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10 Attorney for Plaintiff

11 **UNITED STATES DISTRICT COURT**
12 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
13 **Eastern Division**

14 Marianne Carroll, individually and
15 on behalf of all others similarly
16 situated,

17 Plaintiff,

18 -against-

19 Financial Credit Network, Inc. and
20 John Does 1-25,

21 Defendant.

Case No.:

CLASS ACTION COMPLAINT for
violations of the Fair Debt Collection
Practices Act, 15 U.S.C. § 1692 *et seq.*

DEMAND FOR JURY TRIAL

22 Plaintiff Marianne Carroll ("Plaintiff" or "Carroll"), a California resident,
23 brings this Class Action Complaint by and through her attorneys, The Law Offices
24 of Jonathan A. Stieglitz, against Defendant Financial Credit Network, Inc.
25 ("Defendant"), individually and on behalf of a class of all others similarly situated,
26 pursuant to Rule 23 of the Federal Rules of Civil Procedure, based upon
27 information and belief of Plaintiff's counsel, except for allegations specifically
28 pertaining to Plaintiff, which are based upon Plaintiff's personal knowledge.

1 **INTRODUCTION / PRELIMINARY STATEMENT**

- 2 1. Congress enacted the FDCPA in 1977 in response to the “abundant
3 evidence of the use of abusive, deceptive, and unfair debt collection
4 practices by many debt collectors.” 15 U.S.C. §1692(a). At that time,
5 Congress was concerned that “abusive debt collection practices contribute
6 to the number of personal bankruptcies, to material instability, to the loss of
7 jobs, and to invasions of individual privacy.” *Id.* Congress concluded that
8 “existing laws ... [we]re inadequate to protect consumers,” and that “the
9 effective collection of debts” does not require “misrepresentation or other
10 abusive debt collection practices.” 15 U.S.C. §1692(b) & (c).
11
12 2. Congress explained that the purpose of the Act was not only to eliminate
13 abusive debt collection practices, but also to “insure that those debt
14 collectors who refrain from using abusive debt collection practices are not
15 competitively disadvantaged.” *Id.* §1692(e). After determining that the
16 existing consumer protection laws were inadequate, *Id.* §1692(b), Congress
17 gave consumers a private cause of action against debt collectors who fail to
18 comply with the Act. *Id.* §1692k.
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24 **JURISDICTION AND VENUE**

- 25 3. The Court has jurisdiction over this class action pursuant to 28 U.S.C.
26 § 1331, as well as 15 U.S.C. § 1692 *et seq.* The Court also has pendent
27
28

1 jurisdiction over the State law claims in this action pursuant to 28 U.S.C.
2 § 1367(a).

- 3
4 4. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2),
5 as this is where a substantial part of the events or omissions giving rise to
6 the claim occurred, Plaintiff resides here and Defendant transacts business
7 within this venue.
8

9 **NATURE OF THE ACTION**

- 10 5. Plaintiff brings this class action on behalf of a class of California
11 consumers under 15 U.S.C. § 1692 *et seq.*, commonly known as the Fair
12 Debt Collections Practices Act (“FDCPA”); and
13
14 6. Plaintiff is seeking damages and declaratory and injunctive relief.
15

16 **PARTIES**

- 17 7. Plaintiff is a resident of the State of California, County of Riverside,
18 residing at 32530 Saint Eloi, Temecula, CA 92591.
19
20 8. Defendant Financial Credit Network, Inc. is a "debt collector" as the phrase
21 is defined in 15 U.S.C. § 1692(a)(6) and used in the FDCPA, with an
22 address at 1300 W Main Street, Visalia, CA 93291.
23
24 9. Upon information and belief, Defendant is a company that uses the mail,
25 telephone, and facsimile and regularly engages in business the principal
26 purpose of which is to attempt to collect debts alleged to be due another.
27
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1 10. Defendant is a “debt collector”, as defined under the FDCPA under 15
2 U.S.C. §1692a(6).

3
4 11. John Does 1-25, are fictitious names of individuals and businesses alleged
5 for the purpose of substituting names of Defendants whose identities will be
6 disclosed in discovery and should be made parties to this action.

7
8 **CLASS ALLEGATIONS**

9 12. Plaintiffs bring this claim on behalf of the following case, pursuant to Fed.
10 R. Civ. P. 23(a) and 23(b)(3).

