

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO.:

CHARLES CAGLE, an individual,  
on behalf of himself and all others  
similarly situated,

Plaintiff,

vs.

**CLASS ACTION**

PROCOLLECT, INC., a Texas  
corporation,

Defendant.  
\_\_\_\_\_ /

**COMPLAINT FOR DAMAGES AND INCIDENTAL RELIEF**

Plaintiff, Charles Cagle, an individual, on behalf of himself and all others similarly situated, sues Defendant, ProCollect, Inc., a Texas corporation, and alleges:

**I. PRELIMINARY STATEMENT**

1. This is an action brought pursuant to 15 U.S.C. §1692, *et sequi*, known more commonly as the “Fair Debt Collection Practices Act” (“FDCPA”), which prohibits debt collectors from engaging in abusive, deceptive and unfair practices.

**II. JURISDICTION**

2. The jurisdiction of this Court arises under 15 U.S.C. §1692k and 28 U.S.C. §1337.

**III. ALLEGATIONS AS TO PARTIES**

3. Plaintiff, Charles Cagle (“Mr. Cagle”), is *sui juris* and a resident of Broward County, Florida.

4. At all times material hereto, Defendant, ProCollect, Inc. (“ProCollect”), was a Texas corporation, doing business in Broward County, Florida.

5. Defendant is or was engaged in the collection of debts from consumers using the mail and telephone. Defendant regularly attempted to collect consumer debts alleged to be due to another in Broward County, Florida.

#### IV. FACTUAL ALLEGATIONS

6. For an extended period of time, Defendant acted as the debt collector for various residential rental apartment complex owners in the State of Florida, including but not necessarily limited to Jacksonville Student Housing, LLC, a Delaware limited liability company (“JSH”).

7. In the course of its representation of the various apartment properties, Defendant regularly collected or attempted to collect monies from consumers for delinquent rent payments and fees under lease agreements (“Apartment Fees”).

8. On or about August 13, 2016, Mr. Cagle entered into a Student Housing Lease Contract with JSH to rent a student apartment for the use of his son in college.

9. On or about August 2, 2017, Defendant sent or caused to be sent to Mr. Cagle written correspondence, known more commonly in the collection industry as a “dunning letter,” for the purpose of collecting monies for Apartment Fees purportedly owed by Mr. Cagle to the Apartment (“Collection Communication”).

10. A true and correct copy of the Collection Communication is attached hereto and incorporated by reference as Exhibit “A.”

11. The Collection Communication provided stated, *inter alia*, as follows:

**Please note that Federal law gives you thirty (30) days from the date you receive this letter to dispute the validity of the above-referenced debt, or any portion thereof. If you do not dispute the debt within the foregoing thirty (30) day period, we will**

**assume the debt is valid. If you notify us in writing within the foregoing 30-day period that the debt, or any portion thereof, is disputed, we will obtain verification of the debt or a copy of a judgment against you, if applicable, and mail the same to you. In this same written notice, you may also ask us to provide you with the name and address of the original creditor, if it is different from the current Creditor referenced above.**

(emphasis by Plaintiff).

#### **V. DEFENDANT'S PRACTICES**

12. It is or was the policy and practice of Defendant to send collection letters in the form of Exhibit "A" to consumers in a manner which was reasonably calculated to confuse or frustrate consumers with respect to advising consumers as to the right of consumers with respect to the validation of consumer debts under 15 U.S.C. §1692g.

#### **VI. CLASS ACTION ALLEGATIONS**

13. This action is brought on behalf of a class consisting of (i) all persons with addresses in the state of Florida (ii) to whom letters the same form as Exhibit "A" were sent (iii) in an attempt to collect a debt which, according to the nature of the creditor or the debt, or the records of the creditor or defendants, was incurred for personal, family, or household purposes (iv) which were not returned undelivered by the U.S. Post Office (v) during the one year period prior to the filing of the complaint in this action.

14. Plaintiff alleges on information and belief based on the Defendant's use of letters in the form of Exhibit "A" that the class is so numerous that joinder of all members is impractical. Based on Defendant's use of letters in the form of Exhibit "A," Plaintiff estimates that the class includes hundreds or thousands of class members.

15. There are questions of law or fact common to the class, which common issues predominate over any issues involving only individual class members. The common factual issue

common to each class member is that each was sent a letter in the form of Exhibit "A." The principal legal issues are whether Defendant's letters in the form of Exhibit "A" violate the FDCPA by failing to provide a validation notice which complied with the requirements of 15 U.S.C. §1692g.

16. Mr. Cagle's claim is typical of those of the class members. All are based on the same facts and legal theories.

17. Mr. Cagle will fairly and adequately protect the interests of the class. He has retained counsel experienced in handling actions involving unlawful practices under the FDCPA and class actions. Neither Plaintiff nor his counsel have any interests which might cause them not to vigorously pursue this action.

