

BARSHAY SANDERS, PLLC
100 Garden City Plaza, Suite 500
Garden City, New York 11530
Tel: (516) 203-7600
Fax: (516) 706-5055
Email: *ConsumerRights@BarshaySanders.com*
Attorneys for Plaintiff
Our File No.: 110184

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

Joseph Fowles, on behalf of himself and all others
similarly situated,

Plaintiff,

vs.

Gatestone & Co. International, Inc.,

Defendant.

Docket No:

COMPLAINT-CLASS ACTION

JURY TRIAL DEMANDED

Joseph Fowles, on behalf of himself and all others similarly situated (hereinafter referred to as “*Plaintiff*”), by and through the undersigned counsel, complains, states and alleges against Gatestone & Co. International, Inc. (hereinafter referred to as “*Defendant*”), as follows:

INTRODUCTION

1. This action seeks to recover for violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.*, (“FDCPA”).

JURISDICTION AND VENUE

2. This Court has federal subject matter jurisdiction pursuant to 28 U.S.C. § 1331 and 15 U.S.C. § 1692k(d).

3. Venue is proper under 28 U.S.C. §1391(b) because a substantial part of the events or omissions giving rise to the claim occurred in this Judicial District.

4. At all relevant times, Defendant conducted business within the State of New York.

BARSHAY | SANDERS PLLC
100 GARDEN CITY PLAZA, SUITE 500
GARDEN CITY, NEW YORK 11530

PARTIES

5. Plaintiff Joseph Fowles is an individual who is a citizen of the State of New York residing in Nassau County, New York.

6. Plaintiff is a “consumer” as defined by 15 U.S.C. § 1692a(3).

7. On information and belief, Defendant Gatestone & Co. International, Inc., is a Delaware Corporation with a principal place of business in New Castle County, Delaware.

8. Defendant is regularly engaged, for profit, in the collection of debts allegedly owed by consumers.

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

ALLEGATIONS

10. Defendant alleges Plaintiff owes a debt with Defendant’s client, AT&T (“the debt”).

11. The debt was primarily for personal, family or household purposes and is therefore a “debt” as defined by 15 U.S.C. § 1692a(5).

12. Sometime after the incurrence of the debt Plaintiff fell behind on payments owed.

13. Thereafter, at an exact time known only to Defendant, the debt was assigned or otherwise transferred to Defendant for collection.

14. In its efforts to collect the debt, Defendant contacted Plaintiff by letter (“the letter”) dated October 24, 2015. (“**Exhibit 1.**”)

15. The letter was the initial communication Plaintiff received from Defendant.

16. The letter is a “communication” as defined by 15 U.S.C. § 1692a(2).

17. 15 U.S.C. § 1692g provides that within five days after the initial communication with a consumer in connection with the collection of any debt, a debt collector shall, unless the information is contained in the initial communication or the consumer has paid the debt, send the consumer a written notice containing certain enumerated information.

18. One such requirement is that the debt collector provide “the amount of the debt.” 15 U.S.C. § 1692g(a)(1).

19. A debt collector has the obligation not just to convey the amount of the debt, but to convey such clearly.

20. The letter, at the top, states “Amount Owing: \$2,039.09.”

21. The letter, in the middle, states:

“Total due as of charge-off	512094699640
Total interest accrued since charge-off	
Total non-interest charges or fees accrued since charge-off	
Total payments made since charge-off	

The above reflects the post charge-off activity we received from American Express and as such is subject to timing and systems limitations.”

22. All amounts are blank, except “Total due as of charge-off” which reads “512094699640.”

23. The least sophisticated consumer would likely be confused as to the amount of the debt because of these inconsistent statements.

24. The least sophisticated consumer would likely be uncertain as to the amount of the debt because of these inconsistent statements.

25. For these reasons, Defendant failed to clearly state the amount of the debt as required by 15 U.S.C. § 1692g(a)(1).

26. For these reasons, Defendant failed to unambiguously state the amount of the debt as required by 15 U.S.C. § 1692g(a)(1).

27. 15 U.S.C. § 1692e prohibits a debt collector from using any false, deceptive, or misleading representation or means in connection with the collection of any debt.

28. The question of whether a collection letter is deceptive is determined from the perspective of the “least sophisticated consumer.”

29. While § 1692e specifically prohibits certain practices, the list is non-exhaustive, and does not preclude a claim of falsity or deception based on any non-enumerated practice.

