



6. Defendant is an entity who at all relevant times was engaged, by use of the mails and telephone, in the business of attempting to collect a “debt” from Plaintiff, as defined by 15 U.S.C. § 1692a(5).

7. Defendant is a “debt collector” as defined by 15 U.S.C. § 1692a(6).

### **THE FAIR DEBT COLLECTION PRACTICES ACT**

8. “Congress enacted the FDCPA ‘to eliminate abusive debt collection practices by debt collectors.’ ” *Russell v. Absolute Collection Servs., Inc.*, 763 F.3d 385, 388 (4th Cir. 2014) (quoting 15 U.S.C. § 1692(e)).

9. “To effectuate this purpose, the FDCPA regulates interactions between consumers and debt collectors by imposing affirmative statutory obligations upon debt collectors and proscribing certain abusive conduct.” *Id.* at 388-89.

10. For example, “Section 1692d(6) prohibits ‘the placement of telephone calls [by a debt collector] without meaningful disclosure of the caller’s identity.’ ” *Chatman v. GC Services, LP*, 57 F. Supp. 3d 560, 566 (D.S.C. 2014) (quoting 15 U.S.C. § 1692d(6)).

11. “Meaningful disclosure requires that the debt collector state his or her name, capacity, and provide enough information to the consumer as to the purpose of the call.” *Chatman*, 57 F. Supp. 3d at 566 (D.S.C. 2014) (quoting *Doshay v. Global Credit Collection Corp.*, 796 F. Supp. 2d 1301, 1304 (D. Colo. 2011)).

### **FACTUAL ALLEGATIONS**

12. Plaintiff is a natural person obligated, or allegedly obligated, to pay a debt owed or due, or asserted to be owed or due a creditor other than Defendant.

13. Plaintiff’s obligation, or alleged obligation, arises from a transaction in which the money, property, insurance, or services that are the subject of the transaction were incurred primarily for personal, family, or household purposes—namely a medical bill.

14. Defendant uses instrumentalities of interstate commerce or the mails in a business the principal purpose of which is the collection of any debts, and/or regularly collects or attempts to collect, directly or indirectly, debts owed or due, or asserted to be owed or due another.

15. In connection with the collection of an alleged debt, Defendant placed multiple calls to Plaintiff's wireless telephone number, including, but not limited to, the following dates and approximate times:

- 1) August 6, 2014 at 7:47 P.M.;
- 2) August 6, 2014 at 7:50 P.M.;
- 3) August 6, 2014 at 8:32 P.M.;
- 4) September 22, 2014 at 1:45 P.M.;
- 5) November 18, 2014 at 9:05 A.M.;
- 6) November 26, 2014 at 11:58 A.M.;
- 7) November 29, 2014 at 10:40 A.M.;
- 8) November 29, 2014 at 1:40 P.M.;
- 9) January 29, 2015 at 10:04 A.M.;
- 10) February 4, 2015 at 10:43 A.M.;
- 11) February 10, 2015 at 11:53 A.M.;
- 12) February 17, 2015 at 10:26 A.M.;
- 13) February 28, 2015 at 11:32 A.M.;
- 14) March 6, 2015 at 4:59 P.M.;
- 15) March 12, 2015 at 7:41 P.M.;
- 16) March 18, 2015 at 12:21 P.M.;
- 17) March 25, 2015 at 9:28 A.M.;
- 18) March 31, 2015 at 9:54 A.M.;
- 19) April 6, 2015 at 6:35 P.M.;
- 20) April 14, 2015 at 10:12 A.M.;
- 21) April 21, 2015 at 8:03 P.M.; and
- 22) May 4, 2015 at 3:19 P.M.

16. During many of the above-referenced calls, Defendant delivered a voicemail message.

17. For example, on February 4, 2015, Defendant left the following voicemail message: "February the fourth, 10:43 A.M. extension 1210, again that number is 1-866-999-6445 at extension 1210."

