IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

CARLOS BANULS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	**Civil Action No.:** 3:25cv784
	)	
LVNV FUNDING, LLC, and	)	
RESURGENT CAPITAL SERVICES, LP	)	
	)	
	)	
	)	
Defendants.	)	

DEFENDANTS LVNV FUNDING, LLC AND
RESURGENT CAPITAL SERVICES, LP'S JOINT NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1331, 1332, 1441, and 1446, Defendants LVNV Funding, LLC ("LVNV") and Resurgent Capital Services, LP ("Resurgent") (collectively "Defendants"), by counsel, remove the above-styled action from the Circuit Court of the City of Richmond to the United States District Court for the Eastern District of Virgina, Richmond Division, as set forth below:

A. INTRODUCTION

1. On or about August 8, 2025, Plaintiff Carlos Banuls ("Plaintiff") filed the Complaint against Defendants in the Circuit Court for the City of Richmond (Case No. 760CL25003918-00) (hereinafter "Complaint") alleging violations of the Fair Debt Collection Practices Act (hereinafter "FDCPA"), 15 U.S.C. § 1692, *et seq*.

2. On September 5, 2025, the Plaintiff served a copy of the Complaint on LVNV and Resurgent's registered agent. A true and accurate copy of all processes, pleadings, and orders

served upon Defendants, including the Complaint are attached hereto as **Exhibit A**. A copy of the state court docket sheet is included within Exhibit A.

3. The Complaint alleges causes of action under the FDCPA. Thus, this action is being removed to this Court because the Complaint asserts a claim under the laws of the United States, namely the FDCPA.

4. This Notice of Removal is timely filed within thirty (30) days of Defendants' receipt of a copy of the Complaint pursuant to 28 U.S.C. § 1446(b).

5. Venue is proper in this Court as this is the court for the district and division embracing the place where the action is pending in state court. 28 U.S.C. §§ 1441(a) and 1446(a); Local Civil Rule 3(B)(3).

6. No further proceedings have occurred with regards to the Complaint. Defendants have not filed an answer or any other responsive pleading to the Summons and Complaint, and have not made any appearance, argument, or request for relief before the Circuit Court for the City of Richmond.

7. Defendants are filing contemporaneously herewith a Notice of Filing Notice of Removal with the Clerk of the Circuit Court for the City of Richmond, Virginia, informing the state court and the Plaintiff that the state court lawsuit is being removed. A copy of the State Court Notice of Removal to Federal Court (without exhibits) is attached hereto as **Exhibit B**.

8. Defendants submit this Notice without waiving the right to compel this case to arbitration, without waiving any defenses to the Plaintiff's claims or conceding that the Plaintiff has alleged claims upon which relief may be granted.

B. GROUNDS FOR REMOVAL

a. Federal Question Jurisdiction Under 28 U.S.C. § 1331

9. Removal is proper under 28 U.S.C. § 1441(a) because this Court has original jurisdiction of this action pursuant to 28 U.S.C. § 1331, as this action involves claims that relate to the laws of the United States. In the Complaint, Plaintiff seeks damages for LVNV and Resurgent's alleged violations of the FDCPA concerning a debt owed by Mr. Banuls. The FDCPA is a federal law, and the United States District Court has original jurisdiction pursuant to 28 U.S.C. § 1331. Thus, removal is proper because Plaintiff's claim presents a federal question.

C. CONCLUSION

WHEREFORE, for the foregoing reasons, Defendants LVNV Funding, LLC and Resurgent Capital Services, LP, by counsel, respectfully remove this action from the Circuit Court for the City of Richmond to the United States District Court for the Eastern District of Virginia, Richmond Division, submitted this 25th day of September, 2025.

LVNV FUNDING, LLC AND RESURGENT CAPITAL SERVICES, LP

By */s/ Laura May Hooe*

Laura May Hooe, Esquire (VSB No. 84170)
Klein Thomas Lee & Fresard
Three James Center
1051 E Cary Street, Suite 1430
Richmond, VA 23219
Telephone: (703) 577-6644
Laura.hooe@kleinthomaslaw.com
Counsel for Defendants LVNV Funding, LLC and Resurgent Capital Services, LP

CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of September, 2025, I electronically filed the foregoing with the Clerk of Court using the CM.ECF system, which will send a notification of such filing to the following:

Drew D. Sarrett
Consumer Litigation Associates, P.C.
626 E. Broad St., Suite 300
Richmond, VA 23219
Counsel for Plaintiff, Carlos Banuls

/s/ Laura May Hooe
Counsel for LVNV Funding, LLC and Resurgent Capital Services, LP

Exhibit A. State Court File

CSC

null / ALL
Transmittal Number: 32205340
Date Processed: 09/08/2025

Notice of Service of Process

Primary Contact:	Wes Boyd Resurgent Capital Services, LP 55 Beattie Place Ste 110 Greenville, SC 29601-5115
Electronic copy provided to:	Brittany Osteen Anthony Brannon Wanda Boston Debra Ciapi

