

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

LEA FLIGMAN
on behalf of herself and
all other similarly situated consumers

Plaintiff,

-against-

GC SERVICES LIMITED PARTNERSHIP

Defendant.

CLASS ACTION COMPLAINT

Introduction

1. Plaintiff Lea Fligman seeks redress for the illegal practices of GC Services Limited Partnership, concerning the collection of debts, in violation of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. (“FDCPA”).

Parties

2. Plaintiff is citizen of the State of New York who resides within this District.
3. Plaintiff is consumer as that term is defined by Section 1692(a)(3) of the FDCPA, in that the alleged debt that Defendant sought to collect from Plaintiff a consumer debt.
4. Upon information and belief, Defendant’s principal place of business is located in Houston, Texas.
5. Defendant is regularly engaged, for profit, in the collection of debts allegedly owed by consumers.
6. Defendant is a “debt collector” as that term is defined by the FDCPA, 15 U.S.C. § 1692(a)(6).

Jurisdiction and Venue

7. This Court has federal question jurisdiction under 15 U.S.C. § 1692k(d) and 28 U.S.C. § 1331.
8. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b), as the acts and transactions that give rise to this action occurred, in substantial part, in this district.

Allegations Particular to Lea Fligman

9. Upon information and belief, on a date better known by Defendant, Defendant began to attempt to collect an alleged consumer debt from the Plaintiff.
10. Within the one year immediately preceding this action, the Defendant left many messages on the Plaintiff's answering machine on numerous occasions.
11. The following is an example of one such message, left for the Plaintiff on or about December 21, 2016:

“This message is for Lea Fligman, this is Rhonda Ned. Please call me at 800-846-6406 ext. 5705. Thank you.”

12. The following is an example of another such message, left for the Plaintiff on or about January 4, 2017:

“This message is for Lea Fligman. My name is Nicholas Lockman. Please call me at 1-800-846-6406 ext. 5012. Thank you.”

13. The callers failed to identify themselves as debt collectors attempting to collect a debt.
14. Upon information and belief, the said messages were either pre-scripted and or pre-recorded.
15. Defendant has engaged in a pattern of leaving messages without disclosing that the communication is from a debt collector.
16. The said telephone messages are in violation of 15 U.S.C. §§ 1692d(6), 1692e,

1692e(10) and 1692e(11) for failing to indicate that the messages were from a debt collector and for not meaningfully disclosing the caller's identity which constitutes a deceptive practice.

17. On or about January 7, 2017, Defendant sent the Plaintiff a collection letter seeking to collect a balance allegedly incurred for personal purposes.

18. On the back of the said letter, the Defendant stated the following:

“UNLESS YOU, WITHIN THIRTY (30) DAYS AFTER YOUR RECEIPT OF GC SERVICES’ **INITIAL WRITTEN NOTICE** TO YOU CONCERNING THIS DEBT, DISPUTE THE VALIDITY OF THE DEBT, OR ANY PORTION THEREOF, THE DEBT WILL BE ASSUMED TO BE VALID BY GC SERVICES. IF YOU NOTIFY GC SERVICES IN WRITING WITHIN THE ABOVE DESCRIBED THIRTY (30) DAY PERIOD THAT THE DEBT, OR ANY PORTION THEREOF IS DISPUTED, GC SERVICES WILL OBTAIN VERIFICATION OF THE DEBT OR A COPY OF A JUDGEMENT AGAINST YOU AND A COPY OF SUCH VERIFICATION OR JUDGMENT WILL BE MAILED TO YOU BY GC SERVICES. UPON YOUR WRITTEN REQUEST WITHIN THE ABOVE DESCRIBED THIRTY (30) DAY PERIOD, GC SERVICES WILL PROVIDE YOU WITH THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR, IF DIFFERENT FROM THE CURRENT CREDITOR.”
(emphasis added)

19. Section 1692g(a) of the FDCPA requires that:

(a) Within five days after the initial communication with a 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 a 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 receipt of 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 that the debt, or any portion thereof, is disputed, the debt collector will obtain verification of the debt or a copy of a 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.

