UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

CASE NO.: 1:25-mi-99999-UNA

CHARLES WALKER,
AND EVAN WALKER,

Plaintiff,

v.

SOUTHERN MANAGEMENT SYSTEMS,
INC., AND ALPHO 700 SOHO, LLC,
Defendants.
______________________________________/

DEFENDANT, SOUTHERN MANAGEMENT SYSTEMS, INC.'S PETITION FOR REMOVAL WITH SUPPORTING MEMORANDUM OF LAW

COMES NOW, the Defendant, Southern Management Systems, Inc. ("SMS"), by and through its undersigned counsel, and respectfully petitions this Honorable Court for removal of the above-styled civil action seeking a class from the Superior Court of Cherokee County, Georgia, to the United States District Court for the Northern District of Georgia, Atlanta Division, and states as follows:

1. Defendant, Southern Management Systems, Inc., and ALPHO 700 SOHO, LLC are the named Defendants in a civil action brought against them in the Superior Court of Cherokee County, Georgia, styled: *Charles Waker, and Evan Walker, V. Southern Management Systems, Inc., and Alpho 700 Soho, LLC, Case*

No.: 25CVE1607. A copy of the Complaint served in that action, in addition to all process and pleadings served upon SMS, will be docketed separately by the Clerk.

2. That the aforesaid action was filed with the Clerk of the Superior Court of Cherokee County, Georgia, and service of process of said Summons and Complaint was served upon the Defendant, SMS, on August 11, 2025.

3. That the controversy herein between the Plaintiff and Defendant is a controversy based upon consumer protection rights created by and enforced through federal statutes. In this case, Plaintiff attempts to bring a pleading for alleged violations of the federal Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. ("FDCPA"), and the federal Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq. ("FCRA").

4. That the above-described action is a civil action of which this Court has original jurisdiction under the provisions of Title 28, United States Code, §1331, and is one which may be removed to this Court by the Defendant/Petitioner pursuant to the provisions of Title 28, United States Code, §1441(a), in that it is a civil action based upon a federal question over which this Court has original jurisdiction. Further, this Petition for Removal is being submitted to this Court within 30 days after service on SMS of the original Complaint in the above-styled action and is, therefore, timely pursuant to 28 U.S.C. §1446(b).

WHEREFORE, SMS respectfully requests that this Honorable Court enter its order removing the entire case from the Superior Court of Cherokee County, Georgia, to the United States District Court, Northern District of Georgia, Atlanta Division.

MEMORANDUM OF LAW IN SUPPORT OF PETITION FOR REMOVAL

Statement of the Case and Facts

The instant suit is a civil action that includes a federal question, specifically, a claim that the Defendant, Southern Management Systems, Inc. ("SMS") allegedly violated Plaintiff's consumer protection rights under the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. ("FDCPA"), and the federal Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq. ("FCRA"). The Complaint seeks an award of damages against the SMS for alleged actions taken during the course of alleged debt collection attempts by the SMS against the Plaintiff, which is asserted to violate the FDCPA and the FCRA. Plaintiff seeks statutory, actual, and/or punitive damages and seeks judgment for those damages against the SMS for this alleged conduct.

Federal Court Jurisdiction

This Court has jurisdiction of this case pursuant to 28 U.S.C. §1331. Section 1331 states as follows:

"§1331. Federal question.

> *The federal district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.*

The complaint herein raises a federal question and satisfies the jurisdictional requirements of 28 U.S.C. §1331. This Honorable Court, therefore, has original jurisdiction of this civil action.

Removal

This is an action that may properly be removed to this Court pursuant to 28 U.S.C. §1441, which states in pertinent part as follows:

> *"Except as otherwise expressly provided by act of Congress, any civil action brought in a state court of which the district courts of the United States has original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending . . . "*

Given that this action is one over which the United States District Court for the Northern District of Georgia, Atlanta Division, would have original jurisdiction, this case may properly be removed by SMS pursuant to 28 U.S.C. §1446(a), which provides:

> *"A defendant or defendants desiring to remove any civil action or criminal prosecution from a state court shall file in the district court of the United States for the district and division within which such action is pending a Notice of Removal, signed pursuant to Rule 11 of the Federal Rules of Civil Procedure and containing a short and plain statement of the grounds for removal, together with a copy of all process, pleadings, and orders served upon such defendant or*

defendants in such action."