30. A collection letter is deceptive under 15 U.S.C. § 1692e if it can reasonably be read by the least sophisticated consumer to have two or more meanings, one of which is inaccurate.

31. A collection letter is also deceptive under 15 U.S.C. § 1692e if it is reasonably susceptible to an inaccurate reading by the least sophisticated consumer.

32. As previously alleged, because of the inconsistent and confusing information, the least sophisticated consumer could reasonably read the letter to have multiple meanings concerning the amount of the debt.

33. The least sophisticated consumer could reasonably read the letter to mean that the

amount due is \$2,039.09.

34. The least sophisticated consumer could also reasonably read the letter to mean that the balance was something other than \$2,039.09, or subject to change.

35. Because the letter is susceptible to an inaccurate reading by the least sophisticated consumer, it is deceptive under 15 U.S.C. § 1692e.

36. Because the letter can reasonably be read by the least sophisticated consumer to have two or more meanings, one of which is inaccurate, as described, it is deceptive under 15 U.S.C. § 1692e.

37. Defendant violated 15 U.S.C. § 1692e by using a false, deceptive and misleading representation in its attempt to collect a debt.

CLASS ALLEGATIONS

38. Plaintiff brings this action individually and as a class action on behalf of all persons similarly situated in the state of New York from whom Defendant attempted to collect a consumer debt using a collection letter that had conflicting information concerning the stated amount due verses the itemization of the debt, from one year before the date of this Complaint to the present.

39. This action seeks a finding that Defendant's conduct violates the FDCPA, and asks that the Court award damages as authorized by § 1692k(a)(2) of the FDCPA.

40. Defendant regularly engages in debt collection, using the same unlawful conduct described herein, in its attempts to collect delinquent consumer debts from other persons.

41. The Class consists of more than 35 persons from whom Defendant attempted to collect delinquent consumer debts using the same unlawful conduct described herein.

42. Plaintiff's claims are typical of the claims of the Class. Common questions of law or fact raised by this class action complaint affect all members of the Class and predominate over any individual issues. Common relief is therefore sought on behalf of all members of the Class. This class action is superior to other available methods for the fair and efficient adjudication of this controversy.

43. The prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications with respect to the individual members of the Class, and a risk that any adjudications with respect to individual members of the Class

would, as a practical matter, either be dispositive of the interests of other members of the Class not party to the adjudication, or substantially impair or impede their ability to protect their interests. Defendant has acted in a manner applicable to the Class as a whole such that declaratory relief is warranted.

44. Plaintiff will fairly and adequately protect and represent the interests of the Class. The management of the class action proposed is not extraordinarily difficult, and the factual and legal issues raised by this class action complaint will not require extended contact with the members of the Class, because Defendant's conduct was perpetrated on all members of the Class and will be established by common proof. Moreover, Plaintiff has retained counsel experienced in actions brought under the FDCPA.

JURY DEMAND

45. Plaintiff hereby demands a trial of this action by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

- a. Certify this action as a class action; and
- b. Appoint Plaintiff as Class Representative of the Class, and her attorneys as Class Counsel; and
- c. Find that Defendant's actions violate the FDCPA; and
- d. Grant statutory damages against Defendant pursuant to 15 U.S.C. § 1692k; and
- e. Grant Plaintiff's attorneys' fees pursuant to 15 U.S.C. § 1692k; and
- f. Grant Plaintiff's costs; together with
- g. Such other relief that the Court determines is just and proper.

DATED: October 16, 2016

BARSHAY SANDERS, PLLC

By: /s/ Craig B. Sanders

Craig B. Sanders, Esq.

100 Garden City Plaza, Suite 500

Garden City, New York 11530

Tel: (516) 203-7600

Fax: (516) 706-5055

csanders@barshaysanders.com

Attorneys for Plaintiff

Our File No.: 110184

BARSHAY | SANDERS PLLC
100 GARDEN CITY PLAZA, SUITE 500
GARDEN CITY, NEW YORK 11530

Visit our website: www.gatestoneco.com
800-678-3052
Our hours of operation are
Mon - Thu 8:00am to 11:00pm EST
Fri 8:00am to 5:00pm and Sat 9:00am to 2:00pm EST



11 - 58111-27
Joseph Fowles
1474 Sidney Ct
Seaford, NY 11783-1855

SETTLEMENT OFFER

Dear Sir/Mme.,

Your account has been placed with Gatestone & Co. International Inc., a collection agency. This communication from a debt collector is an attempt to collect a debt and any information obtained will be used for that purpose. Calls to or from our company may be monitored or recorded for quality assurance purposes.

