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8
9 **UNITED STATES DISTRICT COURT**
10 **DISTRICT OF NEVADA**

11 TODD RANDALL, individually and on
behalf of all others similarly situated,

12 Plaintiff,

13 vs.

14 Financial Services of America,

15 Defendant.

Case No.:

CLASS ACTION COMPLAINT

**VIOLATIONS OF THE FAIR DEBT
COLLECTION PRACTICES ACT,
15 U.S.C. §§ 1692, et seq. (“FDCPA”)**

DEMAND FOR JURY TRIAL

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INTRODUCTION

- 1
2 1. Plaintiff Todd Randall (“Plaintiff”), individually and on behalf of the proposed
3 Class defined below, brings this class action lawsuit for damages resulting from
4 the unlawful actions of Defendant Financial Services of America (“Defendant”
5 or “FSA”), with regard to attempts by Defendant to unlawfully and abusively
6 collect a debt allegedly owed by Plaintiff, causing Plaintiff to suffer damages.
- 7 2. Plaintiff alleges as follows upon personal knowledge as to himself and his own
8 acts and experiences and, as to all other matters, upon information and belief
9 including investigation conducted by Plaintiff’s attorneys.
- 10 3. The United States Congress has found abundant evidence of the use of abusive,
11 deceptive, and unfair debt collection practices by many debt collectors, and has
12 determined that abusive debt collection practices contribute to the number of
13 personal bankruptcies, to marital instability, to the loss of jobs, and to invasions
14 of individual privacy. Congress wrote the Fair Debt Collection Practices Act,
15 15 U.S.C. §§ 1692, *et seq.*, to eliminate abusive debt collection practices by
16 debt collectors, to ensure that those debt collectors who refrain from using
17 abusive debt collection practices are not competitively disadvantaged, and to
18 promote consistent State action to protect consumers against debt collection
19 abuses.
- 20 4. While many violations are described below with specificity, this Complaint
21 alleges violations of the statutes cited in their entirety.
- 22 5. Unless otherwise stated, all the conduct engaged in by Defendant took place in
23 the State of Nevada.
- 24 6. Any violations by Defendant were knowing, willful, and intentional, and
25 Defendant did not maintain procedures reasonably adapted to avoid any such
26 specific violation.
- 27 7. Unless otherwise indicated, the use of Defendant’s names in this Complaint
28 includes all agents, employees, officers, members, directors, heirs, successors,



1 assigns, principals, trustees, sureties, subrogees, representatives, and insurers of
2 Defendant named.

3 8. All violations alleged regarding the Fair Debt Collection Practices Act are
4 material violations as these violations would limit the ability of a hypothetical
5 least sophisticated debtor to make an intelligent choice as to the alleged debt
6 and actions that should be taken to resolve the alleged debt.

7 9. The “least sophisticated debtor” standard applies to questions of violations of §
8 1692f. *Wade v. Regional Credit Association*, 87 F.3d 1098, 1100 (9th Cir. 1996).
9 “If the least sophisticated debtor would ‘likely be misled’ by a communication
10 from a debt collector, the debt collector has violated the Act.” *Guerrero v. RJM*
11 *Acquisitions, LLC*, 499 F.3d 926, 934 (9th Cir. 2007). “The ‘least sophisticated
12 debtor’ standard is lower than simply examining whether particular language
13 would deceive or mislead a reasonable debtor.” *Gonzales v. Arrow Fin. Servs.,*
14 *LLC*, 660 F.3d 1055, 1061-62 (9th Cir. 2011). This objective standard will
15 ensure that the FDCPA protects all consumers, the gullible as well as the
16 shrewd, the ignorant, the unthinking and the credulous. *Clark v. Capital Credit*
17 *& Collection Servs.*, 460 F.3d 1162, 1171 (9th Cir. 2006) (citing *Clomon v.*
18 *Jackson*, 988 F.2d 1314, 1318-19 (2d Cir. 1993)).