In the instant suit, SMS has filed a Notice which complies with 28 U.S.C. §1446(a), in that it sets forth facts that show that this Court has original jurisdiction and that this case is subject to removal.

Timeliness of Removal

28 U.S.C. §1446(b) requires that a Notice of Removal in a civil action or proceeding shall be filed within thirty (30) days after receipt by Defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which the action or proceeding is based. Additionally, each defendant shall have thirty (30) days after receipt by service on that defendant of the initial pleading or summons to file the notice of removal. Here, the original Complaint was filed with the Court and subsequently served upon SMS on August 11, 2025. Accordingly, this Petition for Removal is being submitted to this Court less than thirty (30) days from service of the Complaint on SMS.

Consent of Co-defendants

Undersigned counsel represents that co-Defendant ALPHO 700 SOHO, LLC consents to the removal of this action to federal court as evidenced by the Consent uploaded with this Petition as Attachment 1.

Supplemental Jurisdiction

This Court has the discretion to exercise supplemental jurisdiction over any state law claims that have been asserted as part of the underlying action. 28 U.S.C. §1441(c) provides as follows:

> "Whenever a separate and independent claim or cause of action within the jurisdiction conferred by §1331 of this Title, is joined within one or more otherwise non-removable claims or causes of action, the entire case may be removed and the district court may determine all issues therein, or, in its discretion, may remand all matters in which state law predominates."

As such, any of Plaintiff's claims for violations of state statutes have arisen out of the same factual allegations as the claims under the FDCPA.

Demand for Jury Trial

SMS demands trial by jury regarding any issues of fact and law that remain following the ruling on any dispositive motions filed herein. SMS estimates that a trial will take 1-2 days.

Conclusion

For the foregoing reasons, this Honorable Court should grant Defendant, Southern Management Systems, Inc.'s Petition and enter an order removing the entire case from the Superior Court of Cherokee County, Georgia, to the United

States District Court for the Northern District of Georgia, Atlanta Division.

Dated this **10th day of September 2025.**

Respectfully submitted,

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<u>CERTIFICATE OF SERVICE</u>

I HEREBY CERTIFY that a copy of the foregoing has been electronically filed on **September 10, 2025**, with the Clerk of the Court by using the electronic filing system. I further certify that the foregoing has been sent via electronic transmission to the following:

James M. Feagle, Esquire, Chelsea R. Feagle, Esquire, Justin T. Holcombe, Esquire, and Kriss Skarr, Esquire, at jfeagle@skaarandfeagle.com, csutton@skaarandfeagle.com, jholcombe@skaarandfeagle.com, and kskaar@skaarandfeagle.com. *(Attorneys for Plaintiff).*

<u>*/s/ Ernest H. Kohlmyer, III*</u>
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Superior Court of Cherokee County
E-Filed
25CVE1607
8/8/2025 11:45 AM CL
Patty Baker, Clerk
Civil Division

**IN THE SUPERIOR COURT OF CHEROKEE COUNTY
STATE OF GEORGIA**

CHARLES WALKER and EVAN WALKER, Plaintiffs, v. SOUTHERN MANAGEMENT SYSTEMS, INC.; and ALPHA 700 SOHO, LLC, Defendants.	CIVIL ACTION FILE NO: 25CVE1607 **JURY TRIAL DEMANDED**

COMPLAINT FOR DAMAGES INCLUDING CLASS AND INDIVIDUAL CLAIMS

INTRODUCTION

1. This action arises from collection and credit reporting activity for an alleged debt that arose out of an apartment lease in Kalamazoo, Michigan, where Plaintiff Evan Walker was a college student and his father Charles Walker was a guarantor on the lease.

2. PLAINTIFFS Charles Walker and Evan Walker (hereinafter individually referred to as "CHARLES" and "EVAN", respectively, and "PLAINTIFFS", collectively), on behalf of themselves and all other similarly situated (hereinafter the "PUTATIVE CLASS" or "PUTATIVE CLASS MEMBERS"), bring this Class Action Complaint against Defendant Southern

Management Systems, Inc. (hereinafter "SMS") for violation of the Federal Fair Debt Collection Practices Act 15 U.S.C. § 1692 *et seq*. ("FDCPA").