Entity:	Resurgent Capital Services L.P. Entity ID Number 3238398
Entity Served:	Resurgent Capital Services, LP
Title of Action:	Carlos Banuls vs. LVNV Funding, LLC
Matter Name/ID:	Carlos Banuls vs. LVNV Funding, LLC (17851234)
Document(s) Type:	Summons/Complaint
Nature of Action:	Violation of State/Federal Act
Court/Agency:	Richmond City Circuit Court, VA
Case/Reference No:	760CL25003918-00
Jurisdiction Served:	Virginia
Date Served on CSC:	09/05/2025
Answer or Appearance Due:	21 Days
Originally Served On:	CSC
How Served:	Personal Service
Sender Information:	Consumer Litigation Associates, P.C. 804-905-9900

Information contained on this transmittal form is for record keeping, notification and forwarding the attached document(s). It does not constitute a legal opinion. The recipient is responsible for interpreting the documents and taking appropriate action.

To avoid potential delay, please do not send your response to CSC

251 Little Falls Drive, Wilmington, Delaware 19808-1674 (888) 690-2882 | sop@cscglobal.com

COMMONWEALTH OF VIRGINIA

RICHMOND CITY CIRCUIT COURT
Civil Division
400 NORTH 9TH STREET
RICHMOND VA 23219
(804) 646-6506

Summons

To: RESURGENT CAPITAL SERVICESV LP
SER: CORP SERVICE CO, R/A
100 SHOCKOE SLIP 2ND FLOOR
RICHMOND VA 23219

Case No. 760CL25003918-00

The party upon whom this summons and the attached complaint are served is hereby notified that unless within 21 days after such service, response is made by filing in the clerk's office of this court a pleading in writing, in proper legal form, the allegations and charges may be taken as admitted and the court may enter an order, judgment, or decree against such party either by default or after hearing evidence.

Appearance in person is not required by this summons.

Done in the name of the Commonwealth of Virginia on Thursday, August 21, 2025

Clerk of Court: EDWARD F JEWETT

by ______________________________
(CLERK/DEPUTY CLERK)

Instructions:

Hearing Official:

Attorney's name: SARRETT, DREW D
804-905-9904

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF RICHMOND
Civil Division

CARLOS BANULS,	)
Plaintiff,	)
v.	) **Case No. CL25__________**
LVNV FUNDING, LLC, **Please Serve:** **Corporation Service Company (RA)** **100 Shockoe Slip, Fl 2** **Richmond, Virginia 23219**	)
RESURGENT CAPITAL SERVICES, LP, **Please Serve:** **Corporation Service Company (RA)** **100 Shockoe Slip, Fl 2** **Richmond, Virginia 23219** **Defendants.**	)

COMPLAINT

COMES NOW the Plaintiff, **CARLOS BANULS** ("Mr. Banuls" or "Plaintiff"), by counsel, and for his complaint against the Defendants, **LVNV FUNDING, LLC** ("LVNV") and **RESURGENT CAPITAL SERVICES, LP** ("Resurgent") (collectively, "Defendants") Plaintiff alleges as follows:

PRELIMINARY STATEMENT

1. Defendants are two entities that make up a family of companies related in ownership through multiple layers designed to hide their connections. These include the originating creditor, Credit One Bank, and the multiple layers of assignees, including LVNV, which claimed in a collection lawsuit to own debt owed by Mr. Banuls.

2. LVNV holds itself out as a "debt buyer," i.e., a company which purchases delinquent debts for the purpose of attempting to collect them. LVNV claims that it "outsources the management of its portfolio of accounts to a company called Resurgent Capital Services. Resurgent Capital Services is a licensed third-party debt collector specializing in the management of these types of consumer assets." *Learn more about LVNV Funding*, available at https://www.lvnvfunding.com/ (last accessed on Aug. 8, 2025).

3. Defendants have, for years, flooded Virginia General District Courts with debt collection actions, obtained default judgments, and then regularly issued garnishments on those default judgments. Reliable data shows approximately 90% of judgments that debt buyers like LVNV obtain are default judgments and that over 90% of the garnishments they issue are based on those default judgments. In this way, debt buyers marshal the power of the state to seize wages from hard working Virginians.

4. On August 9, 2024, LVNV filed a Warrant in Debt (the "Collection Action") against Mr. Banuls in the General District Court of Henrico County (the "General District Court") seeking to collect the sum of $2,823.57, with interest at six percent, and $66.00 in costs. LVNV filed the Collection Action against Mr. Banuls based on a convoluted chain of assignments purporting to transfer ownership of a defaulted credit card account to it.

5. As an industry, debt buyers purchase portfolios of data regarding alleged debts and seek to collect on that data. When the debt buyers do not buy sufficient data to prove a debt in court, the debt buyers have no right to turn that legally insufficient data into a judgment. Because default judgments undergird debt buyers' business models, they hope to avoid having their allegations questioned.

