in Miami, FL.

12
13 4. The Court has supplemental jurisdiction of any state law claims pursuant to 28 U.S.C.
14 §1367.

15 **PARTIES**
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17 5. Plaintiff Kanija Scott is a natural person and consumer as defined by 15 U.S.C. §
18 1692a(3), residing in Miami, FL.
19

20 6. Upon information and belief, Defendant, Sunrise Credit Services INC. is a New York
21 Corporation with its principal place of business located at 8 Corporate CTR Drive Suite 300,
22 Melville, NY 11747. Service of process is accepted at C T Corporation System, 1200 South Pine
23 Island Road, Plantation, FL 33324.
24

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2 7. Sunrise Credit Services INC is a “debt collector” as that term is defined by 15 U.S.C. §
3 1692a(6) and are engaged in the business of collecting consumer debts.

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5 8. The acts of Defendant as described in this complaint were performed by Defendants or
6 on Defendant’s behalf by its owners, officers, agents, and/or employees acting within the scope
7 of their actual or apparent authority. As such, all references to “Defendant” in this Complaint
8 shall mean Defendant or their owners, officers, agents, and/or employees.

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11 **FACTUAL ALLEGATIONS**

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13 9. On or about March 13th, 2024, at 3:00pm, Plaintiff received a phone call from
14 Defendant. Exhibit A.

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16 10. Sometime thereafter, Defendant placed phone calls to Plaintiff on 3/14/2024 at
17 10:43am, 3/15/2024 at 9:52am, 3/18/2024 at 10:35am, 3/19/2024 at 10:50am, 3/20/2024 at
18 10:11am, and 3/21/2024 at 10:17am.

19
20 11. On 3/21/2024, Plaintiff sent a letter to Defendant via USPS certified mail
21 #9407111898765408182087. See Exhibit B

22
23 12. In the letter Plaintiff notified Defendant that after some research she sees that they are
24 debt collectors, and she can NEVER be reached by phone calls.

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13. Also in the letter Plaintiff notified Defendant that she works long hours during the day and cannot be on the phone at work. Plaintiff requested to only be contacted via email or text and provided her number and email address.

14. The letter sent by Plaintiff was received by Defendant on March 25th at 12:50 PM according to the USPS Electronic Delivery Confirmation.

15. On 3/26/2024 at 11:00am, 3/27/2024 at 11:37am, 3/28/2024 at 10:14am, 4/1/2024 at 10:01am, and 4/3/2024 at 5:35pm Defendant called Plaintiff in a attempt to collect a debt.

16. By continuing to call Plaintiff, despite a clear directive prohibiting such a medium of communication for debt collection purposes, Defendant has blatantly contravened 15 U.S.C 1692d and Regulation F § 1006.14(h)(1). This regulation explicitly forbids debt collectors from communicating through mediums expressly forbidden by individuals. Such actions by Defendant not only violate this specific provision but also constitute harassing, oppressive, or abusive conduct, clearly disregarding the regulatory measures designed to protect consumers.

17. Defendant violated 15 U.S.C 1692c(a)(1) and 15 U.S.C 1692c(a)(3) by continuing to make unwanted calls to Plaintiff while at work, Defendants knew or should have known that this was an inconvenient time and place.

18. The Plaintiff has sustained concrete and particularized injuries that are both actual and imminent, stemming directly from the Defendant's actions.

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19. Defendant's unsolicited and repeated phone calls to Plaintiff's constitute a direct invasion of privacy, violating the clear directive against such medium of communication and intruding upon the sanctity of Plaintiff's personal and work life.

20. Defendant's persistent disregard for Plaintiff's communication preferences has inflicted significant emotional distress and anxiety upon Plaintiff, with tangible effects on her mental health and well-being.

21. The intensity of the emotional distress experienced by the Plaintiff necessitated seeking comfort and counsel from a spiritual advisor. Specifically, Plaintiff sought guidance and support from a minister to cope with the distress caused by the defendant's actions.

22. The Plaintiff has incurred a loss of time, including but not limited to time taken to address the unauthorized communications and to mitigate the resulting stress and anxiety, which otherwise would have been devoted to personal or professional pursuits.

23. The aforementioned injuries are the direct consequence of the Defendant's conduct. The causal link between Defendant's actions and Plaintiff's injuries is clear, as the injuries manifested specifically in response to the unauthorized and unwelcome communications initiated by Defendants.