19 JURISDICTION AND VENUE

20 10. This Court has federal question jurisdiction over this action pursuant to 28
21 U.S.C. § 1331 and 15 U.S.C. § 1692(k).

22 11. This action arises out of Defendant’s violations of the Fair Debt Collection
23 Practices Act, 15 U.S.C. §§ 1692 et seq. (the “FDCPA” or the “Act”).

24 12. Defendant is subject to personal jurisdiction in Nevada, as Defendant conducts
25 business in Nevada, and specifically reached into Nevada to attempt to collect
26 debt from Plaintiff in Nevada.

27 13. Venue is proper pursuant to 28 U.S.C. § 1391 because all the events giving rise
28 to this lawsuit occurred in Nevada within this judicial district, Plaintiff resides

1 within this federal judicial district, the conduct complained of herein occurred
2 within this federal judicial district, and Defendant conducted business within
3 this federal judicial district at all times relevant.

4 **PARTIES**

- 5 10. Plaintiff is a natural person who resides in Las Vegas, Clark County, Nevada.
6 11. Plaintiff is alleged to owe a “debt” as that term is defined by 15 U.S.C.
7 1692a(5) and is a “consumer” as that term is defined by 15 U.S.C. § 1692a(3).
8 12. Defendant FSA is a debt collection agency incorporated under the laws of the
9 State of Illinois and regularly conducts business in the State of Nevada.
10 13. Defendant is a debt collection agency and does business in the State of Nevada.
11 14. Defendant uses an instrumentality of interstate commerce or the mails in a
12 business the principal purpose of which is the collection of debts, or who
13 regularly collects or attempts to collect, directly or indirectly, debts owed or due
14 or asserted to be owed or due another and are a “debt collector” as defined by
15 15 U.S.C. § 1692a(6).

16 **FACTUAL ALLEGATIONS**

- 17 15. Plaintiff incorporates by reference all of the above paragraphs of this Complaint
18 as though fully stated herein.
19 16. Plaintiff allegedly incurred financial obligations (the “Debt”) to an original
20 creditor, Travel Winds Vacation Travel Club (the “Original Creditor”) that were
21 money, property, or their equivalent, which is due or owing, or alleged to be
22 due or owing, arising from a transaction which was primarily for personal,
23 family, or household purposes; and therefore a “debt” as that term is defined by
24 15 U.S.C. § 1692a(5).
25 17. Sometime thereafter, Defendant claims Plaintiff fell behind in the payment(s)
26 allegedly owed on the Debt.

27 **May 16, 2023, Letter from Defendant FSA**



1 18. On May 16, 2023, Defendant FSA sent Plaintiff a harassing letter attempting to
2 collect the alleged Debt.

3 19. FSA stated that Plaintiff’s alleged Debt has been transferred to FSA for
4 collection; “We are attempting to collect on your account . . . This account has
5 been transferred for collection to FSA to resolve this open, unpaid, and accruing
6 debt.”

7 20. FSA failed to provide the required notices, specifically the notices under 15
8 U.S. § 1692g(a)(1), 1692g(a)(3-5).

9 21. The May 16, 2023, Letter was the first written correspondence from FSA and
10 failed to meet the 15 U.S. § 1692g(a) notice requirements.

11 22. The May 16, 2023, Letter, also fails to inform Plaintiff that the communication
12 was from a debt collector and that the letter was an attempt to collect a debt,
13 pursuant to the 15 U.S.C. § 1692e(11) notice requirements.

14 **Plaintiff’s June 1, 2023, Letter to Defendant FSA**

15 23. On June 1, 2023, Plaintiff communicated to FSA about the alleged Debt, asking
16 for the proper legal documents proving the validity of the alleged Debt.

17 **July 18, 2023, Letter from Defendant FSA**

18 24. On July 18, 2023, Plaintiff received another letter from Defendant FSA
19 regarding the alleged Debt stating that it was FSA’s “Second Notice” to the
20 Plaintiff.