18. Certification of the class under Rule 23(b)(3) of the Federal Rules of Civil Procedure is also appropriate in that:

(1) The questions of law or fact common to the members of the class predominate over any questions affecting an individual member.

(2) A class action is superior to other available methods for the fair and efficient adjudication of the controversy.

19. Certification of a class under Rule 23(b)(2) of the Federal Rules of Civil Procedure is also appropriate in that Defendant has acted on grounds generally applicable to the class thereby making appropriate declaratory relief with respect to the class as a whole.

20. Mr. Cagle requests certification of a hybrid class of Rule 23(b)(3) for monetary damages and Rule 23(b)(2) for equitable relief.

## VII. ALLEGATIONS OF LAW

21. At all times material hereto, Mr. Cagle was a “consumer” as said term is defined under 15 U.S.C. §1692a(3).

22. At all times material hereto, JSH and the other owners of apartment complexes were each a “creditor(s)” as said term is defined under 15 U.S.C. §1692a(4).

23. At all times material hereto, the Apartment Fees purportedly owed to JSH and the other owners of apartment complexes were a “debt” as said term is defined under 15 U.S.C. §1692a(5).

24. At all times material hereto, Defendant was a “debt collector” as said term is defined under 15 U.S.C. §1692a(6).

25. 15 U.S.C. §1692g(a) provides, in pertinent part, the following:

### Notice of Debts; Contents

Within five days after the initial communication from the consumer in connection with the collection of any debt, a debt collector shall, unless the following information is contained in the initial communication or the consumer has paid the debt, send the consumer written notice containing:

- (1) The amount of the debt;
- (2) The name of the creditor to whom the debt is owed;
- (3) A statement that unless the consumer, within thirty days after receiving the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector;
- (4) A statement that if the consumer notifies the debt collector in writing within the thirty day period, the debt, or any portion thereof, is disputed, the debt collector will obtain verification of the debt or a copy of the judgment against the consumer and a copy of such verification or judgment will be mailed to the consumer by the debt collector; and

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

26. The conduct of Defendant violated the FDCPA, 15 U.S.C. §1692, *et sequi*, including but not limited to the failure to properly inform the consumer as to the consumer's rights for debt verification in a manner which was not reasonably calculated to confuse or frustrate the least sophisticated consumer in violation of 15 U.S.C. §1692g. In particular, the Defendant improperly required consumers to dispute consumer debts in order to obtain the name and address of the original creditor in a manner contrary to 15 U.S.C. §1692g(a)(5).

27. As a result of Defendant's conduct, Plaintiff and the class have suffered a concrete and legally cognizable injury by not receiving the disclosures mandated by Congress under the FDCPA. Accordingly, Plaintiff and the class are entitled to an award of statutory damages pursuant to 15 U.S.C. §1692k.

28. Plaintiff and the class are entitled to an award of costs and attorney's fees pursuant to 15 U.S.C. §1692k.

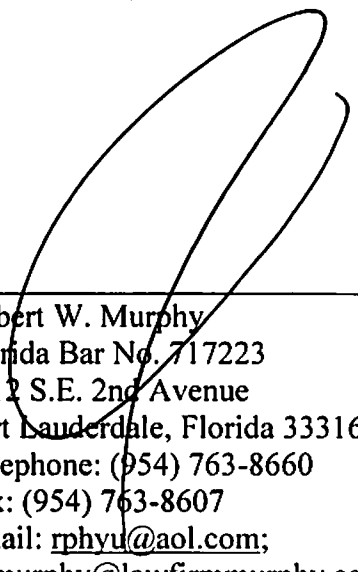
WHEREFORE, Plaintiff, Charles Cagle, an individual, on behalf of himself and all others similarly situated, requests judgment be entered in his favor and in favor of the class against Defendant, ProCollect, Inc., a Texas corporation:

- A. Declaratory judgment that Defendant's Exhibit "A" violates the FDCPA;
- B. Statutory damages pursuant to 15 U.S.C. §1692k;
- C. An award of costs and attorney's fees pursuant to 15 U.S.C. §1692k; and
- D. Such other and further relief as the Court may deem just and equitable.

**DEMAND FOR JURY TRIAL**

Plaintiff, Charles Cagle, an individual, on behalf of himself and all others similarly situated, pursuant to Rule 38(b), Federal Rules of Civil Procedure, demands a trial by jury of all issues so triable.

Dated this 9th day of November, 2017.



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Robert W. Murphy  
Florida Bar No. 717223  
1212 S.E. 2nd Avenue  
Fort Lauderdale, Florida 33316  
Telephone: (954) 763-8660  
Fax: (954) 763-8607  
Email: [rphyu@aol.com](mailto:rphyu@aol.com);  
[rwmurphy@lawfirmmurphy.com](mailto:rwmurphy@lawfirmmurphy.com)

*Counsel for Plaintiff*

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.) NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.