6. Mr. Banuls disrupted Defendants' business model by challenging LVNV's proof

that it owned any interest in the purported debt on which it sued. To prepare his defense, Mr. Banuls, by counsel, served a subpoena duces tecum on LVNV (the "Subpoena") seeking necessary and relevant documents to contest LVNV's claim to ownership of the purported debt underlying the Collection Action.

7. After LVNV failed to respond to the Subpoena, Mr. Banuls, by counsel, filed a Motion to Compel and Show Cause (the "Motion to Compel") seeking, *inter alia*, an Order compelling LVNV to provide a full and complete response to the Subpoena and requiring LVNV to show cause for its failure to adequately respond to the Subpoena. Following a telephonic hearing on January 22, 2025, the General District Court granted the Motion to Compel and ordered LVNV to provide "a full and complete response to the Subpoena on or before February 19, 2025 at 10:00 a.m." and deferred ruling on Mr. Banuls' request for attorney's fees and costs and an Order to show cause against LVNV.

8. Rather than produce evidence to substantiate its ownership of the purported debt underlying the Collection Action, LVNV ignored the General District Court's Order to respond to the Subpoena. At a hearing on March 11, 2025, Mr. Banuls sought remedial civil contempt sanctions for LVNV's disregard of the General District Court's Order. LVNV sought to evade a civil contempt finding by seeking a non-suit at such hearing, but the General District Court deferred entry of an Order for Non-Suit prior to ruling on Mr. Banuls' request for civil contempt sanctions. The General District Court then found LVNV in civil contempt and entered an Order to that effect, which included an award of $5,076.50 in attorney's fees and $85.00 in costs to Mr. Banuls. Following the civil contempt finding and Order, the General District Court entered an Order for Non-Suit as to LVNV's lawsuit. To date, LVNV has not paid the attorney's fees and costs awarded against it based on the General District Court's finding of civil contempt.

9. LVNV's failure to meaningfully participate in prosecuting its lawsuit reflects its inability to prove its claims of account ownership when challenged. Instead, LVNV filed its lawsuit against Mr. Banuls without any intent to put on admissible evidence in support of its claims, in the hope that it could use the lawsuit to force money from Mr. Banuls without going to trial, by either getting a default judgment or by getting him to agree to make payments. LVNV's ploy was unsuccessful in this case only because Mr. Banuls retained counsel and contested LVNV's claims. When it became clear that LVNV was going to have to produce and put on evidence to establish its claims at a hearing, LVNV suffered a finding of civil contempt by the General District Court rather than respond to Mr. Banuls' Subpoena and then simply dropped its lawsuit.

10. But LVNV's misuse of Virginia's court system goes even further—as it did not actually own the purported account as to which it sued Mr. Banuls. In other words, LVNV's refusal to produce evidence when challenged resulted from the fact that the evidence it might be able to produce would affirmatively disprove its claimed ownership of the underlying purported account and establish the falsity of the sworn affidavits it filed in support of its lawsuit.

11. Because Defendant Resurgent orchestrates and manages LVNV's mass filing of baseless lawsuits in Virginia General District Courts, including the Collection Action at issue in this action, it shares liability with LVNV for the violations of federal law alleged below in this Complaint.

12. Defendants' actions and inaction violated Mr. Banuls' rights under the federal Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. §§ 1692 *et seq*. Accordingly, Mr. Banuls files this Complaint to obtain actual and statutory damages and his attorney's fees and costs for prosecuting his claims.

JURISDICTION

13. This Court has jurisdiction as to Mr. Banuls' FDCPA claims under the provisions of 15 U.S.C. § 1692k(d), which authorizes state courts of competent jurisdiction to hear FDCPA claims. This Court has competent jurisdiction over Mr. Banuls' FDCPA claims pursuant to Va. Code § 17.1-513.

VENUE

14. Venue is appropriate in this Court because a part of the causes of action set forth in this Complaint arose and Defendants maintain registered agents in the City of Richmond, Virginia. Va. Code § 8.01-262.

PARTIES

15. Plaintiff, Mr. Banuls, is a natural person residing in the Commonwealth of Virginia. Plaintiff is a "consumer" within the meaning of the FDCPA. 15 U.S.C. §1692a(3).

16. Defendant LVNV is a Delaware limited liability company with its principal office in Greenville, South Carolina and regularly does business in the Commonwealth of Virginia through its registered agent.

17. Defendant Resurgent is a Delaware limited partnership with its principal office in Greenville, South Carolina and regularly does business in the Commonwealth of Virginia through its registered agent.

18. The single and principal purpose of each Defendant is the collection of debts, and each Defendant regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another. Accordingly, each Defendant is a "debt collector" as that term is defined at 15 U.S.C. §1692a(6). Each Defendant uses various instrumentalities of interstate

commerce and the mails in the business for which the principal purpose is the collection of any debts. Each Defendant is also a "debt collector" as that term is defined at 15 U.S.C. §1692a(6).