20. This Notice is an important statutory right which must be effectively and clearly conveyed to the debtor.
21. The Defendant's Notice implies that the thirty day period for a consumer to dispute a debt begins at the receipt of Defendant's "**INITIAL WRITTEN NOTICE**" to the consumer.
22. The Notice does not however imply, that the thirty day period to dispute a debt and/or obtain verification begins at the receipt of the Defendant's actual January 7, 2017 letter.
23. The said Notice is in violation of the FDCPA as it failed to effectively and clearly convey to the Plaintiff and the unsophisticated consumer, the correct time-frame in which a dispute need be submitted to the Defendant in order to invoke the protections of the FDCPA.
24. The language, "**INITIAL WRITTEN NOTICE**" can cause the debtor and the unsophisticated consumer to be confused and misled as to when the thirty-day dispute period begins and/or ends.
25. The said collection letter was deceptive and misleading.¹
26. Defendant's letter is in violation of 15 U.S.C. §§ 1692e, 1692e(10) and 1692g for sending a collection letter which fails to effectively provide the Validation Rights Notice required by law, and for engaging in deceptive practices.
27. Plaintiff suffered injury in fact by being subjected to unfair and abusive practices of the Defendant.
28. Plaintiff suffered actual harm by being the target of the Defendant's misleading debt collection communications.

¹ Jacobson v. Healthcare Fin. Servs., Inc., 516 F.3d 85, 95 (2d Cir. 2008). ("[t]hrough it also protects the interests of law-abiding debt collectors, the Act is primarily a consumer protection statute, and we have consistently interpreted the statute with that congressional object in mind.")

29. Defendant violated the Plaintiff's right not to be the target of misleading debt collection communications.
30. Defendant violated the Plaintiff's right to a truthful and fair debt collection process.
31. Defendant used materially false, deceptive, misleading representations and means in its attempted collection of Plaintiff's alleged debt.
32. Defendant's communications were designed to cause the debtor to suffer a harmful disadvantage in charting a course of action in response to Defendant's collection efforts.
33. The FDCPA ensures that consumers are fully and truthfully apprised of the facts and of their rights, the act enables them to understand, make informed decisions about, and participate fully and meaningfully in the debt collection process. The purpose of the FDCPA is to provide information that helps consumers to choose intelligently. The Defendant's false representations misled the Plaintiff in a manner that deprived her of her right to enjoy these benefits, these materially misleading statements trigger liability under section 1692e of the Act.
34. These deceptive communications additionally violated the FDCPA since they frustrate the consumer's ability to intelligently choose his or her response.
35. As an actual and proximate result of the acts and omissions of GC Services Limited Partnership, Plaintiff has suffered including but not limited to, fear, stress, mental anguish, emotional stress and acute embarrassment for which she should be compensated in an amount to be established by a jury at trial.

AS AND FOR A CAUSE OF ACTION

Violations of the Fair Debt Collection Practices Act brought by Plaintiff on behalf of herself and the members of a class, as against the Defendant.

36. Plaintiff re-states, re-alleges, and incorporates herein by reference, paragraphs one (1) through thirty five (35) as if set forth fully in this cause of action.
37. This cause of action is brought on behalf of Plaintiff and the members of two classes.
38. Class A consists of all persons whom Defendant's records reflect resided in New York who received telephonic messages from Defendant within one year prior to the date of the within complaint up to the date of the filing of the complaint; (a) the telephone messages were placed without setting forth that the communication was from a debt collector; and (b) without meaningful disclosure of the caller's identity; and (c) the Plaintiff asserts that the telephone messages were in violation of 15 U.S.C. §§ 1692d(6), 1692e, 1692e(10) and 1692e(11).
39. Class B consists of all persons whom Defendant's records reflect resided in the State of New York and who were sent a collection letter in substantially the same form as the letter sent to Plaintiff on or about January 7, 2017; and (a) the collection letter was sent to a consumer seeking payment of a personal debt purportedly owed to American Express; and (b) the collection letter was returned by the postal service as undelivered; (c) and Plaintiff asserts that the letter contained violations of 15 U.S.C. §§ 1692e, 1692e(10) and 1692g for sending a collection letter which failed to effectively provide the Validation Rights Notice required by law, and for engaging in deceptive practices.
40. Pursuant to Federal Rule of Civil Procedure 23, a class action is appropriate and preferable in this case because:

- A. Based on the fact that form telephonic messages and a form collection letter are at the heart of this litigation, the class is so numerous that joinder of all members is impracticable.
- B. There are questions of law and fact common to the class and these questions predominate over any questions affecting only individual class members. The principal question presented by this claim is whether the Defendant violated the FDCPA.
- C. The only individual issue is the identification of the consumers who received such communications, (*i.e.* the class members), a matter capable of ministerial determination from the records of the Defendant.
- D. The claims of the Plaintiff are typical of those of the class members. All are based on the same facts and legal theories.
- E. The Plaintiff will fairly and adequately represent the class members' interests. The Plaintiff has retained counsel experienced in bringing class actions and collection-abuse claims. The Plaintiff's interests are consistent with those of the members of the class.