11 13. The class consists of:

- 12
13 a. all individuals with addresses in the State of California;
14 b. to whom Financial Credit Network, Inc. sent a collection letter
15 attempting to collect a debt;
16 c. regarding collection of a Southern California Gas debt;
17 d. that falsely stated that interest may be accruing on the debt when it
18 was not currently accruing;
19 e. which letter was sent on or after a date one (1) year prior to the
20 filing of this action and on or before a date twenty-one (21) days after
21 the filing of this action.

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25 14. The identities of all class members are readily ascertainable from the
26 records of Defendants and those companies and entities on whose behalf
27 they attempt to collect and/or have purchased debts.
28

1 15. Excluded from the Plaintiff Classes are the Defendants and all officer,
2 members, partners, managers, directors and employees of the Defendants
3 and their respective immediate families, and legal counsel for all parties to
4 this action, and all members of their immediate families.
5

6 16. There are questions of law and fact common to the Plaintiff Classes, which
7 common issues predominate over any issues involving only individual class
8 members. The principal issue is whether the Defendants' written
9 communications to consumers, in the forms attached as Exhibit "A",
10 violates 15 U.S.C. §§ 1692e, 1692g and 1692f.
11

12 17. The Plaintiffs' claims are typical of the class members, as all are based
13 upon the same facts and legal theories. The Plaintiffs will fairly and
14 adequately protect the interests of the Plaintiff Classes defined in this
15 Complaint. The Plaintiffs have retained counsel with experience in
16 handling consumer lawsuits, complex legal issues and class actions, and
17 neither the Plaintiffs nor their attorneys have any interests, which might
18 cause them not to vigorously pursue this action.
19

20 18. This action has been brought, and may properly be maintained, as a class
21 action pursuant to the provisions of Rule 23 of the Federal Rules of Civil
22 Procedure because there is a well-defined community interest in the
23 litigation:
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1 a. **Numerosity:** The Plaintiffs are informed and believe, and on that
2 basis allege, that the Plaintiff Classes defined above are so numerous that
3 joinder of all members would be impractical.
4

5 b. **Common Questions Predominate:** Common questions of law and
6 fact exist as to all members of the Plaintiff Classes and those questions
7 predominate over any questions or issues involving only individual class
8 members. The principal issue is whether the Defendants' written
9 communications to consumers, in the forms attached as Exhibit "A" violate
10 15 U.S.C. §1692e, §1692f and §1692g.
11

12 c. **Typicality:** The Plaintiff's claims are typical of the claims of the
13 class members. The Plaintiffs and all members of the Plaintiff classes have
14 claims arising out of the Defendants' common uniform course of conduct
15 complained of herein.
16

17 d. **Adequacy:** The Plaintiffs will fairly and adequately protect the
18 interests of the class members insofar as Plaintiffs have no interests that are
19 adverse to the absent class members. The Plaintiffs are committed to
20 vigorously litigating this matter. Plaintiffs have also retained counsel
21 experienced in handling consumer lawsuits, complex legal issues and class
22 actions. Neither the Plaintiffs nor their counsel have any interests which
23 might cause them not to vigorously pursue the instant class action lawsuit.
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1 e. **Superiority**: A class action is superior to the other available means
2 for the fair and efficient adjudication of this controversy because individual
3 joinder of all members would be impracticable. Class action treatment will
4 permit a large number of similarly situated persons to prosecute their
5 common claims in a single forum efficiently and without unnecessary
6 duplication of effort and expense that individual actions would engender.

9 19. Certification of a class under Rule 23(b)(3) of the Federal Rules of Civil
10 Procedure is also appropriate in that the questions of law and fact common
11 to members of the Plaintiff Classes predominate over any questions
12 affecting an individual member, and a class action is superior to other
13 available methods for the fair and efficient adjudication of the controversy.

16 20. Depending on the outcome of further investigation and discovery,
17 Plaintiffs may, at the time of class certification motion, seek to certify a
18 class(es) only as to particular issues pursuant to Fed. R. Civ. P. 23(c)(4).

20 **FACTUAL ALLEGATIONS**

21 21. Plaintiff incorporates by reference all of the above paragraphs of this
22 Complaint as though fully stated herein with the same force and effect as if
23 the same were set forth at length herein.

