

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**BECKLEY DIVISION**

**ROBERT HILL and  
MARY HILL, his wife,  
Individually and on behalf of  
all others similarly situated,  
Plaintiffs,**

**v.**

**CIVIL ACTION NO. 5:14-cv-29565**

**SCA CREDIT SERVICES, INC.,  
Defendant.**

**AMENDED CLASS ACTION COMPLAINT**

COME NOW the Plaintiffs, Robert Hill and Mary Hill, individually and on behalf of all others similarly situated, by counsel Ralph C. Young of Hamilton, Burgess, Young & Pollard, PLLC, and by Troy N. Giatras of The Giatras Law Firm, PLLC for this action against the Defendant, SCA Credit Services, Inc., and state as follows for the grounds in the Complaint:

**NATURE OF THE CASE**

1. This action arises as a result of repeated abusive debt collection activities conduct employed by SCA Credit Services, Inc.
2. The Defendant, SCA Credit Services, Inc., deceptively attempted to collect debts from multitudes of West Virginia consumer victims by failing to include the original creditor of the debt as required by the West Virginia Consumer Credit and Protection Act (hereafter "WVCCPA").

3. SCA Credit Services, Inc., (hereafter “SCA”), threatened West Virginia consumers with misleading collection attempts titled ‘NOTICE OF LEGAL ACTION’ and ‘FINAL WRITTEN NOTICE.’

### **BACKGROUND**

8. SCA failed to identify the original creditor, for whom it was collecting, in a letter mailed to the Plaintiffs dated February 6, 2013. *See* Exhibit 1.

9. SCA’s letter claims to represent a “client” but does not disclose the name or address of any “client.” *See* Exhibit 1.

10. SCA again failed to identify the original creditor, for whom it was collecting, in a letter mailed to Plaintiffs dated June 26, 2013. *See* Exhibit 2.

11. In a June 26, 2013 letter, SCA stated that “[w]e feel we have done everything we can do to work with you in a *friendly manner* to get this account paid. Now, unless we receive payment immediately, we will have to proceed with further collection action against you.” *See* Exhibit 2. (Emphasis added)

12. Plaintiffs feared harsh, vindictive or abusive collection attempts would follow.

13. SCA sent the same letter, with the same threats, on September 30, 2013.

14. SCA again failed to identify the original creditor, for whom it was collecting, in another letter mailed to Plaintiffs dated November 21, 2013. *See* Exhibit 3.

15. This letter included the caption “FINAL WRITTEN NOTICE.” (Emphasis in original). *See* Exhibit 3.

16. In the November 21, 2013 letter, SCA stated that “[a] review of your account indicates that additional collection action may be necessary to collect this debt.” *See* Exhibit 3.

17. Plaintiffs feared harsh, vindictive, or abusive collection attempts would follow.

18. Plaintiffs received a letter dated August 15, 2014 from Defendant SCA. *See* Exhibit 4.

19. The August 15, 2014 letter was captioned “NOTICE OF LEGAL ACTION.” (emphasis in original).

20. The August 15, 2014 letter claims to represent a “client” but does not disclose the name or address of any “client.”

21. After informing the Plaintiffs that this was a “NOTICE OF LEGAL ACTION,” SCA’s letter states that the “client,” who is unidentified, must approve legal action.

22. SCA threatens to garnish Plaintiffs’ wages and place a lien against Plaintiffs’ real estate.

23. SCA’s letter does not contain any debt validation notice or inform the Plaintiffs that they are entitled to have the debt verified if requested in writing.

24. SCA never took any legal action against Plaintiffs to date.

#### **CLASS ALLEGATIONS**

25. The Plaintiffs incorporate and restate all of the above and further plead:

26. Plaintiffs Robert and Mary Hill bring this suit for themselves and for a class consisting of consumers in the State of West Virginia who received collection notices from Defendant SCA.

27. Plaintiffs consist of consumers who were subjected to the Defendant’s misleading and coercive debt collection practices.

28. Plaintiffs Robert and Mary Hill adequately represent the class of persons defined above. The represented class is narrowly and appropriately defined as the group of West

Virginia consumers who received the Defendant's debt collection notices on or after February 1, 2010. Also, the proposed class members experienced and suffered from the very same debt collection practices and conduct instituted by the Defendants.

29. The proposed class has been estimated as consisting of at least 7,627 individuals.

30. Plaintiffs are informed and believe that the identities of the Class members may be ascertained from the file and records of Defendant SCA and other informational sources.

31. This action may be properly prosecuted as a class action under Rule 23 of the *West Virginia Rules of Civil Procedure*. The persons constituting the Class, in excess of 7,627 victims in this case, are numerous enough as to make it impractical to bring them all before this Court. Thus, the numerosity requirement of Rule 23(a) is satisfied.