41. A class action is superior for the fair and efficient adjudication of the class members' claims. Congress specifically envisions class actions as a principal means of enforcing the FDCPA. 15 U.S.C. § 1692(k). The members of the class are generally unsophisticated individuals, whose rights will not be vindicated in the absence of a class action. Prosecution of separate actions by individual members of the classes would create the risk of inconsistent or varying adjudications resulting in the establishment of

inconsistent or varying standards for the parties and would not be in the interest of judicial economy.

42. If the facts are discovered to be appropriate, the Plaintiff will seek to certify a class pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedure.
43. Collection attempts, such as those made by the Defendant are to be evaluated by the objective standard of the hypothetical “least sophisticated consumer.”

Violations of the Fair Debt Collection Practices Act

44. The Defendant's actions as set forth above in the within complaint violates the Fair Debt Collection Practices Act.
45. Because the Defendant violated the Fair Debt Collection Practices Act, the Plaintiff and the members of the class are entitled to damages in accordance with the Fair Debt Collection Practices Act.

WHEREFORE, Plaintiff, respectfully requests preliminary and permanent injunctive relief, and that this Court enter judgment in her favor and against the Defendant and award damages as follows:

- a) Statutory and actual damages provided under the FDCPA, 15 U.S.C. § 1692(k);
- b) Attorney fees, litigation expenses and costs incurred in bringing this action;
and
- c) Any other relief that this Court deems appropriate and just under the circumstances.

Dated: Woodmere, New York
November 22, 2017

/s/ Adam J. Fishbein
Adam J. Fishbein, P.C. (AF-9508)
Attorney At Law
Attorney for the Plaintiff
735 Central Avenue
Woodmere, New York 11598
Telephone: (516) 668-6945
Email: fishbeinadamj@gmail.com

Plaintiff requests trial by jury on all issues so triable.

/s/ Adam J. Fishbein
Adam J. Fishbein (AF-9508)

DEPT. HOVS 052
PO BOX 3044
LIVONIA MI 48151-3044
RETURN SERVICE REQUESTED



GC Services Limited Partnership
6330 Gulfton, Houston, TX 77081



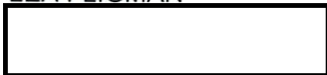
Please call: (800) 846-6406
Between 8:00 AM and 9:00 PM.



USE ENCLOSED ENVELOPE AND SEND PAYMENT TO:



P6HW6D00200524 - 127713640 I01048
LEA FLIGMAN



PO BOX 46960
SAINT LOUIS MO 63146



YOU OWE: AMERICAN EXPRESS	GC NUMBER: <input type="text"/> 0061
CLIENT ACCOUNT NUMBER: ENDING 32002	BALANCE DUE: \$19,241.28

✂ Please detach and return upper portion of statement with payment ✂

January 7, 2017

File Number: 69

Client Account Number: ENDING 32002

Dear Lea Fligman,

It is our policy to attempt to work with consumers to find a reasonable way to pay their accounts. If you cannot pay the entire amount you owe, we are willing to work with you.

If you will contact us at (800) 846-6406, we will try to work out a repayment plan that will satisfy our client and one that will also fit into your monthly budget without causing you undue hardship. If you cannot contact us by phone, please indicate on the back of this letter the amount of money that you can pay each month and enclose your first payment in the envelope provided.

Sincerely,

Rhonda Nedd
Account Representative

IF YOU HAVE CONCERNS REGARDING THE HANDLING OF YOUR ACCOUNT BY GC SERVICES, PLEASE CONTACT A. T. CARAWAY, GENERAL MANAGER, AT 800-846-6406.

NOTICE: SEE REVERSE SIDE FOR IMPORTANT CONSUMER INFORMATION

GC Services Limited Partnership - Collection Agency Division - 6330 Gulfton, Houston, TX 77081



Please indicate below your proposed monthly payment and due date.