25 22. Some time prior to February 16, 2017, an obligation was allegedly incurred
26 to Southern California Gas.
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1 23. The Southern California Gas obligation arose out of a transaction involving
2 the use of Southern California Gas utilities in which money, property,
3 insurance or services, which are the subject of the transaction, are primarily
4 for personal, family or household purposes.
5

6 24. The alleged Southern California Gas obligation is a “debt” as defined by
7 15 U.S.C. 1692a(5).
8

9 25. Southern California Gas is a “creditor” as defined by 15 U.S.C. § 1692a(4).
10

11 26. Southern California Gas contracted the Defendant to collect the alleged
12 debt.
13

14 27. Defendant collects and attempts to collect debts incurred or alleged to have
15 been incurred for personal, family or household purposes on behalf of
16 creditors using the United States Postal Services, telephone and internet.
17

18 *Violation I – February 16, 2017 Collection Letter*
19

20 28. On or about February 16, 2017, Defendant sent Plaintiff a collection letter
21 (the “Letter”) regarding the alleged debt owed to Southern California Gas.
22

23 **See February 16, 2017 Collection Letter – Attached hereto as Exhibit**
24

25 **A.**
26

27 29. In the top portion of the Letter Defendant states:
28

Principal:	\$103.35
*Interest/Late Payment Charge:	\$0.00
Total Due:	\$103.35

1 30. In a later paragraph the Letter states “* When applicable, this balance will
2 continue to accrue interest per annum compounding daily.”

3
4 31. This language is misleading and deceptive because it does not actually
5 state whether the account is accruing interest and costs.

6
7 32. More importantly the Defendant’s Letter is false because this alleged debt
8 has been previously charged off and, therefore, in its current status will
9 never accrue interest.

10
11 33. The Plaintiff was easily confused by these misleading statements and was
12 unable to ascertain the exact amount owed on the alleged debt, and if over
13 time, the debt would become larger.

14
15 34. Plaintiff sustained an imminent risk of harm in that she was provided with
16 false and conflicting information about the alleged debt which prevented
17 her from making reasonable decisions about whether to pay the debt.

18
19 35. As a result of Defendant's deceptive, misleading and unfair debt collection
20 practices, Plaintiff has been damaged.

21
22 **COUNT I**
23 **VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT**
24 **15 U.S.C. § 1692e et seq.**

25 36. Plaintiffs incorporate by reference all of the above paragraphs of this
26 Complaint as though fully state herein with the same force and effect as if
27 the same were set forth at length herein.
28

1 37. Defendant's debt collection efforts attempted and/or directed towards the
2 Plaintiff violated various provisions of the FDCPA, including but not
3 limited to 15 U.S.C. § 1692e.
4

5 38. Pursuant to 15 U.S.C. § 1692e, a debt collector may not use any false,
6 deceptive or misleading representation or means in connection with the
7 collection of any debt.
8

9 39. Defendant violated said section by:

10 a. Making a false and misleading representation in violation of
11 §1692e(10).
12

13 40. By reason thereof, Defendant is liable to Plaintiff for judgment that
14 Defendant's conduct violated Section 1692e *et seq.* of the FDCPA, actual
15 damages, statutory damages, costs and attorneys' fees.
16

17 **COUNT II**
18 **VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES**
19 **ACT**
20 **15 U.S.C. § 1692f *et seq.***

21 41. Plaintiffs incorporate by reference all of the above paragraphs of this
22 Complaint as though fully state herein with the same force and effect as if
23 the same were set forth at length herein.
24

25 42. Defendant's debt collection efforts attempted and/or directed towards the
26 Plaintiff violated various provisions of the FDCPA, including but not
27 limited to 15 U.S.C. § 1692f.
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1 43. Pursuant to 15 U.S.C. §1692f, a debt collector may not use any unfair or
2 unconscionable means in connection with the collection of any debt.

