IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

George Lorenzo, Plaintiff, vs. Source Receivables Management, LLC, Defendant	))))))))))	Civil Action File No.: **COMPLAINT WITH** **JURY TRIAL DEMAND**

PRELIMINARY STATEMENT

This action for damages is based upon the Defendant's overt and intentional, unlawful conduct in the furtherance of its efforts to collect a consumer debt. The Defendant's conduct is in violation of the Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. § 1692 et seq. and the Georgia Fair Business Practices Act, (GFBPA) O.C.G.A. 10-1-390 et seq.

PARTIES

1. Plaintiff, George Lorenzo, is a natural person who resides in Gwinnett County, Georgia.

2. Defendant, Source Receivables Management, LLC, is a foreign corporation registered to do business in Georgia. Defendant may be served with

process via its registered agent, The Corporation Company at 106 Colony Park Dr, Suite 800-B, Cumming, Georgia 30040.

JURISDICTION AND VENUE

3. This Court has federal question jurisdiction over Plaintiff's Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692, et seq., claims pursuant to 28 U.S.C. § 1331 and 15 U.S.C. § 1692k(d). This Court has supplemental jurisdiction over Plaintiff's state law claims pursuant to 28 U.S.C. § 1367.

4. This Court has personal jurisdiction over Defendant because, inter alia, Defendants frequently and routinely conducts business in the State of Georgia, including the conduct complained of herein.

5. Pursuant to 28 U.S.C. § 1391, venue is proper in the Northern District of Georgia because a substantial part of the events or omissions giving rise to the claims occurred in this district.

6. Venue is proper in the Atlanta Division because the conduct complained of herein occurred in Gwinnett County, Georgia.

FACTUAL ALLEGATIONS

7. Plaintiff is allegedly obligated to pay a consumer debt arising out of cellular phone service offered by Sprint/T-Mobile and is, therefore, a "consumer", as that term is defined by 15 U.S.C. § 1692a(3).

8. Defendant is a collection agency specializing in the collection of consumer debt.

9. Defendant uses interstate commerce and/or mail in its business in the collection of consumer debts.

10. Defendant manages, and collects upon, thousands of consumer debt accounts annually.

11. Defendant is, therefore, a “debt collector” as that term is defined by 15 U.S.C. § 1692a(6)

12. The Plaintiff has received telephone calls and other communications from the Defendant.

13. On July 14th, 2022, the Plaintiff initiated a call to the Defendant to obtain more information. At that time, he was connected with an individual identifying herself as “Cynthia,” and a representative of the Defendant.

14. The Plaintiff introduced himself by saying that he had been receiving telephone calls about a Sprint account. Plaintiff advised Defendant that he has never had a Sprint account and that the calls were intended for his father.

15. The Defendant responded by asking the Plaintiff for his social security number in order to search its records. Upon the Plaintiff's providing that information, the Defendant performed a search and responded to the Plaintiff by

advising that they had no account on record for him. The call ended immediately thereafter.

16. On August 15th, 2022, the Plaintiff obtained a copy of his credit report as published by Equifax and Experian. In reviewing these reports, he noted a that on August 11th, 2022, Defendant reported to each of these credit bureaus that it was collecting a delinquent account against the Plaintiff in the amount of $167.00. Defendant reported that the debt originated with Sprint. A reproduction of this tradeline as published by Equifax is set forth below:

EQUIFAX

1

Aug 11, 2022 — $167.00
SOURCE RECEIVABLES M

Payment History

No history is available

Jan	Feb	Mar	Apr	May	Jun
Jul	Aug	Sep	Oct	Nov	Dec

- OK Paid on Time
- 30 30 Days Past Due
- 60 60 Days Past Due
- 90 90 Days Past Due
- 120 120 Days Past Due
- 150 150 Days Past Due
- BR Bankruptcy
- RF Repossession / Foreclosure
- CC Collection / Charge-off
- N/A No Data Available

Account Details

Account Number	XXXX2956
Date Opened	Aug 19, 2021
Last Activity	Aug 11, 2022
Original Creditor	SPRINT
Monthly Payment	$0.00
Term Source Type	
Current Rating	Collection/Charge-off
Status	Open
Type	Individual
High Balance	$167.00
Unpaid Balance	$167.00
Highest Adverse Rating	Collection/Charge-off
Most Recent Adverse Rating	No Data Available
Comments	

Collection Agency

SOURCE RECEIVABLES M
4615 DUNDAS DR STE 102
GREENSBORO, NC 27407
(336) 286-3111

17. On November 30, 2021, the Consumer Financial Protection Bureau (CFPB) published amendments to 12 C.F.R. Part § 1006 (hereinafter referred to as Regulation F).