FACTS

Defendants Improperly Prosecute a Collection Action against Mr. Banuls

19. After filing the Collection Action, Defendants caused the Warrant in Debt to be served on Mr. Banuls by posted service on or about August 23, 2024.

20. Mr. Banuls appeared *pro se* at the first return date for the Collection Action on or about September 27, 2024 and disputed LVNV's claim to obtain a judgment against him. The General District Court ordered LVNV to file a Bill of Particulars on or before October 28, 2024 and Mr. Banuls to file a Grounds of Defense on or before December 2, 2024.

21. Defendants caused a Bill of Particulars to be generated and filed the same with the General District Court on or about October 30, 2024. Defendants caused the Bill of Particulars to be mailed to Mr. Banuls on or about October 25, 2024.

22. Defendants attached to the Bill of Particulars a document titled "Plaintiff's Affidavit of Indebtedness and Ownership of Account," (the "Sham Affidavit") which purports to have been signed by Rudy Hernandez and notarized by Hannah Deel. Given the volume with which Defendants pursue collection lawsuits in Virginia, Mr. Banuls questions whether Ms. Hernandez even read the "Affidavit" she purportedly signed and swore to in front of Ms. Deel. Mr. Banuls expects to establish in discovery that Defendants' employees and/or agents, like Ms. Hernandez, routinely sign affidavits without reviewing or reading them outside the presence of a notary.

23. However, absent actual and personal knowledge of the substantive account records purportedly underlying the Collection Act, it is immaterial whether or not Ms. Hernandez read the

Sham Affidavit. Ms. Hernandez's statements and claims to the contrary in a sworn affidavit are false.

24. The Sham Affidavit is materially false because it includes objectively false statements. These include:

A. That Ms. Hernandez has "personal knowledge regarding Plaintiff's creation and maintenance of its normal business records which includes the computer records of its accounts and corresponding receivables."

B. That such "information is regularly and contemporaneously maintained during the course of Plaintiff's business."

C. That Ms. Hernandez's statements are made based on her "personal knowledge."

D. That "all ownership rights in the Account were assigned to, transferred to and became vested in Plaintiff, including the right to collect the current balance owing of $2,823.57 plus any legally permissible interest."

E. That "the business records maintained in regard to the Account" substantiate that $2,823.57 "is justly and duly owed by the Defendant to the Plaintiff."

25. On information and belief, Ms. Hernandez lacked any access to account records pertaining to Mr. Banuls. Instead, at most, she had access to truncated computerized information related to the purported account at issue in the Collection Action.

26. The Sham Affidavit is also false in another way. Defendants have created and redefined internally language that they contemplated would be misinterpreted by the reviewing judge in the collection matter. The affidavits are manufactured using language that Resurgent tell its clerical affiants would mean something other than the rest of the world would understand.

Defendants have trained employees and/or agents like Ms. Hernandez to believe that a computer screen with truncated information regarding a charged-off consumer credit account constitutes a "normal business record" of LVNV. The Sham Affidavit consistently references "business records" of LVNV. This, for Defendants, will never mean or refer to full assignment documents from the original creditor, cardmember agreements, consumer correspondence, or even electronic recordings of such documents. Instead, it simply means that the affiant reviewed a computer screen containing truncated information directly ingested into Resurgent's computer systems from one or more computer files originating from outside Resurgent.

27. After receiving the Bill of Particulars generated by Defendants, Mr. Banuls engaged counsel to defend against the Collection Action.

28. On December 2, 2024, Mr. Banuls filed his Grounds of Defense in the General District Court.

29. Mr. Banuls' counsel issued and served the Subpoena on LVNV in December 2024.

30. As detailed above, after LVNV failed to respond to the Subpoena, Mr. Banuls obtained an Order compelling LVNV to provide a full and complete response to the Subpoena. When LVNV failed to comply with the General District Court's Order compelling a full and complete response, Mr. Banuls obtained an Order finding LVNV in civil contempt and ordering remedial sanctions. Following the entry of that Order, the General District Court granted LVNV's request to non-suit the Collection Action.

31. As of the date of the filing of this action, Defendants have taken no further steps to pursue collection action against Mr. Banuls as to the purported claim asserted in the Collection Action.

32. At no time up to and including the date of the non-suit of the Collection Action did Defendants have sufficient evidence to establish that LVNV was the rightful owner of the defaulted account at issue and that it was entitled to collect the sums claimed to be due under the account.

33. When LVNV filed the Collection Action, it had no intention of obtaining the evidence which might be needed to establish these claims in court, and it had no intention of taking that suit to trial and putting on evidence to establish its claims. Instead, its intention when it filed the Collection Action was to obtain either a default judgment or an agreement from Mr. Banuls to pay the sum claimed or some lesser sum. That is why, when Defendants concluded that LVNV was not going to get a default judgment or a voluntary settlement from Mr. Banuls, they took the non-suit to dismiss the collection lawsuit.