21 25. The July 18, 2023, letter, was similar to its prior May 16, 2023, letter, stated
22 that Plaintiff’s alleged debt has been transferred to FSA for collection.

23 26. Defendant FSA never sent Plaintiff any documents validating the Debt but
24 continued its attempts to collect the Debt in violation of 15 U.S.C. § 1692g(b).

25 27. The July 18, 2023, letter once more stated that “[FSA is] attempting to collect
26 on your account . . . This account has been transferred for collection to FSA to
27 resolve this open, unpaid, and accruing debt.”
28



- 1 28. Similarly, the July 18, 2023, Letter also failed to inform Plaintiff that the
2 communication was from a debt collector, that the communication was an
3 attempt to collect a debt, and that any information obtained would be used for
4 the purpose of the collection of a debt, in violation of 15 U.S. § 1692e(11)
5 notice requirements.
- 6 29. Defendant's collections activities and communications above violated 15 U.S.C.
7 § 1692e(2) by falsely representing the amount and the legal status of the Debt in
8 the various collection communications and documents sent to Plaintiff.
- 9 30. Defendant's collections activities and communications above violated 15 U.S.C.
10 § 1692e(10) by Defendant's use of various false representations and deceptive
11 means in connection with its attempts to collect the Debt from Plaintiff.
- 12 31. Defendant's collections activities and communications above violated 15 U.S.C.
13 § 1692f because Defendant utilized unfair and unconscionable means in its
14 attempts the Debt from Plaintiff.
- 15 32. Defendant's collections activities and communications above violated 15 U.S.C.
16 § 1692f(1) because Defendant attempted to collect an amount not expressly
17 authorized by the agreement creating the debt or permitted by law.
- 18 33. Each of Defendant's collection communications described above (January 5,
19 2023, February 8, 2023) violated 15 U.S.C. § 1692e(10) by Defendant's use of
20 false representations and deceptive means in connection with its attempts to
21 collect an alleged debt.
- 22 34. Each of Defendant's collection communications described above (January 5,
23 2023, February 8, 2023) violated 15 U.S.C. § 1692f by using unfair and
24 unconscionable means in connection with the collection of Plaintiff's alleged
25 debt.
- 26 35. Defendant's collections activities and communications above violated 15 U.S.C.
27 § 1692g(a) because Defendant's initial communication did not provide Plaintiff
28 with the required language per the statute;

1 (3) a statement that unless the consumer, within thirty days
2 after receipt of the notice, disputes the validity of
3 the debt, or any portion thereof, the debt will be assumed to
4 be valid by the debt collector;

5 (4) a statement that if the consumer notifies
6 the debt collector in writing within the thirty-day period that
7 the debt, or any portion thereof, is disputed,
8 the debt collector will obtain verification of the debt or a
9 copy of a judgment against the consumer and a copy of such
10 verification or judgment will be mailed to the consumer by
11 the debt collector; and

12 (5) a statement that, upon the consumer's written request
13 within the thirty-day period, the debt collector will provide
14 the consumer with the name and address of the
15 original creditor, if different from the current creditor.

16 36. Defendant's collections activities and communications above violated 15 U.S. §
17 1692g(b) because it continued collecting on the Debt without providing Plaintiff
18 any validation of the Debt after Plaintiff had requested it from Defendant.

19 37. Defendant's collections activities and communications above violated 15 U.S.C.
20 § 1692e(11) because it failed to provide the required notices in its
21 communications per the statute;

22 (11) The failure to disclose in the initial written
23 communication with the consumer and, in addition, if the
24 initial communication with the consumer is oral, in that
25 initial oral communication, that the debt collector is
26 attempting to collect a debt and that any information
27 obtained will be used for that purpose, and the failure to
28 disclose in subsequent communications that the

1 communication is from a debt collector, except that this
2 paragraph shall not apply to a formal pleading made in
3 connection with a legal action.