18. Regulation F was issued by the Bureau of Consumer Financial Protection pursuant to sections 814(d) and 817 of the Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. § 1692b, 1692o; Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank act); 12 U.S.C. § 5481 et seq.; and paragraph (b)(1) of § 104 of the Electronic Signatures in Global and National Commerce Act (E-sign Act), 15 U.S.C. § 7004.

19. The Fair Debt Collection Practices Act and, specifically, Regulation F apply to the Defendant at all times relevant hereto.

20. As of the enactment of Regulation F, a debt collector is prohibited from reporting a debt to any of the three major credit reporting agencies, which would include Equifax and Experian, without first contacting the consumer. To satisfy this requirement, the collector must speak to the consumer in person, or by phone, or mail a letter, or send an electronic message about the debt to the consumer and then wait a "reasonable period of time" (at least 14 consecutive days) to see if a notice of undeliverability comes back. If the collector gets a notice that the letter or message

was undeliverable, the collector cannot report the debt to the credit reporting agency unless it achieves communications as detailed above. 12 C.F.R. § 1006.30(a)(1)

21. The Plaintiff did not receive any communication from the Defendant as required by 12 C.F.R. § 1006.30(a)(1) prior to the Defendant reporting this tradeline on August 11th, 2022. On the contrary, as described herein the Defendant denied it was collecting any account from the Plaintiff.

22. As conveyed to the Defendant on July 14th, 2022, he has not ever had an account with Sprint and thus the reporting by the Defendant to Equifax and Experian is objectively false in all respects.

23. On November 3, 2022 the Plaintiff again accessed his credit report as published by Equifax and Experian. In reviewing these reports, Plaintiff noted that on August 11, 2022 Defendant again reported the negative account information to each bureau. Defendant did not report the critical fact that the account was disputed by Plaintiff.

24. Credit reporting is recognized as a powerful tool used to extract payment from consumer debtors. *Quale v. Unifund CCR Partners*, 682 F.Supp.2d 1274 (S.D. Ala. 2010)

INJURIES-IN-FACT AND DAMAGES

25. The FDCPA provides consumers with "statutorily-created rights to be free from 'being subjected to false, deceptive, unfair, or unconscionable means to collect a debt.'" *McCamis v. Servis One, Inc.*, No. 8:16-CV-1130-T-30AEP, 2016 U.S. Dist. LEXIS 99492 (M.D. Fla. July 29, 2016); *Church v. Accretive Health, Inc.*, 654 Fed. Appx. 990, 2016 U.S. App. LEXIS 12414, 2016 WL 3611543 (11th Cir. 2016).

26. An injury-in-fact sufficient to satisfy Article III standing requirements "may exist solely by virtue of statutes creating legal rights, the invasion of which creates standing." *Church*, at 993, quoting *Havens Realty Corp. v. Coleman*, 455 U.S. 363, 373, 102 S. Ct. 1114, 71 L. Ed. 2d 214 (1982).

27. Violation of statutory rights are not a "hypothetical or uncertain" injury, but one "that Congress has elevated to the status of a legally cognizable injury through the FDCPA." *McCamis*, at 4, citing *Church*, at 3.

28. As a result of the Defendant's actions and/or omissions, Plaintiff has suffered actual damages, including but not limited to the following:

a.) Being subjected to false, deceptive, and unfair debt collection practices;

b.) Defendant's false and misleading communications to leading credit reporting bureaus were akin to defamation of the Plaintiff resulting in subscribers to the credit reporting services receiving a false impression of Plaintiff's credit worthiness and debt-to-income ratio;

c.) Uncompensated time expended away from work and/or activities of daily living, to confer with counsel regarding the Defendant's collection efforts;

d.) Anxiety and worry caused by concern that Plaintiff was being called upon to pay an improper claim and that Defendant was maligning him through false credit reporting. The anxiety and worry experienced by the Plaintiff was sufficient to negatively affect his demeanor, his ability to engage in daily activities, resulted in sleeplessness, and adversely affected his relationships with others.

29. Accordingly, through the violation of Plaintiffs' statutorily created rights under the FDCPA, Plaintiff has suffered an injury-in-fact sufficient to establish Article III standing.

CAUSES OF ACTION

COUNT I

VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT 15 U.S.C. § 1692 et. seq.

Violations of 15 U.SC. § 1692e and its subparts

30. 15 U.S.C. § 1692e specifically prohibits the use of any false, deceptive, or misleading representations or means in connection with the collection of any debt.

31. The use of "or" in § 1692e means a representation violates the FDCPA if it is false or deceptive or misleading. *Bourff v. Rubin Lublin*, LLC, 674 F.3d 1238, 1241 (11th Cir. 2012).