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of the debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days after receiving this notice, 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.

In accordance with NY State regulatory requirements, please be advised of the following:

- Total due as of charge-off [REDACTED] 9640
- Total interest accrued since charge-off
- Total non-interest charges or fees accrued since charge-off
- Total payments made since charge-off

The above reflects the post charge-off activity we received from American Express and as such is subject to timing and systems limitations.

Should you have any questions concerning your payment or your account, please telephone our office. Please make sure that your payment clearly identifies your name and that of your creditor so that payment can be properly applied to your account. All payments mailed to this office should be payable to Gatestone & Co. International Inc. Online check payments can be made on our website at www.gatestoneco.com with the use of this security code [REDACTED] 4714

LUCINDA FRABLE
(855) 834-6018

Please see the reverse side of this letter for important notices concerning your rights.

Please Detach and Return This Portion with Payment

Joseph Fowles
1474 Sidney Ct
Seaford, NY 11783-1855



Option 1: Make Check Payable To: Gatestone & Co. International Inc.
 Option 2: Pre-Authorized — Auto Pay []
 Routing No. _____
 Name of Bank _____
 Check No. _____
 Account No. _____
 Name of Account Holder _____
 Signature _____
 Payment Amount \$ _____

Reference #: [REDACTED] 0293
Company: Gatestone & Co. International Inc. (Loc.76)



Gatestone & Co. International Inc.
1000 N. West St., Suite 1200
Wilmington, DE 19801-1058

By mailing your check you authorize Gatestone & Co. International Inc. to debit your account, one time for the amount of the check, via an electronic funds transfer (EFT). Funds may be withdrawn from your account as soon as the same day payment is received. In the event your check is returned unpaid for insufficient or uncollected funds, we may re-present your check. Your check will not be returned by your financial institution.

NEW YORK STATE: Debt collectors, in accordance with the federal Fair Debt Collection Practices Act, 15 U.S.C. § 1692, are prohibited from engaging in abusive, deceptive, and unfair debt collection efforts, including but not limited to:

- (1) The use or threat of violence;
- (2) The use of obscene or profane language; and
- (3) Repeated phone calls made with the intent to annoy, abuse, or harass

If a creditor or debt collector receives a money judgment against you in court, state and federal laws may prevent the following types of income from being taken to pay the debt:

- | | |
|--|--|
| 1. Supplemental security income, (SSI); | 7. Workers' compensation benefits; |
| 2. Social security; | 8. Public or private pensions; |
| 3. Public assistance (welfare); | 9. Veterans' benefits; |
| 4. Spousal support, maintenance (alimony) or child support | 10. Federal student loans, federal student grants; and federal work study funds; and |
| 5. Unemployment benefits; | 11. Ninety percent of your wages or salary earned in the last sixty days. |
| 6. Disability benefits; | |

CIVIL COVER SHEET

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.)

I. (a) PLAINTIFFS: JOSEPH FOWLES
(b) County of Residence of First Listed Plaintiff: NASSAU
(c) Attorneys: BARSHAY SANDERS, PLLC
DEFENDANTS: GATESTONE & CO. INTERNATIONAL, INC.
County of Residence of First Listed Defendant: NEW CASTLE
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

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)
O 1 U.S. Government Plaintiff
O 2 U.S. Government Defendant
O 3 Federal Question (U.S. Government Not a Party)
O 4 Diversity (Indicate Citizenship of Parties in Item III)
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country