34. Further, LVNV lacked any ownership in the purported account supposedly underlying the Collection Action, but it continued to prosecute its "claim" anyway, including by filing a Bill of Particulars containing inaccurate allegations and attaching the Sham Affidavit.

Mr. Banuls Suffered Actual Harm

35. As a result of the actions (and inaction) of Defendants, Plaintiff has suffered damages, including, but not limited to:

a. Expenditure of time and expense to defend against the Collection Action.

b. Mental anguish, stress, aggravation, and other related impairments to the enjoyment of life associated with defending against the Collection Action.

CLAIMS FOR RELIEF

COUNT ONE:
VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT
15 U.S.C. §§ 1692 *ET SEQ.*

36. Plaintiff realleges and incorporates all other factual allegations set forth in this Complaint.

37. In their efforts to collect money claimed to be due from Mr. Banuls, as described in this Complaint, including by filing the Collection Action, prosecuting the Collection Action at three separate hearings before the General District Court, refusing to respond to the Subpoena, improperly defending against the Motion to Compel, and making inaccurate representations on multiple occasions throughout the Collection Action, Defendants violated the provisions of the FDCPA in a number of ways, including the following:

A. making false, deceptive or misleading representations in connection with the collection of a debt, in violation of §1692e;

B. using an unfair or unconscionable means to attempt to collect a debt, in violation of §1692f;

C. misrepresenting the amount owed, in violation of §§1692e(2)(A), 1692e(10) and 1692f; and

D. threatening to collect and attempting to collect any amount which is not expressly authorized by an agreement creating the debt or permitted by law, in violation of §1692f(1).

38. It is possible that the Defendants committed other acts in violation of the FDCPA, and Mr. Banuls reserves the right to add other violations to this list as additional information becomes available during the course of discovery in this action.

39. Defendants' actions forced Mr. Banuls to incur lost time and expense and caused him needless stress which resulted in emotional distress, anger, shame, frustration, and the fear of an unfair judgment against him.

40. Plaintiff is entitled to actual and/or statutory damages against Defendants, as well as reasonable attorney's fees and costs, pursuant to 15 U.S.C. §1692k(a).

JURY DEMAND

Plaintiff hereby demands a trial by jury on all issues so triable.

PRAYER FOR RELIEF

Plaintiff therefore respectfully requests that this Court:

1. Award Plaintiff actual damages against Defendants due to their violations of the FDCPA in the amount of $50,000;

2. Award Plaintiff statutory damages in the amount of $1,000 for LVNV's violations of the FDCPA;

3. Award Plaintiff statutory damages in the amount of $1,000 for Resurgent's violations of the FDCPA;

4. Award Plaintiff reasonable attorney's fees and costs against Defendants under the FDCPA;

5. Award Plaintiff pre-judgment and post-judgment interest as allowed by law; and

6. Award other relief as the Court deems appropriate.

CARLOS BANULS

By: ______________________

Drew D. Sarrett, VSB #81658
CONSUMER LITIGATION ASSOCIATES, P.C.
626 E. Broad St., Suite 300
Richmond, VA 23219
Telephone: (804) 905-9900
Facsimile: (757) 930-3662
Email: drew@clalegal.com

Counsel for Plaintiff

CSC

null / ALL
Transmittal Number: 32205334
Date Processed: 09/08/2025

Notice of Service of Process

Primary Contact:	Wes Boyd Resurgent Capital Services, LP 55 Beattie Place Ste 110 Greenville, SC 29601-5115
Electronic copy provided to:	Brittany Osteen Wanda Boston Debra Ciapi Anthony Brannon

Entity:	LVNV Funding LLC Entity ID Number 3235070
Entity Served:	LVNV Funding, LLC
Title of Action:	Carlos Banuls vs. LVNV Funding, LLC
Matter Name/ID:	Carlos Banuls vs. LVNV Funding, LLC (17851234)
Document(s) Type:	Summons/Complaint
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251 Little Falls Drive, Wilmington, Delaware 19808-1674 (888) 690-2882 | sop@cscglobal.com

COMMONWEALTH OF VIRGINIA

RICHMOND CITY CIRCUIT COURT
Civil Division
400 NORTH 9TH STREET
RICHMOND VA 23219
(804) 646-6506

Summons

To: LVNV FUNDING LLC
SER: CORP SERVICE CO, R/A
100 SHOCKOE SLIP 2ND FLOOR
RICHMOND VA 23219

Case No. 760CL25003918-00

The party upon whom this summons and the attached complaint are served is hereby notified that unless within 21 days after such service, response is made by filing in the clerk's office of this court a pleading in writing, in proper legal form, the allegations and charges may be taken as admitted and the court may enter an order, judgment, or decree against such party either by default or after hearing evidence.

