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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

LARRY M. QUINTEROS, Plaintiff, v. TSC ACCOUNTS RECEIVABLE SOLUTIONS, Defendants.	Case No. 8:22-cv-00872 **COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF FOR VIOLATIONS OF:** **1. FAIR DEBT COLLECTION PRACTICES ACT** **2. REGULATION F** **3. ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT.**

COMPLAINT

NOW COMES LARRY M. QUINTEROS ("Plaintiff"), by and through his undersigned counsel, complaining of the Defendant, TSC ACCOUNTS RECEIVABLE SOLUTIONS ("Defendant") as follows:

NATURE OF THE ACTION

1. Plaintiff brings this action seeking redress for Defendant's violations of the Fair Debt Collection Practices Act ("FDCPA") pursuant to 15 USC §1692 *et. seq.*, Regulation F ("REG F") pursuant to 12 CFR 1006 *et seq.* and violations of the

Rosenthal Fair Debt Collection Practices Act ("RFDCPA") pursuant to Cal. Civ. Code §1788.

JURISDICTION AND VENUE

2. Subject matter jurisdiction is conferred upon this Court by the FDCPA and 28 U.S.C. §§1331 and 1337, as the action arises under the laws of the United States. Supplemental jurisdiction exists for the state claims pursuant to 28 U.S.C. §1367.

3. Venue is proper in this Court pursuant to 28 U.S.C. §1391 as Plaintiff resides in the Central District of California, Defendant conducts business in the Central District of California, and a substantial portion of the events or omissions giving rise to the claims occurred within the Central District of California.

PARTIES

4. Plaintiff is a natural person, over 18-years-of-age, who at all times relevant resided in Costa Mesa, California.

5. Defendant is a third-party debt collector who regularly attempts to collect debts from consumers originally owed to third parties. Defendant organized under the laws of the state of Texas and maintains its principal place of business at 3900 S Stonebridge Dr. #701, McKinney, Texas 75070. Defendant uses the mail and telephone for the principal purpose of collecting debts from consumers on a nationwide basis, including consumers in California.

6. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives and insurers at all times relevant to the instant action.

FACTUAL ALLEGATIONS

7. Prior to the events giving rise to this action, Plaintiff received medical services from Newport Orthopedic Institute ("subject debt") located in Newport Beach, California.

8. In or around August 2021, Plaintiff filed for chapter 7 bankruptcy and listed Newport Orthopedic Institute as having a claim for the subject debt in the amount of $173.94.

9. On December 13, 2021, Plaintiff's chapter 7 bankruptcy was discharged resulting in no balances owed to Newport Orthopedic Institute or any of its successors or assigns.

10. Pursuant to 11 U.S.C. §524, the Order of Discharge invoked the protections of the discharge injunction prohibiting any acts to collect upon the subject debt by Newport Orthopedic Institute or any other party, including Defendant.

11. The Order of Discharge expressly stated:

> "This order means that no one may make any attempt to collect a discharged debt from the debtors personally. For example, creditors cannot sue, garnish wages, assert a deficiency, or otherwise try to collect from the debtors personally on discharged debts. Creditors cannot contact the debtors by mail, phone, or otherwise in any attempt to collect the debt personally. Creditors who violate this order can be required to pay debtors

damages and attorney's fees."

12. At some point after Plaintiff's discharge, the subject debt was purchased, assigned or transferred to Defendant for collections.

13. At all times relevant, Defendant knew or should have known that Plaintiff no longer had a personal obligation to pay the subject debt.

14. After the discharge injunction had taken effect, Defendant sought to collect the subject debt from Plaintiff personally.

15. In or around January 2022, Defendant began contacting Plaintiff via telephone calls and text messages attempting to solicit payment of the subject debt.

16. Plaintiff was informed that the alleged debt in collections was a medical debt, specifically a past due balance owed to Newport Orthopedic Institute ("subject debt").

17. On January 8, 2022, Plaintiff responded to Defendant's communications to inform its office that the alleged subject debt was included and discharged in chapter 7 bankruptcy.

18. In addition, Plaintiff also requested that Defendant cease its communications.

19. Unfortunately, Defendant ignored Plaintiff's remarks and continued to place unwanted calls to Plaintiff's telephone.

20. In total, Defendant has placed no less than thirteen unconsented telephone calls to Plaintiff while attempting to collect a debt discharged in Plaintiff's bankruptcy.

21. Moreover, Defendant has reported the subject debt negatively to his credit report thus damaging Plaintiff's credibility as a consumer.