32. "The FDCPA protects consumers from abusive and deceptive practices by debt collectors, and protects non-abusive debt collectors from competitive disadvantage. 15 U.S.C. § 1692(e). Section 1692e forbids the use of 'any false, deceptive, or misleading representation or means' in debt collection, and provides a non-exhaustive list of prohibited conduct." *United States v. National Financial Servs*., 98 F.3d 131, 135 (4th Cir. 1996).

33. "Violations of Section 1692e are viewed from the perspective of the "least sophisticated consumer." *National Financial Servs.*, 98 F.3d at 135-36. "[E]valuating debt collection practices with an eye to the 'least sophisticated consumer' comports with basic consumer-protection principles." *Id.* at 136. The purpose of that standard "is to ensure that the FDCPA protects all consumers, the gullible as well as the shrewd." *Id.* at 136 *quoting Clomon v. Jackson*, 988 F.2d 1314, 1318 (2nd Cir. 1983). Indeed, its purpose is to protect "naive consumers" with a minimal understanding of personal finance and debt collection. *LeBlanc v. Unifund CCR Partners*, 601 F.3d 1185, 1194 (11th Cir. 2010) (per curiam).

34. Moreover, the least sophisticated consumer is not to be held to the same standard as a reasonably prudent consumer. The least sophisticated consumer, though not unreasonable, is "ignorant" and "unthinking," "gullible," and of "below-average sophistication or intelligence," *Pinson v. JPMorgan Chase Bank, Nat'l Ass'n*, No. 16-17107, 2019 U.S. App. LEXIS 33662, at 12-13 (11th Cir. Nov. 12, 2019), quoting *Clomon v. Jackson*, 988 F.2d 1314, 1318 (2d Cir. 1993).

35. The Defendant's reporting to Equifax and Experian was objectively false and materially misleading, and a violation of 15 U.S.C. §§ 1692e, and 1692e(8).

Violations of Regulation F, 12 C.F.R. § 1006.6(e)

36. The Defendant's failure to communicate with the Plaintiff as prescribed by the act and its regulations prior to reporting to the credit bureaus was a violation of 12 C.F.R. § 1006.30(a)(1).

COUNT II

VIOLATIONS OF THE GEORGIA FAIR BUSINESS PRACTICES ACT O.C.G.A. § 10-1-390, et seq.

37. Plaintiff incorporates by reference paragraphs 1 through 36 as though fully stated herein.

38. O.C.G.A. § 10-1-390 et seq is commonly known as the "Fair Business Practices Act of 1975" (the "GFBPA").

39. The purpose of the GFBPA, is to protect consumers from unfair and/or deceptive practices in the conduct of any trade or commerce in part or wholly in the state. O.C.G.A. § 10-1-391.

40. O.C.G.A. § 10-1-391 directs that the GFPBA is to be interpreted and applied liberally and in harmony with the Federal Trade Commission Act, 15 U.S.C. § 45(a)(1), which implements the FDCPA.

41. O.C.G.A. § 10-1-393(a) of the GFBPA broadly prohibits unfair and/or deceptive business practices.

42. Defendant intentionally engaged in unfair and deceptive business practices, as set forth herein, in an effort to collect a consumer debt.

43. Defendant's conduct has implications for the consuming public in general.

44. Defendant's conduct negatively impacts the consumer marketplace.

45. Upon information and belief, Defendant does not maintain a place of business in Georgia and has no assets in Georgia, thus relieving Plaintiffs of the Notice and Demand requirements of O.C.G.A. § 10-1-399(b).

46. As a result of Defendant's violations of O.C.G.A. § 10-1-393(a), Plaintiff is entitled to recover general damages pursuant to O.C.G.A. § 10-1-399(a).

47. As a result of Defendant's intentional violations of O.C.G.A. § 10-1-393(a), Plaintiff is entitled to recover exemplary damages pursuant to O.C.G.A. § 10-1-399(a).

48. As a result of Defendant's intentional violations of O.C.G.A. § 10-1-393(a), Plaintiff is entitled to recover treble damages pursuant to O.C.G.A. § 10-1-399(c).

49. Plaintiff is entitled to recover reasonable attorney's fees and expenses of litigation pursuant to O.C.G.A. § 10-1-399(d).

TRIAL BY JURY

50. Plaintiff is entitled to and hereby requests a trial by jury.

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

a.) Plaintiff's actual damages;

b.) Statutory damages pursuant to 15 U.S.C. § 1692k;

c.) Reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1692k

d.) General, exemplary, and treble damages pursuant to O.C.G.A. § 10-1-399(a) & (c);

e.) Reasonable attorney's fees and costs pursuant to O.C.G.A. § 10-1-399(d); and

f.) Such other and further relief as may be just and proper.

Respectfully submitted this 3rd day of November, 2022.

BERRY & ASSOCIATES

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