Appearance in person is not required by this summons.

Done in the name of the Commonwealth of Virginia on, Thursday, August 21, 2025

Clerk of Court: EDWARD F JEWETT

by ______________________
(~~CLERK~~/DEPUTY CLERK)

Instructions:

Hearing Official:

Attorney's name: SARRETT, DREW D
804-905-9904

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF RICHMOND
Civil Division

CARLOS BANULS,	)
Plaintiff,	)
v.	) **Case No. CL25__________**
LVNV FUNDING, LLC, **Please Serve:** **Corporation Service Company (RA)** **100 Shockoe Slip, Fl 2** **Richmond, Virginia 23219**	)
RESURGENT CAPITAL SERVICES, LP, **Please Serve:** **Corporation Service Company (RA)** **100 Shockoe Slip, Fl 2** **Richmond, Virginia 23219** **Defendants.**	)

COMPLAINT

COMES NOW the Plaintiff, **CARLOS BANULS** ("Mr. Banuls" or "Plaintiff"), by counsel, and for his complaint against the Defendants, **LVNV FUNDING, LLC** ("LVNV") and **RESURGENT CAPITAL SERVICES, LP** ("Resurgent") (collectively, "Defendants") Plaintiff alleges as follows:

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1. Defendants are two entities that make up a family of companies related in ownership through multiple layers designed to hide their connections. These include the originating creditor, Credit One Bank, and the multiple layers of assignees, including LVNV, which claimed in a collection lawsuit to own debt owed by Mr. Banuls.

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that it owned any interest in the purported debt on which it sued. To prepare his defense, Mr. Banuls, by counsel, served a subpoena duces tecum on LVNV (the "Subpoena") seeking necessary and relevant documents to contest LVNV's claim to ownership of the purported debt underlying the Collection Action.

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8. Rather than produce evidence to substantiate its ownership of the purported debt underlying the Collection Action, LVNV ignored the General District Court's Order to respond to the Subpoena. At a hearing on March 11, 2025, Mr. Banuls sought remedial civil contempt sanctions for LVNV's disregard of the General District Court's Order. LVNV sought to evade a civil contempt finding by seeking a non-suit at such hearing, but the General District Court deferred entry of an Order for Non-Suit prior to ruling on Mr. Banuls' request for civil contempt sanctions. The General District Court then found LVNV in civil contempt and entered an Order to that effect, which included an award of $5,076.50 in attorney's fees and $85.00 in costs to Mr. Banuls. Following the civil contempt finding and Order, the General District Court entered an Order for Non-Suit as to LVNV's lawsuit. To date, LVNV has not paid the attorney's fees and costs awarded against it based on the General District Court's finding of civil contempt.

9. LVNV's failure to meaningfully participate in prosecuting its lawsuit reflects its inability to prove its claims of account ownership when challenged. Instead, LVNV filed its lawsuit against Mr. Banuls without any intent to put on admissible evidence in support of its claims, in the hope that it could use the lawsuit to force money from Mr. Banuls without going to trial, by either getting a default judgment or by getting him to agree to make payments. LVNV's ploy was unsuccessful in this case only because Mr. Banuls retained counsel and contested LVNV's claims. When it became clear that LVNV was going to have to produce and put on evidence to establish its claims at a hearing, LVNV suffered a finding of civil contempt by the General District Court rather than respond to Mr. Banuls' Subpoena and then simply dropped its lawsuit.

10. But LVNV's misuse of Virginia's court system goes even further—as it did not actually own the purported account as to which it sued Mr. Banuls. In other words, LVNV's refusal to produce evidence when challenged resulted from the fact that the evidence it might be able to produce would affirmatively disprove its claimed ownership of the underlying purported account and establish the falsity of the sworn affidavits it filed in support of its lawsuit.

11. Because Defendant Resurgent orchestrates and manages LVNV's mass filing of baseless lawsuits in Virginia General District Courts, including the Collection Action at issue in this action, it shares liability with LVNV for the violations of federal law alleged below in this Complaint.

12. Defendants' actions and inaction violated Mr. Banuls' rights under the federal Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. §§ 1692 *et seq.* Accordingly, Mr. Banuls files this Complaint to obtain actual and statutory damages and his attorney's fees and costs for prosecuting his claims.

JURISDICTION

13. This Court has jurisdiction as to Mr. Banuls' FDCPA claims under the provisions of 15 U.S.C. § 1692k(d), which authorizes state courts of competent jurisdiction to hear FDCPA claims. This Court has competent jurisdiction over Mr. Banuls' FDCPA claims pursuant to Va. Code § 17.1-513.

VENUE

14. Venue is appropriate in this Court because a part of the causes of action set forth in this Complaint arose and Defendants maintain registered agents in the City of Richmond, Virginia. Va. Code § 8.01-262.