Proposed Monthly Payment: _____ Due Date: _____

Home Phone Number: _____

Alternate Phone Number: _____

GC Services Limited Partnership

This is an attempt to collect a debt and any information obtained will be used for that purpose.

CONSUMER INFORMATION:

UNLESS YOU, WITHIN THIRTY (30) DAYS AFTER YOUR RECEIPT OF GC SERVICES' INITIAL WRITTEN NOTICE TO YOU CONCERNING THIS DEBT, DISPUTE THE VALIDITY OF THE DEBT, OR ANY PORTION THEREOF, THE DEBT WILL BE ASSUMED TO BE VALID BY GC SERVICES. IF YOU NOTIFY GC SERVICES IN WRITING WITHIN THE ABOVE DESCRIBED THIRTY (30) DAY PERIOD THAT THE DEBT, OR ANY PORTION THEREOF, IS DISPUTED, GC SERVICES WILL OBTAIN VERIFICATION OF THE DEBT OR A COPY OF A JUDGMENT AGAINST YOU AND A COPY OF SUCH VERIFICATION OR JUDGMENT WILL BE MAILED TO YOU BY GC SERVICES. UPON YOUR WRITTEN REQUEST WITHIN THE ABOVE DESCRIBED THIRTY (30) DAY PERIOD, GC SERVICES WILL PROVIDE YOU WITH THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR, IF DIFFERENT FROM THE CURRENT CREDITOR.

THE DEMANDS FOR PAYMENT IN THIS LETTER DO NOT REDUCE YOUR RIGHTS TO DISPUTE THIS DEBT, OR ANY PORTION THEREOF, AND/OR TO REQUEST VERIFICATION WITHIN THE THIRTY (30) DAY PERIOD AS SET FORTH ABOVE.

ESTE ES UN INTENTO PARA COBRAR UNA DEUDA Y CUALQUIER INFORMACION OBTENIDA SERA USADA CON ESE PROPOSITO.

INFORMACION AL CONSUMIDOR:

A MENOS QUE USTED, DENTRO DE LOS TREINTA (30) DIAS RECIBIR NOTIFICACION ESCRITA INICIAL RELATIVA A ESTA DEUDA, DISPUTE LA VALIDEZ DE LA DEUDA, O CUALQUIER PARTE DE LA MISMA, LA DEUDA SERA ASUMIDA COMO VALIDA POR GC SERVICES. SI USTED NOTIFICA A GC SERVICES POR ESCRITO DENTRO DEL ANTES MENCIONADO PERIODO DE TREINTA (30) DIAS, QUE LA DEUDA, O CUALQUIER PORCION DE LA MISMA, ES CUESTIONADA, GC SERVICES OBTENDRA VERIFICACION DE LA DEUDA O UNA COPIA DE UN DICTAMEN CONTRA USTED Y GC SERVICES LE ENVIARA POR CORRERO UNA COPIA DE DICHA VERIFICACION O DICTAMEN. SI USTED LO SOLICITA POR ESCRITO DENTRO DEL ANTES MENCIONADO PERIODO DE TREINTA (30) DIAS, GC SERVICES LE COMUNICARA EL NOMBRE Y DIRECCION DEL ACREEDOR ORIGINAL, SI FUERA DISTINTO DEL ACREEDOR ACTUAL.

LAS DEMANDAS DE PAGO DE ESTA CARTA NO REDUCEN SUS DERECHOS DE DISPUTAR ESTA DEUDA, O CUALQUIER PORCION DE LA MISMA, Y/O A SOLICITAR VERIFICACION DENTRO DEL PERIODO DE TREINTA (30) DIAS ANTES MENCIONADO.

NYC Residents: NYC Department of Consumer Affairs' specific license # varies as to city/state location of sender: Elgin - 2032602; Houston - 2032594; Jacksonville - 2032579; San Antonio - 2032610; Columbus - 2032587; Huntington - 2032616; Knoxville - 2032597; San Diego - 2032615; Copperas Cove - 2032601; Irwindale - 2032591; Oklahoma - 2032603; St. Louis - 2032598; Phoenix - 2032606; Tucson - 2032592



UNITED STATES DISTRICT COURT

for the

Eastern District of New York

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_____)	
<i>Plaintiff(s)</i>)	
v.)	Civil Action No.
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_____)	
<i>Defendant(s)</i>)	

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

DOUGLAS C. PALMER
CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

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: [Class Action: GC Services Failed to Adhere to Federal Debt Collection Law](#)