I. (a) PLAINTIFFS Charles Cagle, an individual, on behalf of himself and all others similarly situated DEFENDANTS ProCollect, Inc., a Texas corporation

(b) County of Residence of First Listed Plaintiff Broward (EXCEPT IN U.S. PLAINTIFF CASES) County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

(c) Attorneys (Firm Name, Address, and Telephone Number) Robert W. Murphy, Esquire, 1212 S.E. 2nd Avenue, Fort Lauderdale, Florida 33316 / Telephone: (954) 763-8660 Attorneys (If Known)

(d) Check County Where Action Arose: MIAMI-DADE MONROE BROWARD PALM BEACH MARTIN ST. LUCIE INDIAN RIVER OKEECHOBEE HIGHLANDS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only) III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Form with checkboxes for Basis of Jurisdiction (Federal Question, Diversity) and Citizenship of Principal Parties (Citizen of This State, Citizen of Another State, Foreign Nation).

IV. NATURE OF SUIT (Place an "X" in One Box Only) CONTRACT TORTS

Form with checkboxes for Nature of Suit categories: CONTRACT, REAL PROPERTY, PERSONAL INJURY, CIVIL RIGHTS, PRISONER PETITIONS, LABOR, IMMIGRATION, FORFEITURE/PENALTY, LABOR, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

Form with checkboxes for Origin of Proceeding (Original Proceeding, Removed from State Court, Re-filed, Reinstated, Transferred, Multidistrict Litigation, Appeal, Multidistrict Litigation - Direct File, Remanded from Appellate Court).

VI. RELATED/ RE-FILED CASE(S) (See instructions): a) Re-filed Case YES NO b) Related Cases YES NO JUDGE: DOCKET NUMBER:

VII. CAUSE OF ACTION 15 U.S.C. §1692, et sequi, Violation of the Fair Debt Collection Practices Act LENGTH OF TRIAL via 3 days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE DATE 11/09/17 SIGNATURE OF ATTORNEY OF RECORD



# **EXHIBIT “A”**

# ProCollect

Incorporated  
P.O. Box 550369  
Dallas, Texas 75355-0369  
(214) 341-7788  
(800) 839-8186

Office Hours  
Mon-Thurs 8:00AM - 8:00PM (CST)  
Fri 8:00AM - 5:00PM (CST)  
Sat 8:00AM - 2:00PM (CST)

August 2, 2017

Charles Cagle  
[Redacted]  
[Redacted]

Creditor:	DISTRICT ON KERNAN
Account #:	[Redacted] 1467
Customer#:	2033
Amount Due:	\$2,590.56
Collection Fee:	\$7.50 *
Total Due:	\$2,598.06

Dear Charles Cagle

We are debt collectors. Your account with the above-referenced Creditor has been referred to us for collection.

Please note that Federal law gives you thirty (30) days from the date you receive this letter to dispute the validity of the above-referenced debt, or any portion thereof. If you do not dispute the debt within the foregoing thirty (30) day period, we will assume the debt is valid. If you notify us in writing within the foregoing 30-day period that the debt, or any portion thereof, is disputed, we will obtain verification of the debt or a copy of a judgment against you, if applicable, and mail the same to you. In this same written notice, you may also ask us to provide you with the name and address of the original creditor, if it is different from the current Creditor referenced above.

Please also note that the law does not require us to wait until the end of the 30-day period to continue our efforts to collect the above Total Due. However, if you notify us in writing that the debt, or any portion of the debt, is disputed, or that you request the name and address of the original creditor, the law requires us to suspend our collection efforts (litigation or otherwise) until we mail the requested information to you, at which time, we may renew our collection efforts.

Finally, please understand that this is an attempt to collect a debt. Any information obtained will be used for that purpose.

If you have any questions regarding your account or if you wish to pay your bill, please feel free to give us a call or visit us at [paypcipaymentsservices.com](http://paypcipaymentsservices.com). \* Collection fee is authorized by the agreement with your Creditor or state law.

Cordially,

Chat live with a representative at [PayProCollect.com](http://PayProCollect.com)

Curt Bond  
ProCollect, Inc.

Please detach and mail payment with coupon or visit [PayProCollect.com](http://PayProCollect.com) to make a payment online.



Name: Charles Cagle  
Account #: [Redacted] 1467  
Customer#: 2033  
Amount Due: \$2,598.06  
Amount Paid: \_\_\_\_\_

Check Enclosed

For other payment options, please call ProCollect at (214) 341-7788

Ver PC1-4/22/2011



Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_ .

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_ , who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify)*:

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

**Print**

**Save As...**

**Reset**

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [ProCollect Accused of Miscommunicating Consumer's Debt Dispute Rights](#)

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