PARTIES

15. Plaintiff, Mr. Banuls, is a natural person residing in the Commonwealth of Virginia. Plaintiff is a "consumer" within the meaning of the FDCPA. 15 U.S.C. §1692a(3).

16. Defendant LVNV is a Delaware limited liability company with its principal office in Greenville, South Carolina and regularly does business in the Commonwealth of Virginia through its registered agent.

17. Defendant Resurgent is a Delaware limited partnership with its principal office in Greenville, South Carolina and regularly does business in the Commonwealth of Virginia through its registered agent.

18. The single and principal purpose of each Defendant is the collection of debts, and each Defendant regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another. Accordingly, each Defendant is a "debt collector" as that term is defined at 15 U.S.C. §1692a(6). Each Defendant uses various instrumentalities of interstate

commerce and the mails in the business for which the principal purpose is the collection of any debts. Each Defendant is also a "debt collector" as that term is defined at 15 U.S.C. §1692a(6).

FACTS

Defendants Improperly Prosecute a Collection Action against Mr. Banuls

19. After filing the Collection Action, Defendants caused the Warrant in Debt to be served on Mr. Banuls by posted service on or about August 23, 2024.

20. Mr. Banuls appeared *pro se* at the first return date for the Collection Action on or about September 27, 2024 and disputed LVNV's claim to obtain a judgment against him. The General District Court ordered LVNV to file a Bill of Particulars on or before October 28, 2024 and Mr. Banuls to file a Grounds of Defense on or before December 2, 2024.

21. Defendants caused a Bill of Particulars to be generated and filed the same with the General District Court on or about October 30, 2024. Defendants caused the Bill of Particulars to be mailed to Mr. Banuls on or about October 25, 2024.

22. Defendants attached to the Bill of Particulars a document titled "Plaintiff's Affidavit of Indebtedness and Ownership of Account," (the "Sham Affidavit") which purports to have been signed by Rudy Hernandez and notarized by Hannah Deel. Given the volume with which Defendants pursue collection lawsuits in Virginia, Mr. Banuls questions whether Ms. Hernandez even read the "Affidavit" she purportedly signed and swore to in front of Ms. Deel. Mr. Banuls expects to establish in discovery that Defendants' employees and/or agents, like Ms. Hernandez, routinely sign affidavits without reviewing or reading them outside the presence of a notary.

23. However, absent actual and personal knowledge of the substantive account records purportedly underlying the Collection Act, it is immaterial whether or not Ms. Hernandez read the

Sham Affidavit. Ms. Hernandez's statements and claims to the contrary in a sworn affidavit are false.

24. The Sham Affidavit is materially false because it includes objectively false statements. These include:

A. That Ms. Hernandez has "personal knowledge regarding Plaintiff's creation and maintenance of its normal business records which includes the computer records of its accounts and corresponding receivables."

B. That such "information is regularly and contemporaneously maintained during the course of Plaintiff's business."

C. That Ms. Hernandez's statements are made based on her "personal knowledge."

D. That "all ownership rights in the Account were assigned to, transferred to and became vested in Plaintiff, including the right to collect the current balance owing of $2,823.57 plus any legally permissible interest."

E. That "the business records maintained in regard to the Account" substantiate that $2,823.57 "is justly and duly owed by the Defendant to the Plaintiff."

25. On information and belief, Ms. Hernandez lacked any access to account records pertaining to Mr. Banuls. Instead, at most, she had access to truncated computerized information related to the purported account at issue in the Collection Action.

26. The Sham Affidavit is also false in another way. Defendants have created and redefined internally language that they contemplated would be misinterpreted by the reviewing judge in the collection matter. The affidavits are manufactured using language that Resurgent tell its clerical affiants would mean something other than the rest of the world would understand.

Defendants have trained employees and/or agents like Ms. Hernandez to believe that a computer screen with truncated information regarding a charged-off consumer credit account constitutes a "normal business record" of LVNV. The Sham Affidavit consistently references "business records" of LVNV. This, for Defendants, will never mean or refer to full assignment documents from the original creditor, cardmember agreements, consumer correspondence, or even electronic recordings of such documents. Instead, it simply means that the affiant reviewed a computer screen containing truncated information directly ingested into Resurgent's computer systems from one or more computer files originating from outside Resurgent.

27. After receiving the Bill of Particulars generated by Defendants, Mr. Banuls engaged counsel to defend against the Collection Action.

28. On December 2, 2024, Mr. Banuls filed his Grounds of Defense in the General District Court.

29. Mr. Banuls' counsel issued and served the Subpoena on LVNV in December 2024.

30. As detailed above, after LVNV failed to respond to the Subpoena, Mr. Banuls obtained an Order compelling LVNV to provide a full and complete response to the Subpoena. When LVNV failed to comply with the General District Court's Order compelling a full and complete response, Mr. Banuls obtained an Order finding LVNV in civil contempt and ordering remedial sanctions. Following the entry of that Order, the General District Court granted LVNV's request to non-suit the Collection Action.