4 38. The foregoing acts and omissions of the Defendant constitute numerous and
5 multiple violations of the FDCPA, including every one of the above cited
6 provisions.

7 39. Plaintiff has been misled, suffered mental anguish and emotional distress,
8 inconvenience, frustration, and stress, and is therefore entitled to actual
9 damages under 15 U.S.C. § 1692k(a)(1), statutory damages in an amount up to
10 \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A) and reasonable attorney's
11 fees and costs pursuant to 15 U.S.C. § 1692k(a)(3) from Defendant.

12 40. The foregoing acts and omissions of Defendant constitute numerous and
13 multiple violations of the 15 U.S.C. §§ 1692, et seq., including but not limited
14 to each one of the above cited provisions.

15 41. Defendant's debt collection letter to Plaintiff on May 16, 2023, constituted a
16 "communication" as that term is defined by 15 U.S.C. § 1692a(2). Every
17 communication after those letters also constituted a "communication" under 15
18 U.S.C. § 1692a(2).

19 42. In Defendant's May 16, 2023, collection communications Defendant failed to
20 meet the notice requirements required pursuant to 15 U.S.C. § 1692g(a).

21 43. Defendant's May 16, 2023, collection communications failed to provide
22 Plaintiff "a statement that unless the consumer, within thirty days after receipt
23 of the notice, disputes the validity of the debt, or any portion thereof, the debt
24 will be assumed to be valid by the debt collector" in violation of 15 U.S.C. §
25 1692g(a)(3).

26 44. Defendant's May 16, 2023, collection communications failed to provide
27 Plaintiff and, upon information and belief, the Classes of similarly situated
28 persons "a statement that if the consumer notifies the debt collector in writing



1 within the thirty-day period that the debt or any portion thereof is disputed the
2 debt collector will obtain verification of the debt or a copy of a judgment
3 against the consumer and a copy of such verification or judgment will be mailed
4 to the consumer by the debt collector” in violation of 15 U.S.C. § 1692g(a)(4).

5 45. Defendant’s May 16, 2023, collection communications failed to provide
6 Plaintiff and, upon information and belief, the Classes of similarly situated
7 persons “a statement that, upon the consumer’s written request within the thirty-
8 day period, the debt collector will provide the consumer with the name and
9 address of the original creditor, if different from the current creditor” in
10 violation of 15 U.S.C. § 1692g(a)(4).

11 46. Defendant’s May 16, 2023, collection communications misrepresented and
12 deceived Plaintiff regarding Plaintiff’s statutory rights under 15 U.S.C. §
13 1692g(a)(3), (4), and (5).

14 47. The purpose of 15 U.S.C. § 1692g is to ensure that consumers are made aware
15 of their rights with respect to debt collection activities. *Higgins v. Capital*
16 *Credit Services, Inc.*, 762 F. Supp. 1128, 1134 (1991).

17 48. Defendant’s collection communications violated 15 U.S.C. § 1692e(10) by
18 Defendant’s use of false representations and deceptive means in connection
19 with its attempts to collect the Debt from Plaintiff.

20 49. Further, each of Defendant’s collection communications described above (May
21 16, 2023, and July 18, 2023) failed to provide Plaintiff notice “that the debt
22 collector is attempting to collect a debt and that any information obtained will
23 be used for that purpose and the failure to disclose in subsequent
24 communications that the communication is from a debt collector except that this
25 paragraph shall not apply to a formal pleading made in connection with a legal
26 action” in violation of 15 U.S.C. § 1692e(11).