24. A favorable ruling from this court can provide redress for the Plaintiff's injuries.

1 25. Monetary damages awarded for the emotional distress, loss of time, and invasion of
2 privacy can compensate Plaintiff for the tangible and intangible injuries suffered as a direct result
3 of Defendant's actions.

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5 26. The Defendants' invocation of the Bona Fide Error defense under 15 U.S.C. §
6 1692k(c) is significantly weakened by their deliberate actions, including the disregard of the
7 Plaintiff's specific request for email and text-only communication. These intentional acts cast
8 serious doubt on their claim of inadvertent error and question the adequacy of their procedures to
9 prevent such violations.

10
11 **COUNT 1 VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT**
12 **15 U.S.C § 1692d and Regulation F § 1006.14(h)(1) DEFENDANT SUNRISE**
13 **CREDIT SERVICES INC.**

14 27. All preceding paragraphs are realleged.

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16 28. Defendants violated 15 USC §1692d and Regulation F § 1006.14(h)(1) by engaging
17 in abusive, harassing, and oppressive conduct.

18
19 29. In order to establish a violation of Section 1692d of the FDCPA, a consumer need not
20 prove intentional conduct by the debt collector. See *Ellis v. Solomon & Solomon, P.C.*, 591 F.3d
21 130, 135 (2nd Cir. 2010); *Horky v. J.V.D.B. & Assocs., Inc.*, 333 F.3d 769, 774 (7th Cir.2013)
22 (“[Plaintiff] points to no evidence in the record regarding [Defendant’s] intent, which is just as
23 well, because intent is irrelevant” in a § 1692d claim).

1 30. "Instead, applying an objective standard, as measured by the 'least sophisticated
2 consumer, 'the consumer need only show that the likely effect of the debt collector's
3 communication or conduct could be construed as harassment, oppression or abuse.'" See Lee v.
4 Credit Mgmt., LP, 846 F. Supp. 2d 716, 721 (S.D. Tex. 2012).

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6 31. The likely effect of Defendant's debt collection efforts, as measured by the "least
7 sophisticated consumer" standard, was "to harass, oppress, or abuse" Plaintiff.

8
9 32. Despite Plaintiff's explicit instruction to Defendant to cease phone communications
10 and that the only convenient methods of communication were through email and text, Defendant
11 continued to call Plaintiff. This action, which directly contravened Plaintiff's stated preferences,
12 constitutes harassment and abuse under the FDCPA and Regulation F § 1006.14(h)(1), as it
13 shows a willful disregard for Plaintiff's privacy and convenience.

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15 33. Defendants violations of 15 USC §1692d and Regulation F § 1006.14(h)(1) caused
16 Plaintiff actual damages of worry, anxiety, emotional distress, loss of time, and invasion of
17 privacy.

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19 34. As a result of Defendants violations of the Fair Debt Collection Practices Act and
20 Regulation F, Defendant is liable for actual and statutory damages under 15 U.S.C § 1692k.

21
22 **COUNT II VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT**
23 **15 U.S.C § 1692c(a)(1) and 15 U.S.C § 1692c(a)(3) DEFENDANT SUNRISE**
24 **CREDIT SERVICES INC.**

35. All preceding paragraphs are realleged.

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36. Defendant communicated with Plaintiff at an unusual time or place, and a time or place known, or which should be known to be inconvenient to Plaintiff, in violation of 15 U.S.C. § 1692c(a)(1) and Regulation F.

37. Specifically, Plaintiff informed Defendant that the only convenient mode of communication was through email or text. Despite this clear communication, Defendant continued to place unwanted phone calls to Plaintiff during the time she was at work, which was expressly stated as inconvenient. Defendant's actions demonstrate a willful disregard for Plaintiff's communication preferences by contacting Plaintiff at an inconvenient location and time, in direct violation of 15 U.S.C. § 1692c(a)(1).

38. Despite Plaintiff's explicit notification to Sunrise, via a letter, that my employer prohibits personal phone calls during work hours, thereby forbidding such communications at my place of employment, Sunrise knowingly violated this directive and 15 USC § 1692c(a)(3) by continuing to attempt phone contact, directly contravening the Fair Debt Collection Practices Act (FDCPA) provisions designed to protect consumer rights.