3. PLAINTIFFS also bring individual claims against SMS for violations of the Federal Fair Credit Reporting Act 15 U.S.C. § 1681 *et seq*. ("FCRA") and the Georgia Fair Business Practices Act O.C.G.A. § 10-1-393 *et seq*. ("GaFBPA").

4. PLAINTIFFS also bring individual claims against ALPHA 700 SOHO, LLC ("ALPHA") who owned and operated the apartment unit for violations of Georgia's Fair Business Practices Act and defamation.

PARTIES AND PERSONAL JURISDICTION

5. Plaintiff CHARLES currently resides in Cherokee County and is authorized by law to bring this action.

6. Plaintiff EVAN currently resides in Cherokee County and is authorized by law to bring this action.

7. Defendant SMS is a corporation formed under the laws of the State of Florida and maintains a registered agent in Georgia.

8. SMS has consented to and is subject to the jurisdiction and venue of this Court. *See Cooper Tire & Rubber Co. v. McCall*, 312 Ga. 422, 863 SE2d 81 (2021).

9. SMS may be served by personal service upon its registered agent in the State of Georgia, to wit: C T Corporation System, 289 S Culver St, Lawrenceville,

GA, 30046-4805.

10. Moreover, SMS transacts business in this State, and the claims herein arise out of such transactions.

11. Defendant ALPHA is a Michigan limited liability company.

12. ALPHA has a principal place of business located at 700 S Howard Street, Kalamazoo, Michigan 49006.

13. ALPHA owns and operates the Apartment complex in Kalamazoo, Michigan currently known as “The Tate on Howard”, but which was previously known as "700 SOHO."

14. At all times relevant hereto, SMS was acting as an agent of ALPHA.

15. ALPHA transacts business in this State.

16. ALPHA’s transactions in this State, itself and through its agents, give rise to the claims asserted herein.

17. ALPHA is subject to the jurisdiction and venue of this Court.

18. ALPHA may be served by personal service upon its registered agent in the state of Michigan, to wit: Cogency Global Inc., 186 N Main Street, FL 2, STE 1, Plymouth, Michigan 48170.

FACTS COMMON TO ALL DEFENDANTS

19. On September 6, 2022, EVAN signed a lease (hereinafter the “LEASE”) with ALPHA for an apartment unit located at 700 S. Howard Street that

he planned to reside in while attending Western Michigan University in Kalamazoo, Michigan. Upon information and belief, EVAN's father, CHARLES, signed a separate document guaranteeing payment for the LEASE.

20. After signing the LEASE, EVAN moved into the apartment and resided there while school was in session during the academic year.

21. On or about August 7, 2023, while EVAN was staying with his family in Georgia during the summer break, ALPHA's property manager contacted EVAN in Cherokee County, Georgia to advise him that he was a few days late returning his keys to the leasing office, as the LEASE was supposed to terminate on August 4, 2023.

22. EVAN apologized to the property manager and explained that he believed the LEASE ended on September 1, 2023, as he had signed the LEASE in September the year before.

23. In light of the misunderstanding, ALPHA's property manager then made a verbal promise to EVAN that ALPHA would waive any late fees and charges if EVAN were to come to Kalamazoo right away to remove all his furniture and personal belongings from the apartment, clean it, and return the keys to the leasing office.

24. EVAN immediately dropped everything and made the 794 mile drive from Canton, Georgia to Kalamazoo, Michigan.

25. Approximately 24 hours later, on August 8, 2023, EVAN arrived in Kalamazoo, and he cleaned and removed all his furniture and personal items from the apartment before returning the keys to the leasing office.

26. The next day, despite the property manager's promise, EVAN received an invoice from ALPHA for $6,868.05.

27. Evan was immediately concerned by the excessive amount ALPHA was now alleging he owed, which included specific amounts that were supposed to have been waived by the property manager in exchange for him moving out of the apartment promptly.

28. Although EVAN agreed that he owed ALPHA $583.05 for rent and utilities, the invoice also included $6,285.00 in other fees and charges which were not owed. These charges included a "Holding Fee" (i.e. a holding over fee) and other "Damages" fees related to cleaning and removing EVAN's personal items from the apartment.

29. These additional charges should not have been included on the invoice, as ALPHA's property manager had advised EVAN during their August 7, 2023 telephone phone that those charges would be waived if EVAN removed his belongings promptly.