- 1 50. Each of Defendant's collection communications described above (May 16,
2 2023, and July 18, 2023) misrepresented and deceived Plaintiff regarding
3 Plaintiff's statutory rights under the FDCPA.
- 4 51. Each of Defendant's collection communications described above (May 16,
5 2023, and July 18, 2023) violated 15 U.S.C. § 1692e(10) by Defendant's use of
6 false representations and deceptive means in connection with its attempts to
7 collect an alleged debt.
- 8 52. Each of Defendant's letters described above (May 16, 2023, and July 18, 2023)
9 violated 15 U.S.C. § 1692f by using unfair and unconscionable means in
10 connection with the collection of Plaintiff's alleged debt.
- 11 53. As alleged in this Complaint, Defendant engaged in unlawful, deceptive, and
12 abusive collection activity with regard to their attempts to collect an alleged
13 debt from Plaintiff and similarly situated Class members through its conduct
14 and communications similar to those described above. Such conduct constitutes
15 violations of 15 U.S.C. §§ 1692g(a), 1692e, and 1692f of the FDCPA.

16 **CLASS ACTION ALLEGATIONS**

- 17 54. Plaintiff brings this class action on behalf of himself, and on behalf of all others
18 similarly situated.
- 19 55. Plaintiff represents and intends to certify the Classes defined below:

20 **Initial Communication Class**

21 All persons in the United States who were sent an initial
22 written communication substantially similar or identical to
23 Defendant FSA's January 5, 2023, collection
24 communication, in attempt to recover a consumer debt,
which was not returned undelivered by the United States
Postal Service, within one (1) year prior to the filing of the
Complaint in this action.

25 **Mini-Miranda Notice Class**

26 All persons in the United States who were sent written
27 communication substantially similar or identical to
28 Defendant FSA's January 5, 2023, collection
communication, in attempt to recover a consumer debt,
which was not returned undelivered by the United States

1 Postal Service, within one (1) year prior to the filing of the
2 Complaint in this action.

3 56. Defendant and their employees or agents are excluded from the Class.

4 57. Plaintiff does not know the exact number of persons in the Class, making
5 joinder of all these actions impracticable.

6 58. The identities of individual members are ascertainable through Defendant's
7 and/or Defendant's agents' records or by public notice.

8 59. There is a well-defined community of interest in the questions of law and fact
9 involved affecting the members of the Classes. The questions of law and fact
10 common to the Classes predominate over questions affecting only individual
11 class members, and include, but are not limited to, the following:

12 a. Whether Defendant violated the FDCPA as described herein;

13 b. Whether members of the Classes are entitled to the remedies under the
14 FDCPA;

15 c. Whether members of the Classes are entitled to an award of reasonable
16 attorneys' fees and costs of suit pursuant to the FDPCA;

17 60. As a person who received at least one written communication from Defendant
18 in violation of the FDCPA, as alleged in the Complaint, Plaintiff will fairly and
19 adequately protect the interests of the Class.

20 61. Plaintiff has retained counsel experienced in consumer class action litigation
21 and in handling claims involving unlawful debt collection practices.

22 62. Plaintiff's claims are typical of the claims of the Class, which all arise from the
23 same operative facts involving unlawful collection practices.

24 63. A class action is a superior method for the fair and efficient adjudication of this
25 controversy.

26 64. Class-wide damages are essential to induce Defendant to comply with the
27 federal alleged in the Complaint.
28



- 1 65. The interests of class members in individually controlling the prosecution of
2 separate claims against Defendant is small because the combined maximum
3 statutory damages in an individual action under the FDCPA is \$1,000.
4 Management of these claims is likely to present significantly fewer difficulties
5 than those presented in many class claims, *e.g.*, securities fraud.
- 6 66. Defendant has acted on grounds generally applicable to the Class, thereby
7 making appropriate final declaratory relief with respect to the Classes as a
8 whole.