32. There are common questions of law and fact and fact affecting the rights of each class member, and common relief is sought by the class members, and thus the "commonality" requirement of Rule 23(a) is satisfied. The question of whether SCA violated or did not violate the WVCCPA and the question of whether SCA violated Plaintiffs' common law right of privacy, turns on the same issues of fact and law. In other words, the Defendant's conduct affected the proposed class similarly as required by Rule 23(a).

33. The theories of relief are identical to call members of the Class, and all members of the Class are alleged to have suffered similar kinds of damages as a result of repeated violations of various consumer rights by Defendant SCA.

34. The named Plaintiffs' claims are typical, if not identical, of the claims of the other members of the Class, and thus the "typicality" requirement of Rule 23(a) is satisfied.

35. Hamilton, Burgess, Young & Pollard, PLLC and The Giatras Law Firm, PLLC are experienced in the prosecution of class and mass actions and have adequate resources to



prosecute this class action. The work done by The Giatras Law Firm and Hamilton, Burgess, Young & Pollard to date show that The Giatras Law Firm and Hamilton, Burgess, Young & Pollard can adequately represent the class, which fulfills the first part of the adequacy requirement of Rule 23(a). *See In re Rezulin Litigation*, 214 W. Va. 52, syl. Pt. 13 (2003) (breaking adequacy requirements into two parts).

36. The named Plaintiffs' claim the same damages resulting from Defendant SCA's conduct as the proposed Class defined herein and does not have a conflict of interest with the proposed Class. Thus, the second part of the "adequacy" requirement of Rule 23(a) has been satisfied. *See In re Rezulin Litigation*, 214 W. Va. 52, syl. Pt. 13 (2003) (breaking adequacy requirements into two parts).

37. This class action may be maintained because the prosecution of separate actions by individual members of the defined Class would create a risk of inconsistent and varying adjudications, which would establish incompatible standards of conduct for the Plaintiff and the Class members. Adjudication with respect to individual members of the Class would be, as a practicable matter, dispositive of the interests of other members of the Class not parties to such adjudications, thereby impairing or impeding their interests. Thus, this class action should be maintained under Rule 23(b)(1).

38. This Class action may also be maintained because, as noted above, the many questions of law and fact that are common to the class clearly predominate over questions, if any, affecting only individual members of the Class, and a class action is superior to other available means for the fair and efficient adjudication of the controversy. Thus, the Class may also be maintained under Rule 23(b)(3).

WHEREFORE, the Plaintiffs, individually and as class representatives, pray for the following relief:

A. That the Court certify the Class under Rule 23 of the West Virginia Rules of Civil Procedure and appoint the Plaintiffs as class representatives and Hamilton, Burgess, Young & Pollard, PLLC and The Giatras Law Firm, PLLC as Class counsel.

B. That the Court enter judgment against SCA for all damages set forth above, as well as for costs, attorney fees, statutory damages adjusted for inflation, and further relief as this tribunal deems appropriate.

**FIRST CAUSE OF ACTION**

**(Utilizing Fraudulent, Deceptive or Misleading Representations or Means in an Attempt To Collect a Debt In Violation of West Virginia Code §46A-2-127)**

39. Plaintiffs re-allege and incorporate by reference the allegations contained in paragraphs 1 through 38, inclusive.

40. SCA's conduct as stated herein, specifically by sending the attached letters threatening legal action and failing to identify the original creditor to West Virginia Plaintiffs, utilized fraudulent, deceptive or misleading representations or means in an attempt to collect the alleged debts from the Plaintiffs in violation of West Virginia Code §46A-2-127.

41. As a direct and proximate result of these violations, the Defendants have caused the Plaintiffs to suffer damages.

42. Under the provisions of the aforesaid West Virginia law, Plaintiffs are entitled to recover actual damages, statutory damages adjusted for inflation, statutory penalties adjusted for inflation, cancellation of the alleged debt, and attorney's fees and costs from Plaintiffs for the aforesaid violations.

WHEREFORE, Plaintiffs demand judgment against SCA for all damages set forth above, as well as for costs, attorney fees, and further relief as deemed appropriate.

**SECOND CAUSE OF ACTION**  
**(Using Unfair or Unconscionable Means to Collect an Alleged Debt in  
Violation of West Virginia Code §46A-2-128)**

43. Plaintiffs re-allege and incorporate by reference the allegations contained in paragraphs 1 through 42, inclusive.

44. SCA's conduct as stated herein, specifically the debt collection conduct meant to extract attempt to collect alleged debts from West Virginia Plaintiffs, utilized unfair or unconscionable means to collect alleged debts from the Plaintiffs in violation of West Virginia Code §46A-2-128.

45. As a direct and proximate result of these violations, the Defendants have caused the Plaintiffs to suffer damages.

46. Under the provisions of the aforesaid West Virginia law, Plaintiffs are entitled to recover actual damages, statutory damages adjusted for inflation, statutory penalties adjusted for inflation, cancellation of the alleged debt, and attorney's fees and costs from Plaintiffs for the aforesaid violations.