22. Defendant's collection effort occurred with actual and constructive knowledge of Plaintiff's bankruptcy filing, and subsequent discharge. Defendant knew that the subject debt was discharged in Plaintiff's bankruptcy.

23. Plaintiff felt extremely worried that there could be negative consequences if he did not pay the subject debt, even though he knew he was not legally obligated to pay.

24. Defendant's misleading conduct has severely disrupted Plaintiff's daily life and general well-being as Plaintiff constantly feared serious consequences.

25. Concerned about the violations of his rights, Plaintiff was forced to seek the assistance of counsel to file this action to prevent Defendant from further deception in the future, thus incurring costs and expenses.

DAMAGES

26. As of today, the erroneous reporting of the alleged debt continues to paint a false and damaging image of Plaintiff.

27. Defendant's reckless indifference relating to the inaccurate reporting of the subject debt has frustrated Plaintiff's ability to control his credit report and his ability to benefit from the credit history he has built over the years.

28. As a result of Defendant's conduct, Plaintiff has suffered various types of damages as set forth herein, including humiliation, the loss of credit opportunity, time expended monitoring his credit files, mental anguish, emotional distress, and costs associated with obtaining his credit reports from all three credit bureaus.

29. Due to Defendant's unethical collection efforts and reporting, Plaintiff was forced to retain counsel to correct Defendant's errors.

COUNT I – VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT
(15 U.S.C. §1692 et. seq.)

30. Plaintiff restates and realleges all previous paragraphs of this Complaint as though fully set forth herein.

31. Plaintiff is a "consumer" as defined by FDCPA §1692a(3).

32. The alleged subject debt is a "debt" as defined by FDCPA §1692a(5) as it arises out of a transaction due or asserted to be owed or due to another for personal, family, or household purposes.

33. Defendant is a "debt collector" as defined by §1692a(6) because its primary business is the collection of delinquent debts and it regularly collects debts and uses the mail, the telephones, and credit reporting to collect defaulted accounts allegedly owed to a third party.

34. Moreover, Defendant is a "debt collector" because it acquired rights to the subject debt after it was allegedly in default. 15 U.S.C. §1692a(6).

35. Defendant used credit reporting to attempt to collect the subject debt and, as such, engaged in "communications" as defined in FDCPA §1692a(2).

36. Defendant violated 15 U.S.C. §1692d, d(5), e, e(2), e(5), e(10) and f through its unlawful debt collection practices.

a. Violations of FDCPA § 1692d

37. Defendant violated §1692d and d(5) by engaging in abusive, harassing, and oppressive conduct by relentlessly placing telephone calls to Plaintiff despite his requests that calls cease as the subject debt was no longer owed by Plaintiff at the time Defendant demanded payment.

38. Specifically, Defendant continued to intentionally place abusive and harassing telephone calls to Plaintiff in order to collect on a subject debt not legally owed by Plaintiff.

b. Violations of FDCPA § 1692e

39. Pursuant to 15 U.S.C.§1692e of the FDCPA, a debt collection is prohibited from making "any false, deceptive, or misleading representation" in connection with the collection of a debt.

40. Defendant violated §1692e(2) when it falsely misrepresented the character, amount, or legal status of the alleged debt. The subject debt was not owed

at the time Defendant demanded payment by virtue of the bankruptcy discharge injunction.

41. Defendant violated §1692e(5) by engaging in false, deceptive and misleading conduct when it contacted Plaintiff for months after the subject debt was discharged in Plaintiff's Bankruptcy.

42. Section 1692e(8) of the FDCPA prohibits a debt collector from "communicating or threatening to communicate to any person credit information which is known, or which should be known to be false."

43. Defendant violated §1692e(8) when it falsely reported a debt not owed on Plaintiff's credit report. Defendant knew or should have known that the information it reported to the credit consumer agency was false.

44. Defendant violated §1692 e(10) by using false, deceptive, and misleading representation in connection to collection of the subject debt. In order to secure payments of the subject debt, Defendant falsely misrepresented Plaintiff's legal obligation to pay subject debt despite Plaintiff not owning the subject debt and having no legal obligation to pay.

45. As an experienced debt collector, Defendant knew or should have known the ramifications of using deceptive and misleading means to attempt to collect a debt not owed.

c. Violations of FDCPA § 1692f

46. Defendant violated §1692f when it used unfair and unconscionable means to collect the subject debt. The alleged subject debt was not owed at the time Defendant demanded payment, but Defendant demanded Plaintiff make a payment on subject debt even though the subject debt was discharged in chapter 7 bankruptcy.