31. As of the date of the filing of this action, Defendants have taken no further steps to pursue collection action against Mr. Banuls as to the purported claim asserted in the Collection Action.

32. At no time up to and including the date of the non-suit of the Collection Action did Defendants have sufficient evidence to establish that LVNV was the rightful owner of the defaulted account at issue and that it was entitled to collect the sums claimed to be due under the account.

33. When LVNV filed the Collection Action, it had no intention of obtaining the evidence which might be needed to establish these claims in court, and it had no intention of taking that suit to trial and putting on evidence to establish its claims. Instead, its intention when it filed the Collection Action was to obtain either a default judgment or an agreement from Mr. Banuls to pay the sum claimed or some lesser sum. That is why, when Defendants concluded that LVNV was not going to get a default judgment or a voluntary settlement from Mr. Banuls, they took the non-suit to dismiss the collection lawsuit.

34. Further, LVNV lacked any ownership in the purported account supposedly underlying the Collection Action, but it continued to prosecute its "claim" anyway, including by filing a Bill of Particulars containing inaccurate allegations and attaching the Sham Affidavit.

Mr. Banuls Suffered Actual Harm

35. As a result of the actions (and inaction) of Defendants, Plaintiff has suffered damages, including, but not limited to:

a. Expenditure of time and expense to defend against the Collection Action.

b. Mental anguish, stress, aggravation, and other related impairments to the enjoyment of life associated with defending against the Collection Action.

CLAIMS FOR RELIEF

COUNT ONE:
VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT
15 U.S.C. §§ 1692 *ET SEQ.*

36. Plaintiff realleges and incorporates all other factual allegations set forth in this Complaint.

37. In their efforts to collect money claimed to be due from Mr. Banuls, as described in this Complaint, including by filing the Collection Action, prosecuting the Collection Action at three separate hearings before the General District Court, refusing to respond to the Subpoena, improperly defending against the Motion to Compel, and making inaccurate representations on multiple occasions throughout the Collection Action, Defendants violated the provisions of the FDCPA in a number of ways, including the following:

A. making false, deceptive or misleading representations in connection with the collection of a debt, in violation of §1692e;

B. using an unfair or unconscionable means to attempt to collect a debt, in violation of §1692f;

C. misrepresenting the amount owed, in violation of §§1692e(2)(A), 1692e(10) and 1692f; and

D. threatening to collect and attempting to collect any amount which is not expressly authorized by an agreement creating the debt or permitted by law, in violation of §1692f(1).

38. It is possible that the Defendants committed other acts in violation of the FDCPA, and Mr. Banuls reserves the right to add other violations to this list as additional information becomes available during the course of discovery in this action.

39. Defendants' actions forced Mr. Banuls to incur lost time and expense and caused him needless stress which resulted in emotional distress, anger, shame, frustration, and the fear of an unfair judgment against him.

40. Plaintiff is entitled to actual and/or statutory damages against Defendants, as well as reasonable attorney's fees and costs, pursuant to 15 U.S.C. §1692k(a).

JURY DEMAND

Plaintiff hereby demands a trial by jury on all issues so triable.

PRAYER FOR RELIEF

Plaintiff therefore respectfully requests that this Court:

1. Award Plaintiff actual damages against Defendants due to their violations of the FDCPA in the amount of $50,000;

2. Award Plaintiff statutory damages in the amount of $1,000 for LVNV's violations of the FDCPA;

3. Award Plaintiff statutory damages in the amount of $1,000 for Resurgent's violations of the FDCPA;

4. Award Plaintiff reasonable attorney's fees and costs against Defendants under the FDCPA;

5. Award Plaintiff pre-judgment and post-judgment interest as allowed by law; and

6. Award other relief as the Court deems appropriate.

CARLOS BANULS

By: ______________________

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Richmond City Circuit - Civil Division

Case Details

Case Number: CL25003918-00	**Filed:** 08/08/25
Filing Type: General Tort Liability	**Filing Fee Paid** Yes
Number of Plaintiffs: 0001	**Number of Defendants:** 0002
Commenced By: Initial Filing	
Bond:	**Complex Case:**

If there are more than three plaintiffs or defendants as indicated under "Number of Plaintiffs" or "Number of Defendants" in the table above, please contact the court for the additional party information.

Plaintiffs

Plaintiff: **BANULS, CARLOS**
Trading as:
Attorney: SARRETT, DREW

Defendants

Defendant1: **L V N V FUNDING LLC**
Trading as:

Defendant2: **RESURGENT CAPITAL SERVICESV LP**
Trading as:

Hearings

#	Date	Time	Type	Room	Duration	Jury	Result

Date Ordered To Mediation:

Final Disposition

- **Judgment:**
- **Final Order Date:**
- **Appealed Date:**

- **Concluded By:**

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