18. Defendant delivered a substantially similar or identical voicemail message to Plaintiff using an artificial or pre-recorded voice on or about:

- 1) January 29, 2015 at 10:04 A.M.;
- 2) February 4, 2015 at 10:43 A.M.;
- 3) February 10, 2015 at 11:53 A.M.;
- 4) February 17, 2015 at 10:26 A.M.;
- 5) February 28, 2015 at 11:33 A.M.;
- 6) March 6, 2015 at 5:00 P.M.;
- 7) March 12, 2015 at 7:42 P.M.;
- 8) March 18, 2015 at 12:21 P.M.;
- 9) March 25, 2015 at 9:29 A.M.;
- 10) March 31, 2015 at 9:54 A.M.;
- 11) April 14, 2015 at 10:13 A.M.;
- 12) April 21, 2015 at 8:03 P.M. and
- 13) April 28, 2015 at 4:52 P.M.;

19. In each of the above mentioned voicemail messages, Defendant failed to disclose the caller's identity.

20. The voicemail messages failed to state that the call was from a debt collector.

21. The voicemail messages also failed to provide any information as to the purpose or nature of the call.

22. Upon information and belief, Plaintiff received only a fragment of the voicemail messages.

#### **CLASS ALLEGATIONS**

23. Plaintiff repeats and re-alleges all factual allegations above.

24. Upon information and belief, Defendant's voicemail messages are based on an interactive voice response system ("IVR") or pre-recorded voice that Defendant uses in their communications to a large number of consumers.

25. Upon information and belief, thousands of calls using an IVR system or pre-recorded voice are sent by Defendant each year.

26. Upon information and belief, Defendant's IVR system or pre-recorded voice sent flawed messages to a large number of individuals who received only a fragment of Defendant's voicemails, as Plaintiff did above.

27. Upon information and belief, a large number of those individuals who received a fragment of Defendant's voicemail were not properly notified of the identification of the caller, or that the message was left by a debt collector.

28. Plaintiff brings this action on behalf of herself and all others similarly situated. Specifically, Plaintiff seeks to represent the following class of individuals defined as:

All persons located in the United States to whom Defendant sent, within one year before the date of this complaint and in connection with the collection of a debt, a voicemail message substantially similar or materially identical to the February 4, 2015 message that Defendant sent to Plaintiff, where the voicemail message did not play in its entirety such that it failed to state the identification of the caller, or that it failed to meaningfully convey that it was a debt collector calling in an attempt to collect a debt.

29. The proposed class specifically excludes the United States of America, the State of South Carolina, counsel for the parties, the presiding United States District Court Judge, the Judges of the United States Court of Appeals for the Fourth Circuit, and the Justices of the United States Supreme Court, all officers and agents of Defendant, and all persons related to within the third degree of consanguinity or affection to any of the foregoing persons.

30. The class is averred to be so numerous that joinder of members is impracticable.

31. The exact number of class members is unknown to Plaintiff at this time and can be ascertained only through appropriate discovery.

32. The class is ascertainable in that the names and addresses of all class members can be identified in business records maintained by Defendant.

33. There exists a well-defined community of interest in the questions of law and fact involved that affect the parties to be represented. These common questions of law and fact predominate over questions that may affect individual class members. Such issues include, but are not limited to: (a) the existence of Defendant's identical conduct particular to the matters at issue; (b) Defendant's violations of 15 U.S.C. § 1692 *et seq.*; (c) the availability of statutory penalties; and (d) attorney's fees and costs.

34. The claims of Plaintiff are typical of the claims of the class she seeks to represent.

35. The claims of Plaintiff and of the class originate from the same conduct, practice, and procedure on the part of Defendant. Thus, if brought and prosecuted individually, the claims of each class member would require proof of the same material and substantive facts.

36. Plaintiff possesses the same interests and has suffered the same injuries as each class member. Plaintiff asserts identical claims and seeks identical relief on behalf of the unnamed class members.

37. Plaintiff will fairly and adequately protect the interests of the class and has no interest adverse to or which directly and irrevocably conflicts with the interests of other class members.

38. Plaintiff is willing and prepared to serve this Court and the proposed class.

39. The interests of Plaintiff are co-extensive with and not antagonistic to those of the absent class members.

40. Plaintiff has retained the services of counsel who are experienced in consumer protection claims, as well as complex class action litigation, will adequately prosecute this action, and will assert, protect and otherwise represent Plaintiff and all absent class members.

41. Class certification is appropriate under Fed. R. Civ. P. 23(b)(1)(A) and 23(b)(1)(B). The prosecution of separate actions by individual members of the classes would, as a practical matter, be dispositive of the interests of other members of the class who are not parties to the action or could substantially impair or impede their ability to protect their interests.

42. The prosecution of separate actions by individual members of the class would create a risk of inconsistent or varying adjudications with respect to individual members of the classes, which would establish incompatible standards of conduct for the parties opposing the class. Such incompatible standards of conduct and varying adjudications, on what would necessarily be the same essential facts, proof and legal theories, would also create and allow the existence of inconsistent and incompatible rights within the class.