47. In addition, Defendant violated §1692f reporting a debt not owed on Plaintiff's credit reports. This conduct was unfair and unconscionable because it created a false and damaging portrayal of Plaintiff's credit history.

48. As an experienced debt collector, Defendant knew or should have known the ramifications of collecting on debts not owed at the time it made demands for payment.

WHEREFORE, Plaintiff, LARRY M. QUINTEROS, respectfully requests that this Honorable Court:

a. Declare that the practices complained of herein are unlawful and violate the aforementioned statute;

b. Enjoin Defendants from continuing to contact Plaintiff;

c. Award Plaintiff statutory and actual damages, in an amount to be determined at trial, for the underlying FDCPA violations;

d. Award Plaintiff costs and reasonable attorney fees as provided under 15 U.S.C. §1692k; and

e. Award any other relief as the Honorable Court deems just and proper.

COUNT II - VIOLATIONS OF REGULATION F

(12 CFR 1600 et seq.)

49. Plaintiff is a "consumer" as defined by Regulation F §1006.2(e)

50. Defendant is a "third party collector" as defined by Regulation F §1006.2(i)(1).

51. The subject debt is a "debt" and a "consumer debt" as defined by Regulation F §1006.2(f) as it is an obligation, or alleged obligation, arising from a transaction for personal, family, or household purposes.

a. Violations of Regulation F §1006.18

52. Plaintiff restates and realleges all paragraphs of this Complaint as through fully set forth herein.

53. Section 1006.18(b)(2) prohibits a debt collector from falsely representing "the character, amount, or legal status of any debt." 12 CFR § 1006.18(b)(2).

54. Defendant violated §1006.18(b)(2) by misrepresenting Plaintiff's legal obligation to pay subject debt despite Plaintiff not owning the subject debt and having no legal obligation to pay.

55. Defendant's deceptive and misleading behavior harmed Plaintiff and stripped him of his rights under the FDCPA and Regulation F.

WHEREFORE, Plaintiff, LARRY M. QUINTEROS, respectfully requests that this Honorable Court:

a. Declare that the practices complained of herein are unlawful and violate the aforementioned statute, thus violating the Fair Debt Collection Practices Act;

b. Award Plaintiff statutory and actual damages, in an amount to be determined at trial, for the underlying FDCPA violations;

c. Award Plaintiff costs and reasonable attorney fees as provided under 15 U.S.C. §1692k(a)(3); and

d. Award any other relief as the Honorable Court deems just and proper.

COUNT III – VIOLATIONS OF THE ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT

56. Plaintiff restates and realleges paragraphs 1 through 55 as though fully set forth herein.

57. Plaintiff is a "person" as defined by Cal. Civ. Code §1788.2(g).

58. The alleged subject debt is a "debt" and "consumer debt" as defined by Cal. Civ. Code § 1788.2(d) and (f).

59. Defendant is a "debt collector" as defined by Cal. Civ. Code §1788.2(c).

a. Violations of RFDCPA §1788.17

60. The RFDCPA, pursuant to Cal. Civ. Code § 1788.17 states that "Notwithstanding any other provision of this title, every debt collector collecting or attempting to collect a consumer debt shall comply with the provisions of Section

1692b to 1692j, inclusive of, and shall be subject to the remedies in Section 1692k of, Title 15 of the United States Code."

61. As outlined above, through its conduct in attempting to collection upon the subject debt, Defendant violated 1788.17; and 15 U.S.C. §§1692d, d(5), e, e(2), e(10) and f of the FDCPA. Therefore, Defendant engaged in noncompliant conduct in its attempts to collect a debt not owed from Plaintiff, in violation of the RFDCPA.

62. Defendant willfully and knowingly violated the RFDCPA through its unlawful collection efforts. Defendants' willful and knowing violations of the RFDCPA should trigger this Honorable Court's ability to award Plaintiff statutory damages of up to $1,000.00, as provided under Cal. Civ. Code § 1788.30(b).

WHEREFORE, Plaintiff LARRY M. QUINTEROS respectfully requests that this Court:

a. Declare that the practices complained of herein are unlawful and violate the aforementioned statute;

b. Award Plaintiff actual damages, pursuant to Cal. Civ. Code § 1788.30(a);

c. Award Plaintiff statutory damages up to $1,000.00, pursuant to Cal. Civ. Code §1788.30(b);

d. Award Plaintiff costs and reasonable attorney fees as provided pursuant to Cal. Civ. Code § 1788.30(c); and

e. Award any other relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Fed. R. Civ. P. 38(b), Plaintiff demands a trial by jury.

Dated: April 26, 2022

Respectfully Submitted,

/s/ Nicholas M. Wajda

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