9 **COUNT ONE**

10 **Violation of the Fair Debt Collection Practices Act**

11 **15 U.S.C. §§ 1692, et seq. (FDCPA)**

- 12 67. Plaintiff repeats, re-alleges, and incorporates by reference, all other paragraphs
13 of the Complaint as though fully stated herein.
- 14 68. The foregoing acts and omissions constitute numerous and multiple violations
15 of the FDCPA, including but not limited to each and every one of the above-
16 cited provisions of the FDCPA, 15 U.S.C. §§ 1692 et seq.
- 17 69. As a result of Defendant's violations of the FDCPA, Plaintiff is entitled to any
18 actual damages pursuant to 15 U.S.C. § 1692k(a)(1); statutory damages for a
19 knowing or willful violation in the amount up to \$1,000.00 pursuant to 15
20 U.S.C. § 1692k(a)(2)(A); and reasonable attorney's fees and costs pursuant to
21 15 U.S.C. § 1692k(a)(3) from Defendant.

22 **PRAYER FOR RELIEF**

23 WHEREFORE, Plaintiff prays that judgment be entered against Defendant,
24 and Plaintiff be awarded damages from Defendant, as follows:

- 25 • That this action be certified as a class action on behalf of the Classes and
26 Plaintiff be appointed as the representative of the Classes and Plaintiff's
27 attorneys be appointed as Class Counsel;
- 28

- An Order providing Plaintiff and the Class members with injunctive relief, enjoining Defendant from continuing use of collection communications substantially in the form of the collection communications at issue;
- An award of actual damages, in an amount to be determined at trial, pursuant to 15 U.S.C. § 1692k(a)(1), against Defendant for Plaintiff and each putative Class member;
- An award of statutory damages of \$1,000.00, pursuant to 15 U.S.C. § 1692k(a)(2)(A), against Defendant for Plaintiff and each putative Class member;
- An award of costs of litigation and reasonable attorney’s fees, pursuant to 15 U.S.C. § 1692k(a)(3), against Defendant; and
- Any and all other relief that this Court deems just and proper.

DEMAND FOR JURY TRIAL

70. Plaintiff is entitled to, and demands, a trial by jury on all issues so triable.

DATED this 3rd day of January 2024.

Respectfully submitted,

KAZEROUNI LAW GROUP, APC

By: /s/ Gustavo Ponce

Gustavo Ponce, Esq.

Mona Amini, Esq.

6787 W. Tropicana Ave., Ste 250

Las Vegas, Nevada 89103

Attorneys for Plaintiff



EXHIBIT A

Financial Services of America



415 N. State Street
Litchfield, IL 62056

833-731-7964

Todd Randall
4434 Hidden Oak Ct
LAS VEGAS, NV 89103
USA

Member #: TW3265PDN
Trade Winds Vacations

May 16, 2023

We are attempting to collect on your account and any information obtained will be used for that purpose. This account has been transferred for collection to FSA to resolve this open, unpaid, and accruing debt.

Please be advised, that you have been sent at least five (5) letters by U.S. mail, e-mailed, and telephoned on several occasions to notify you that your account is hundreds of dollars in arrears.

Per IRS publication 4681 we may be required to report to the Internal Revenue Service on any debt forgiven in excess of \$600.00 as income to you. In general, you must report any taxable amount of a canceled debt as ordinary income from the cancellation of debt on Form 1040-SR, U.S. Individual Tax Return.

We have been authorized to offer a settlement of this debt if you contact our offices within 14 days of receipt of this letter.

Please contact our offices at: 833-731-7964.

If you choose not to accept this settlement, we will have no other choice but to report this debt as taxable to the IRS. We look forward to hearing from you.

Sincerely,

Robert Walls
Director of Operations



SECOND NOTICE

415 N. State Street
Litchfield, IL 62056

833-731-7964

Todd Randall

4434 Hidden Oak Ct
LAS VEGAS, NV 89103
USA

Member #: TW3265PDN
Trade Winds Vacations

July 18, 2023

We are attempting to collect on your account and any information obtained will be used for that purpose. This account has been transferred for collection to FSA to resolve this open, unpaid, and accruing debt.

Please be advised, that you have been sent at least five (5) letters by U.S. mail, e-mailed, and telephoned on several occasions to notify you that your account is hundreds of dollars in arrears.

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Robert Walls
Director of Operations