30. The $1,085 in "Damages" charges for the cleaning and removal of EVAN's personal items and furniture were not owed, as EVAN had personally

cleaned and removed all his own furniture and other belongings himself on August 8, 2023.

31. ALPHA had also charged him a $5,200.00 "Holding Fee" for the four-day holdover. This "Holding Fee" was ***ten times more*** than the amount EVAN had paid each month in rent.

32. This "Holding Fee" was unsupported by the terms of the LEASE.

33. The LEASE provides the following provision regarding holdovers:

> **3.1 Holdover.** You or any occupant, invitee, or guest must not hold over beyond the termination date (or beyond a different move-out date agreed to by the parties in writing). If a holdover occurs, and unless prohibited by law, then (1) holdover rent is due in advance and may become delinquent without notice or demand; ***(2) rent for the holdover period will be increased by 50% over the rental rate set forth in the Lease or any extension, without notice;*** and (3) you'll be liable to us for all damages we incur as a result of our not being able to lease the bedroom to a new resident.

34. The "Holdover Fee" charged was a penalty that had no relation to any actual damages suffered as a result of the four-day holdover.

35. PLAINTIFFS did not owe the $5,200 "Holdover Fee."

36. EVAN immediately called and emailed ALPHA to dispute the charges for both the Holdover Fee and the Damages fee and to try and resolve the issue with ALPHA directly. Despite his efforts, no representative of ALPHA ever responded to EVAN's email or would speak with him over the telephone.

37. ALPHA subsequently sent the account to SMS, its agent, for collections and communicated to SMS that EVAN and CHARLES owed ALPHA $6,868.05 even though that amount was not owed or even permissible under the terms of the LEASE.

38. ALPHA contracted with SMS to collect such sums from PLAINTIFFS in the State of Georgia and to report such sums to credit reporting agencies, including but not limited to Equifax, which is located within the State of Georgia.

39. Approximately eight months later, on or around April 23, 2024, EVAN's father, CHARLES, who was the guarantor on the LEASE, suffered adverse action when he applied for a home equity line of credit.

40. CHARLES learned the sole reason for the adverse action was because SMS, by and on behalf of ALPHA, was reporting a collection tradeline on his credit reports showing that he owed ALPHA $6,868.05, which lowered his FICO credit score.

41. Apart from SMS' tradeline, CHARLES' credit history was excellent.

42. EVAN also checked his credit reports and confirmed that SMS, by and on behalf of ALPHA, was reporting the same $6,868.05 balance on his credit reports too.

43. Apart from SMS' tradeline, EVAN'S credit history was also excellent.

44. Around the time of the adverse action, CHARLES spoke to a representative of SMS on the telephone, wherein the representative demanded that CHALRES pay SMS $6,868.05 for the alleged debt to ALPHA.

45. CHARLES advised the SMS representative during that telephone call that the amount SMS was attempting to collect on behalf of ALPHA was incorrect and that he and EVAN had made multiple attempts to resolve the issue with ALPHA directly. CHARLES then requested that SMS send him a debt validation letter so that he could review what SMS alleged he owed, as he had not previously received any collection letter from SMS.

46. SMS then sent CHARLES the requested debt validation letter, which included the same erroneous invoice ALPHA had previously sent EVAN in August 2023. The letter also included photos of the apartment dated August 7, 2023 that were taken *before* EVAN drove back up and removed his items, cleaned the apartment, and returned the key on August 8, 2023.

47. On or around May 6, 2024, CHARLES called SMS to attempt to resolve the issue in exchange for payment of the undisputed amount, but was unsuccessful.

48. On or around July 23, 2024, CHARLES and EVAN then disputed the SMS tradeline with the credit reporting agencies, advising that that the amount SMS was trying to collect on behalf of ALPHA was not the correct amount owed but was

in-fact grossly inflated.

49. In this dispute, CHARLES then once again tried to resolve the matter for $1,103.20, which included $583.05 for the undisputed past-due rent and utilities that EVAN had missed plus $520 (the equivalent of a full month's worth of rent under the LEASE) for the four-day holdover period from August 4th to August 8th. He also specifically requested that SMS remove its tradeline from his credit reports.