IV. NATURE OF SUIT (Place an "X" in One Box Only)
CONTRACT: O 110 Insurance, O 120 Marine, O 130 Miller Act, O 140 Negotiable Instrument, O 150 Recovery of Overpayment & Enforcement of Judgment, O 151 Medicare Act, O 152 Recovery of Defaulted Student Loans (Excludes Veterans), O 153 Recovery of Overpayment of Veteran's Benefits, O 160 Stockholders' Suits, O 190 Other Contract, O 195 Contract Product Liability, O 196 Franchise
REAL PROPERTY: O 210 Land Condemnation, O 220 Foreclosure, O 230 Rent Lease & Ejectment, O 240 Torts to Land, O 245 Tort Product Liability, O 290 All Other Real Property
TORTS: PERSONAL INJURY: O 310 Airplane, O 315 Airplane Product Liability, O 320 Assault, Libel & Slander, O 330 Federal Employers' Liability, O 340 Marine, O 345 Marine Product Liability, O 350 Motor Vehicle, O 355 Motor Vehicle Product Liability, O 360 Other Personal Injury, O 362 Personal Injury - Medical Malpractice
PRISONER PETITIONS: Habeas Corpus: O 463 Alien Detainee, O 510 Motions to Vacate Sentence, O 530 General, O 535 Death Penalty
Other: O 540 Mandamus & Other, O 550 Civil Rights, O 555 Prison Condition, O 560 Civil Detainee Conditions of Confinement
FORFEITURE/PENALTY: O 625 Drug Related Seizure of Property 21 USC 881, O 690 Other
LABOR: O 710 Fair Labor Standards Act, O 720 Labor/Management Relations, O 740 Railway Labor Act, O 751 Family and Medical Leave Act, O 790 Other Labor Litigation, O 791 Employee Retirement Income Security Act
IMMIGRATION: O 462 Naturalization Application, O 465 Other Immigration Actions
BANKRUPTCY: O 422 Appeal 28 USC 158, O 423 Withdrawal 28 USC 157
PROPERTY RIGHTS: O 820 Copyrights, O 830 Patent, O 840 Trademark
SOCIAL SECURITY: O 861 HIA (1395ff), O 862 Black Lung (923), O 863 DIWC/DIWW (405(g)), O 864 SSID Title XVI, O 865 RSI (405(g))
FEDERAL TAX SUITS: O 870 Taxes (U.S. Plaintiff or Defendant), O 871 IRS—Third Party 26 USC 7609
OTHER STATUTES: O 375 False Claims Act, O 400 State Reapportionment, O 410 Antitrust, O 430 Banks and Banking, O 450 Commerce, O 460 Deportation, O 470 Racketeer Influenced and Corrupt Organizations, O 480 Consumer Credit, O 490 Cable/Sat TV, O 850 Securities/Commodities/Exchange, O 890 Other Statutory Actions, O 891 Agricultural Acts, O 893 Environmental Matters, O 895 Freedom of Information Act, O 896 Arbitration, O 899 Administrative Procedure Act/Review or Appeal of Agency Decision, O 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)
O 1 Original Proceeding
O 2 Removed from State Court
O 3 Remanded from Appellate Court
O 4 Reinstated or Reopened
O 5 Transferred from Another District (specify)
O 6 Multidistrict Litigation - Transfer
O 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 15 USC §1692
Brief description of cause: 15 USC §1692 Fair Debt Collection Practices Act Violation

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

VIII. RELATED CASE(S) IF ANY
(See Instructions) JUDGE DOCKET NUMBER

DATE: October 18, 2016
SIGNATURE OF ATTORNEY OF RECORD: /s Craig B. Sanders

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

CERTIFICATION OF ARBITRATION ELIGIBILITY

Local Arbitration Rule 83.10 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

I, Craig B. Sanders, counsel for Plaintiff, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

- monetary damages sought are in excess of \$150,000, exclusive of interest and costs,
- the complaint seeks injunctive relief,
- the matter is otherwise ineligible for the following reason

DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

RELATED CASE STATEMENT (Section VIII on the Front of this Form)

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that " A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)

1. Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County: NO
2. If you answered "no" above:
 - a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? YES
 - b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? YES

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County? _____

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

BAR ADMISSION

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.
 Yes No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?
 Yes (If yes, please explain) No

I certify the accuracy of all information provided above.

Signature: /s Craig B. Sanders

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT
for the
EASTERN DISTRICT OF NEW YORK

Joseph Fowles, on behalf of himself and all others)
similarly situated)
_____)
Plaintiff(s))

v.)

Civil Action No.)

Gatestone & Co. International, Inc.)
_____)
Defendant(s))

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*
Gatestone & Co. International, Inc.
100 N. West Street , Suite 1200
Wilmington, Delaware 19801

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:

BARSHAY SANDERS PLLC
100 GARDEN CITY PLAZA, SUITE 500
GARDEN CITY, NY 11530

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.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

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:

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Class Action Dealt Against Gatestone & Co.](#)