3
4 44. Defendant violated this section by unfairly and falsely advising Plaintiff
5 that the amount of her loan would change due to incurred interest and fees.
6 This statement is false because the alleged debt had been previously
7 charged off and was not ever going to accrue interest and fees.
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9 45. By reason thereof, Defendant is liable to Plaintiff for judgment that
10 Defendant's conduct violated Section 1692f *et seq.* of the FDCP, actual
11 damages, statutory damages, costs and attorneys' fees.
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13 **DEMAND FOR TRIAL BY JURY**

14 46. Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff
15 hereby requests a trial by jury on all issues so triable.
16
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18 **PRAYER FOR RELIEF**

19
20 **WHEREFORE**, Plaintiff Marianne Carroll, individually and on behalf of all others
21 similarly situated demands judgment from Defendant Financial Credit Network,
22 Inc. as follows:
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24 1. Declaring that this action is properly maintainable as a Class Action
25 and certifying Plaintiff as Class representative, and Jonathan A. Stieglitz, Esq. as
26 Class Counsel;
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28 2. Awarding Plaintiff and the Class statutory damages;

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3. Awarding Plaintiff and the Class actual damages;

4. Awarding Plaintiff costs of this Action, including reasonable attorneys' fees and expenses;

5. Awarding pre-judgment interest and post-judgment interest; and

6. Awarding Plaintiff and the Class such other and further relief as this Court may deem just and proper.

Dated: December 21, 2017

Respectfully Submitted,

THE LAW OFFICES OF
JONATHAN A. STIEGLITZ

By: /s/ Jonathan A Stieglitz
Jonathan A Stieglitz

EXHIBIT “A”

FINANCIAL CREDIT NETWORK

PO Box 3084, Visalia, CA 93278
 1300 W Main Street, Visalia, CA 93291
 1610 State Street, Santa Barbara, CA 93101



(559) 733-7550 • (800) 540-9011

Office Hours (PT): Monday - Thursday: 8:00 a.m. until 6:30 p.m.
 Friday: 8:00 a.m. until 5:30 p.m. • Closed Saturdays

Date: 02/16/17 Principal: \$103.35
 FCN Account #: 10161085 *Interest/ Late Payment Charge: \$0.00
 Client Account #: 0117231564 Total Due: \$103.35
 Creditor: SOUTHERN CALIFORNIA GAS
 Service/Property Address: 1265 Kendall Dr Apt 3713

This above account has been assigned to our office for collections. The records of the creditor show that the debt is due in full. If you would like to correspond with us by email, call (800) 540-9011 or email us at email@fcnetwork.com.

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume the debt is valid. If you notify this office within 30 days from receiving this notice that you dispute the validity of this debt or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor if different from the current creditor.

As required by law, you are hereby notified that a negative credit report reflecting on your credit record may be submitted to a credit reporting agency if you fail to fulfill the term of your credit obligation. But we will not submit a negative credit report to a credit reporting agency about this credit obligation until the expiration of the time period described above. Our office may use automated telephone dialing equipment to assist you. If you do not wish to receive an automated call, please notify our office.

IMPORTANT NOTICE: This communication has been sent to you by a debt collector.

This letter/document may contain protected health care information. If you are not the intended recipient, please notify our office and destroy immediately.

*When applicable, this balance will continue to accrue interest per annum compounding daily.

NOTICE: SEE REVERSE SIDE FOR IMPORTANT INFORMATION AND PAYMENT OPTIONS
AVISO: VEA EL LADO REVERSO PARA INFORMACIÓN IMPORTANTE Y OPCIONES DE PAGO

Send the bottom portion of this notice back with your payment to be sure of proper credit.
 Envíe esta porción del aviso con su pago para que sea correctamente acreditado a su cuenta.

PO Box 3084
 Visalia CA 93278-3084
 ADDRESS SERVICE REQUESTED

FCN ACCOUNT # NÚMERO DE CUENTA	DATE FECHA	PAY THIS AMOUNT PAGUE ESTA CANTIDAD
10161085	02/16/17	\$103.35

Indicate Address Corrections in Section 2 on Reverse.
 Indique Cambio de Domicilio en la Sección 2 en el
 Reverso de este aviso.

20 834134586

 Joshua Carroll / Marianne Carroll
 5501 NW 84th Ter Apt 1422
 Kansas City MO 64154-1463

Make Check/Money Order Payable To (Hace Cheque o Giro Postal Pagadero a):

Financial Credit Network
 PO Box 3084
 Visalia CA 93278-3084



Enclosed is my check or money order
 Envío adjunto mi cheque o giro

SHOW AMOUNT PAID HERE
 ESCRIBA LA CANTIDAD A PAGAR

\$

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Financial Credit Network Facing Collection Notice Class Action in California](#)