39. Defendant's violations of 15 USC §1692c(a)(1) and 15 USC §1692c(a)(3) caused Plaintiff actual damages of worry, anxiety, emotional distress, loss of time, and invasion of privacy.

40. As a result of the Defendants' violations of the Fair Debt Collection Practices Act and Regulation F, the Defendant is liable for actual and statutory damages under 15 U.S.C § 1692k.

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2 **COUNT III VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT**
3 **15 U.S.C § 1692f DEFENDANT SUNRISE CREDIT SERVICES INC.**

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5 41. All preceding paragraphs are realleged.

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7 42. Defendants used unfair or unconscionable means to collect or attempt to collect a
8 debt, in violation of 15 U.S.C. § 1692f.

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10 43. In this instance, despite being expressly informed by the Plaintiff through a letter
11 that receiving phone calls at the workplace was prohibited by the employer—and thus, such
12 communication was not permissible—and further stating that all communications should
13 exclusively occur via email or text as the Plaintiff can never be reached by phone calls,
14 Defendants willfully disregarded these explicit instructions. They continued to initiate prohibited
15 phone calls. This action disregards the Plaintiff's reasonable request and preferences, constituting
16 an unfair practice under 15 U.S.C. § 1692f.

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18 44. Defendant's violations of 15 USC §1692f caused Plaintiff actual damages of worry,
19 anxiety, emotional distress, loss of time, and invasion of privacy.

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21 45. As a result of Defendants' violations of the Fair Debt Collection Practices Act,
22 Defendant is liable for actual and statutory damages under 15 U.S.C § 1692k.

23 **JURY DEMAND AND PRAYER FOR RELIEF**
24

EXHIBIT A



March 13, 2024

3:00 PM Missed Call 

Calls with a checkmark have been verified by the carrier.



Contact Photo & Poster

phone

+1 (407) 987-5184

Notes

Send Message

Share Contact

Add to Favorites



Favorites



Recents



Contacts



Keypad



Voicemail

EXHIBIT B

Kanija Scott

123 NW 6th Ave

Florida City, Florida, 33034

Sunrise Credit Services

8 Corporate Center Drive Suite 300

Melville, New York, 11747

Dear Sunrise Credit Services,

I have been receiving numerous of calls from your company and after some research I see you're a debt collector, what debt you're trying to collector on I'm unsure but whatever it is I need proof of it, like how much it is, and where it came from. I can never be reached via phone calls. I work long hours during the day and can't be on the phone at work. Please only contact me by email at kanija.scott@icloud.com or text at (786) 487-2277. Having so many missed calls, not knowing what this alleged debt is, is causing me stress and has my anxiety through the roof. So having that information sent to me via email or text would really help me figure out what options I have moving forward.

Thank you,

Kanija Scott

Electronic Delivery Confirmation™

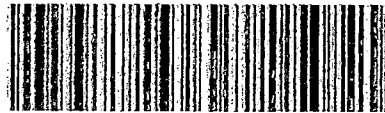


Kanija Scott
123 NW 5TH AVE
FLORIDA CITY FL 33034-3211

\$5.04 US POSTAGE
FIRST-CLASS
Mar 23 2024
Mailed from ZIP 33034
FIRST-CLASS MAIL LETTER
RATE
1123272



USPS CERTIFIED MAIL



9407 1118 9876 5408 1820 87

Sunrise Credit Services
8 CORPORATE CENTER DR STE 300
MELVILLE NY 11747-3193



Reference	Kanija Sunrise letter
USPS #	9407111898765408182087
USPS Mail Class	Certified with Electronic Delivery Confirmation
USPS Status	Your item was delivered to an individual at the address at 12:50 pm on March 25, 2024 in MELVILLE, NY 11747.
USPS History	In Transit to Next Facility, 03/24/2024 In Transit to Next Facility, 03/23/2024 In Transit to Next Facility, 03/22/2024 Arrived at USPS Regional Origin Facility, 03/21/2024, 10:48 pm, MIAMI FL DISTRIBUTION CENTER Accepted at USPS Origin Facility, March 21, 2024, 9:33 pm, HOMESTEAD, FL 33034 Shipping Label Created, USPS Awaiting Item, 03/20/2024, 4:38 pm, HOMESTEAD, FL 33034