43. Class certification is appropriate under Fed. R. Civ. P. 23(b)(2) in that Defendant has acted or refused to act on grounds generally applicable to the class, making final declaratory or injunctive relief appropriate.

44. Class certification is appropriate under Fed. R. Civ. P. 23(b)(3) in that the questions of law and fact that are common to members of the class predominates over any questions affecting only individual members.

45. Moreover, a class action is superior to other methods for the fair and efficient adjudication of the controversies raised in this Complaint in that: (a) individual claims by the class members will be impracticable as the costs of pursuit would far exceed what any one plaintiff or class member has at stake; (b) as a result, very little litigation has been commenced over the controversies alleged in this Complaint and individual members are unlikely to have an interest in prosecuting and controlling separate individual actions; and (c) the concentration of litigation of these claims in one forum will achieve efficiency and promote judicial economy.

**COUNT I**  
**VIOLATION OF 15 U.S.C. § 1692d(6)**

46. Plaintiff repeats and re-alleges each and every factual allegation above.

47. The FDCPA requires that a debt collector meaningfully disclose their identity. 15 U.S.C. § 1692d(6)

48. Defendant violated 15 U.S.C. § 1692d(6) by placing wireless calls without disclosing either their name, the name of the company they work for, or even that they were calling in regards to the collection of a debt.

WHEREFORE, Plaintiff prays for relief and judgment, as follows:

- a) Determining that this action is a proper class action, certifying Plaintiff as a class representative under Rule 23 of the Federal Rules of Civil Procedure, and designating this Complaint the operable complaint for class purposes;
- b) Adjudging that Defendant violated 15 U.S.C. § 1692d(6) with respect to Plaintiff and the class she seeks to represent;
- c) Awarding Plaintiff statutory damages, pursuant to 15 U.S.C. § 1692k(a)(2)(B), in an amount not to exceed \$1,000.00;
- d) Awarding all other class members such amount as the court may allow, without regard to a minimum individual recovery, and not to exceed the lesser of \$500,000 or 1 per centum of the net worth of the debt collector, pursuant to 1692k(a)(2)(B);
- e) Awarding Plaintiff, and the class she seeks to represent, actual damages, pursuant to 15 U.S.C. § 1692k(a)(1);
- f) Awarding Plaintiff, and the class she seeks to represent, reasonable attorneys' fees and costs incurred in this action, pursuant to 15 U.S.C. § 1692k(a)(3) and Rule 23;



- g) Awarding Plaintiff, and the class she seeks to represent, any pre-judgment and post-judgment interest as may be allowed under the law;
- h) Awarding such other relief as the Court may deem just and proper.

**COUNT II**  
**VIOLATION OF 15 U.S.C. § 1692e(11)**

49. Plaintiff repeats and re-alleges each and every factual allegation above.

50. “[T]he failure to disclose in subsequent communications that the communication is from a debt collector” is a violation of the FDCPA. 15 U.S.C. § 1692e(11).

51. Defendant violated 15 U.S.C. § 1692e(11) by failing to disclose their identity as a debt collector in its subsequent communications with the Plaintiff.

WHEREFORE, Plaintiff prays for relief and judgment, as follows:

- a) Determining that this action is a proper class action, certifying Plaintiff as a class representative under Rule 23 of the Federal Rules of Civil Procedure, and designating this Complaint the operable complaint for class purposes;
- b) Adjudging that Defendant violated 15 U.S.C. § 1692e(11) with respect to Plaintiff and the class she seeks to represent;
- c) Awarding Plaintiff statutory damages, pursuant to 15 U.S.C. § 1692k(a)(2)(B), in an amount not to exceed \$1,000.00;
- d) Awarding all other class members such amount as the court may allow, without regard to a minimum individual recovery, and not to exceed the lesser of \$500,000 or 1 per centum of the net worth of the debt collector, pursuant to 1692k(a)(2)(B);
- e) Awarding Plaintiff, and the class she seeks to represent, actual damages, pursuant to 15 U.S.C. § 1692k(a)(1);

- f) Awarding Plaintiff, and the class she seeks to represent, reasonable attorneys' fees and costs incurred in this action, pursuant to 15 U.S.C. § 1692k(a)(3) and Rule 23;
- g) Awarding Plaintiff, and the class she seeks to represent, any pre-judgment and post-judgment interest as may be allowed under the law;
- h) Awarding such other relief as the Court may deem just and proper.

**TRIAL BY JURY**

57. Plaintiff is entitled to and hereby demands a trial by jury.

Dated: January 19, 2016

Respectfully submitted,

/s/Holly E. Dowd

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