WHEREFORE, Plaintiffs demand judgment against SCA for all damages set forth above, as well as for costs, attorney fees, and further relief as deemed appropriate.

**THIRD CAUSE OF ACTION**  
**(Attempting To Collect a Debt By Coercion in Violation of  
West Virginia Code §46A-2-124)**

47. Plaintiffs re-allege and incorporate by reference the allegations contained in paragraphs 1 through 46, inclusive.

48. SCA's issuance of debt collection notices and letters as described herein constitutes repeated, improper, and illegal conduct in violation of West Virginia Code §46A-2-124.

49. As a direct and proximate result of these violations, the Defendants have caused the Plaintiffs to suffer damages.

50. Under the provisions of the aforesaid West Virginia law, Plaintiffs are entitled to recover actual damages, statutory damages adjusted for inflation, statutory penalties adjusted for inflation, cancellation of the alleged debt, and attorney's fees and costs from Plaintiffs for the aforesaid violations.

WHEREFORE, Plaintiffs demand judgment against SCA for all damages set forth above, as well as for costs, attorney fees, and further relief as deemed appropriate.

**FOURTH CAUSE OF ACTION**  
**(Common Law Invasion of Privacy)**

51. Plaintiffs re-allege and incorporate by reference the allegations contained in paragraphs 1 through 50, inclusive.

52. The Plaintiffs have an expectation of privacy to be free from harassing and annoying debt collection activities.

53. The acts of the Defendant in engaging in abusive and misleading debt collection practices invaded the Plaintiffs' homes and damaged and harmed the Plaintiffs' right of privacy.

54. As a result of the Defendant's actions, the Plaintiffs suffered emotional distress.

55. As a result of the Defendant's actions, Plaintiffs have been annoyed, inconvenienced, harassed, bothered, upset, angered, harangued and otherwise were caused indignation and distress.



WHEREFORE, Plaintiffs demand judgment against SCA for all damages set forth above, as well as for costs, attorney fees, and further relief as deemed appropriate.

**FIFTH CAUSE OF ACTION**  
**(Miscellaneous Violations of the West Virginia Consumer Credit  
and Protection Act)**

56. Plaintiffs re-allege and incorporate by reference the allegations contained in paragraphs 1 through 56, inclusive.

57. At all times relevant, there was in full force and effect a statute commonly known as the West Virginia Consumer Credit and Protection Act which provides that unfair methods of competition and unfair or deceptive acts or practices means and includes, but is not limited to:

(M) the act, use or employment by any person of any deception, fraud, false pretense, false promise or misrepresentation, or the concealment, suppression or omission of any material fact with intent that other rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any good or services, whether or not any person has in fact been misled, deceived or damaged thereby;

W. Va. Code § 46A-6-102(7)(M).

58. Defendant's acts as stated herein amount to fraudulent, deceptive, or misleading conduct under the provisions of W. Va. Code § 46A-6-102(7)(M) and W.Va. Code § 46A-2-127, oppression and abuse under the provisions of W.Va. Code § 46A-2-125, unfair or unconscionable means under the provisions of W.Va. Code § 46A-2-128, and illegal threats or coercion under the provisions of W.Va. Code § 46A-2-124.

59. As a direct and proximate result of these violations, Defendant caused the Plaintiffs, and all similarly situated customers of SCA, to suffer damages, including, but not limited to emotional distress, annoyance, inconvenience, harassment, indignation and distress.

60. Under the provisions of the aforesaid West Virginia laws, Plaintiffs are entitled to recover actual damages, statutory damages adjusted for inflation, statutory penalties adjusted for inflation, cancellation of the alleged debt, and attorney's fees and costs from Defendant for the aforesaid violations

WHEREFORE, Plaintiffs demand judgment against SCA for all damages set forth above, as well as for costs, attorney fees, and further relief as deemed appropriate.

**PRAYER FOR RELIEF**

WHEREFORE, the Plaintiffs, individually and as class representative, prays for the following relief:

A. That the Court certify the Class under Rule 23 of the West Virginia Rules of Civil Procedure and appoint the Plaintiffs as class representatives and Hamilton, Burgess, Young & Pollard, PLLC and The Giatras Law Firm, PLLC as class counsel.

B. That the Court enter judgment against Defendant SCA Credit Services, Inc., for all damages set forth above, as well as for costs, attorney fees, statutory damages adjusted for inflation, and further relief as deemed appropriate

**PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL ISSUES SO TRIABLE.**

/s/ Jed R. Nolan

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SCA CREDIT SERVICES, INC.,

DEFENDANT

**CERTIFICATE OF SERVICE**

I, Jed R. Nolan, counsel for Plaintiffs, hereby certify that the foregoing **AMENDED CLASS ACTION COMPLAINT** was filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following CM/ECF participants, on December 17, 2014:

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