50. SMS did not correct its reporting on either CHARLES' or EVAN's credit reports.

51. The only response either CHARLES or EVAN ever received from SMS was a letter SMS sent to EVAN on August 9, 2024 stating that it had reviewed his dispute and found it "lacking in any specific facts or information which would allow us to conduct an investigation."

52. SMS's assertion that no specific facts or information was provided in EVAN's dispute was false, as the letter was sent in response to a detailed, three-page dispute letter both Evan and Charles sent to the CRAs in July of 2024.

53. Still undeterred, both CHARLES and EVAN then continued to send additional dispute letters to the credit reporting agencies regarding SMS' reporting on their credit reports. However, neither SMS nor ALPHA would acknowledge the improper accounting, and they refused to correct the amount SMS was reporting to the credit reporting agencies.

54. Frustrated with spending months trying to resolve the issue, PLAINTIFFS sent SMS an ante-litem letter to both its principal place of business and registered agent in Georgia on June 17, 2025.

55. In their ante-litem letter, PLAINTIFFS explained what the issue was and how they wanted SMS to correct the issue.

56. Despite their best efforts to resolve the issue without litigation, neither SMS nor ALPHA have even reached out following the ante-litem letter to try and resolve the dispute.

57. As a result of SMS and ALPHA's conduct, both CHARLES and EVAN have suffered significant damages.

CAUSES OF ACTION

COUNT ONE: CLASS ACTION ALLEGATIONS AGAINST SMS FOR VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT

58. PLAINTIFFS bring Count One of this action under O.C.G.A. § 9-11-23 of Georgia's Civil Practice Act on behalf of a class tentatively defined as:

> All natural persons in the United States who during the one year preceding the filing of this Complaint received a collection letter in which SMS attempted to collect a debt on behalf of ALPHA which contained a "holding fee" in excess of 150% of one month's rent.

59. PLAINTIFFS reserve the right to modify this class definition as they obtain relevant information, including collection and credit reporting records, through discovery.

60. The acts of SMS constitute violations of the Fair Debt Collection Practices Act (15 U.S.C. §1692 *et seq.*) which include, but are not limited to, the following:

a. Engaging in conduct the natural consequence of which is to harass, oppress or abuse any person, in violation of 15 U.S.C. § 1692d;

b. The use of any false, deceptive, or misleading representations or means in connection with the collection of any debt, in violation of 15 U.S.C. § 1692e;

c. The false representation of the character, amount or legal status of any debt, in violation of 15 U.S.C. § 1692e(2)(A);

d. Communicating or threatening to communicate to any person credit information which is known or which should be known to be false, in violation of 15 U.S.C. § 1692e(8);

e. The use of unfair or unconscionable means to collect or attempt to collect any debt, in violation of 15 U.S.C. § 1692f; and

f. The collection of any amount that is not due per agreement or law, in violation of 15 U.S.C. § 1692f(1).

61. The exact size of the class is information within the

exclusive knowledge of SMS and ALPHA.

62. The class is so numerous that joinder of all members is impractical.

63. The allegations of the previous paragraph are likely to have evidentiary support after a reasonable opportunity to conduct further investigation or discovery.

64. There are questions of law and fact common to the class, which commons issues predominate over any issues involving only individual class members. The principal issues are:

a. Whether the Holdover Fee in excess of 150% of one month's rent is permitted by the contract;
b. Whether the Holdover Fee charged is an unenforceable penalty; and
c. Whether SMS' actions violated the Fair Debt Collection Practices Act.

65. The claims of PLAINTIFFS are typical of those of the class members, as all are based on the same facts and legal theories.

66. PLAINTIFFS will fairly and adequately protect the interests of the class. They have retained counsel experienced in handling FDCPA cases and class actions. Neither PLAINTIFFS nor

their counsel have any interests which might cause them not to vigorously pursue this action.

67. Certification of the Class under O.C.G.A. § 9-11-23 is appropriate in that:

a. The questions of law or fact are common to the members of the class predominate over any questions affecting an individual member; and

b. A class action is superior to other available methods for the fair and efficient adjudication of the controversy. Class treatment will permit a large number of similarly situated persons to prosecute their common claims relating to SMS' attempts to collect Holdover Fees. Absent a class action, many members of the class will likely never obtain or even attempt to obtain relief, whether because they are unaware of their right to relief from the harm caused by SMS' illegal practices, the prohibitive time and monetary cost involving in pursuing an individual action, or otherwise.

68. PLAINTIFFS request certification of a class pursuant to O.C.G.A. § 9-11-23 for their claims for monetary damages.

69. PLAINTIFFS request actual and statutory damages on behalf of themselves and the putative class pursuant to 15 U.S.C. § 1692k(a)(1, 2) and attorney fees pursuant to 15 U.S.C. § 1692k(a)(3).

INDIVIDUAL CLAIMS AGAINST DEFENDANTS

COUNT TWO: FAIR CREDIT REPORTING ACT NEGLIGENT NON-COMPLIANCE (Individual)

70. The FCRA requires a furnisher of information, such as SMS, upon receiving notice of a dispute from a credit reporting agency, to "conduct an investigation with respect to all the disputed information." The furnisher must review all relevant information provided to it by the credit reporting agency as part of the investigation. After conducting its investigation, the furnisher must then inform the credit reporting agency of its results. If the furnisher finds the information is incomplete or inaccurate, or cannot be verified, it must modify, delete, or permanently block the reporting of the disputed information. 15 U.S.C. § 1681s-2(b).

71. The policies and procedures of SMS do not ensure compliance with these furnisher provisions of the FCRA.

72. SMS negligently failed to comply with the furnisher requirements of the FCRA, including 15 U.S.C. § 1681s-2(b).

73. As a result of SMS's failure to comply with the furnisher

requirements of the FCRA, PLAINTIFFS have suffered and continue to suffer, actual damages, including economic loss, denial of credit, lost opportunity to receive credit, damage to reputation, invasion of privacy, emotional distress and interference with PLAINTIFFS' normal and usual activities for which PLAINTIFFS seek damages in an amount to be determined by the jury pursuant to 15 U.S.C. § 1681o(a)(1).

74. At all times relevant hereto SMS was acting as an agent of ALPHA.

75. PLAINTIFFS request attorney fees and costs pursuant to 15 U.S.C. § 1681o(a)(2).

COUNT THREE: FAIR CREDIT REPORTING ACT

WILLFUL NON-COMPLIANCE (Individual)

76. SMS willfully failed to comply with the furnisher requirements of the FCRA, including 15 U.S.C. § 1681s-2(b).

77. As a result of SMS's willful failure to comply with the furnisher requirements of the FCRA, PLAINTIFFS have suffered and continue to suffer, actual damages, including economic loss, denial of credit, lost opportunity to receive credit, damage to reputation, invasion of privacy, emotional distress and interference with PLAINTIFFS' normal and usual activities for which PLAINTIFFS seek damages in an amount to be determined by the jury pursuant to

15 U.S.C. § 1681n(a)(1).

78. In addition to actual and/or statutory damages, PLAINTIFFS are also entitled to an award of punitive damages in an amount to be determined by the jury pursuant to 15 U.S.C. § 1681n(a)(2).

79. At all times relevant hereto SMS was acting as an agent of ALPHA.

80. PLAINTIFFS request attorney fees and costs pursuant to 15 U.S.C. § 1681n(a)(3).

COUNT FOUR: GEORGIA FAIR BUSINESS PRACTICES ACT (Individual)

81. The Georgia Fair Business Practices Act prohibits "[u]nfair or deceptive acts or practices in the conduct of consumer transactions and consumer acts or practices in trade or commerce[.]" O.C.G.A. § 10-1-393(a).

82. The Georgia Fair Business Practices Act provides that "[i]t is the intent of the General Assembly that this part be interpreted and construed consistently with interpretations given by the Federal Trade Commission in the federal courts pursuant to Section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. Section 45(a)(1)), as from time to time amended." O.C.G.A. § 10-1-393(a).

83. The Georgia Court of Appeals has held that such a provision makes the violation of the Fair Debt Collection Practices Act a violation of the Fair

Business Practices Act as well. *See* 1st Nationwide Collection Agency v. Werner, 288 Ga.App. 457, 458(1), 654 S.E.2d 428 (2007).

84. Accordingly, SMS' violations of the Fair Debt Collection Practices Act also violates Georgia's Fair Business Practices Act.

85. Moreover, it was an unfair and deceptive act for SMS and ALPHA t0 try to collect an amount from PLAINTIFFS that was not owed.

86. SMS' violations of the Georgia Fair Business Practices Act are intentional.

87. SMS' conduct is the direct and proximate cause of PLAINTIFFS' damages.

88. At all times relevant hereto SMS was acting as an agent of ALPHA.

89. ALPHA, either directly or indirectly through its authorized collection agent, SMS, engaged in conduct that violated the GaFBPA when it charged PLAINTIFFS for damages that were not incurred *plus* almost an entire year's worth of rent for a four-day holdover fee that was not supported by the terms of the LEASE.

90. ALPHA had plenty of time to take corrective action after PLAINTIFFS reached out to advise ALPHA that the amount it was charging was inaccurate and unsupported by the LEASE's terms but failed to do so.

91. ALPHA had multiple opportunities to instruct their collection agent, SMS, to take corrective credit reporting action after PLAINTIFFS reached out to advise ALPHA that the amount it was charging was inaccurate and unsupported by the LEASE's terms but failed to do so.

92. ALPHA's violations of the GaFBPA were intentional.

93. The conduct of ALPHA is the direct and proximate cause of the actual damages sustained by PLAINTIFFS.

94. Defendants are liable to the PLAINTIFFS for the full amount of actual, treble and exemplary damages, along with attorneys' fees and the costs of litigation, as well as such further relief, as may be permitted by law.

COUNT FIVE: DEFAMATION BY ALPHA (Individual)

95. ALPHA communicated false information to SMS which falsely accused PLAINTIFFS of failing to pay over five thousand dollars' worth of rent and damages that were not actually owed.

96. ALPHA then failed to correct the false information reported by its collection agent, SMS, once it became aware that the amount it was communicating to SMS was inaccurate.

97. In publishing the false information to a third party, ALPHA had full knowledge that SMS would then re-publish this false information to the major credit bureaus and perhaps other third parties, which would in turn cause the false

information to be published to third-party lenders or landlords that make inquiries or purchase reports regarding potential borrows or tenants.

98. ALPHA published the false information to SMS for the purpose of inducing SMS, on its behalf, to dun PLAINTIFFS in the State of Georgia and to publish such information to creditors and consumer reporting agencies, such as Equifax, which is also located within the State of Georgia, in its regular course of business.

99. SMS did in fact publish the false information that it received from ALPHA to at least the three of the major credit bureaus: Equifax, Trans Union and Experian.

100. The statements made by ALPHA to SMS about the amount owed by PLAINTIFFS were falsely and greatly inflated.

101. The statements made by ALPHA inaccurately reflected on PLAINTIFFS' credit reports, falsely portraying both PLAINTIFFS as being financially irresponsible and delinquent when they each otherwise had excellent credit history.

102. The false information was, in turn, then re-published to every prospective creditor or other entity that requested PLAINTIFFS' credit reports since the false information was listed.

103. Numerous other third parties purchased reports which contained the

false and adverse collection items.

104. ALPHA knew or should have known that the adverse statements it made or its agents made about PLAINTIFFS were false when made.

105. ALPHA, after being advised of the dispute, knew or should have known that the adverse statements it made or its agents made about PLAINTIFFS were false when made.

106. Further, PLAINTIFFS had notified ALPHA through written communications both with ALPHA and with its agent, SMS, that the information SMS was reporting was inaccurate.

107. ALPHA acted with malice.

108. ALPHA acted with extreme recklessness.

109. ALPHA's conduct was a direct and proximate cause of PLAINTIFFS' damages.

110. ALPHA is liable to PLAINTIFFS for the full amount of actual damages, compensatory damages, and punitive damages, as well as any other such relief permitted under the law.

JURY TRIAL DEMAND

111. PLAINTIFFS demand a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFFS RESPECTFULLY PRAY THAT

JUDGMENT BE ENTERED AGAINST DEFENDANTS AND IN FAVOR OF THEM, AS FOLLOWS:

1. Certification of this matter as a class action;
2. Statutory damages;
3. General damages to be determined by the jury;
4. Special, or consequential, damages to be determined by the jury;
5. Punitive damages to be determined by jury;
6. Treble and exemplary damages to be determined by jury; and
7. Attorney fees and costs.

Respectfully submitted this 8th day August, 2025.

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