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18 ***Pro Hac Vice Motion To Be Filed***

19 **IN THE UNITED STATES DISTRICT COURT**
20 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

21 **BRITTANI GATTONI**, individually
22 and on behalf of all others similarly
23 situated,

24 Plaintiff

25 -against-

26 **TSC ACCOUNTS RECEIVABLE**
27 **SOLUTIONS,**

28 Defendant

Civil Case No.:

CIVIL ACTION

CLASS ACTION COMPLAINT
and
JURY TRIAL DEMAND

1 Plaintiff BRITTANI GATTONI (hereinafter, “Plaintiff”), a California resident,
2 brings this complaint by and through the undersigned attorneys, against
3 Defendant TSC ACCOUNTS RECEIVABLE SOLUTIONS (hereinafter
4 “Defendant” or “TSC”), for its violations of the Fair Debt Collection Practices
5 Act 15 U.S.C. §1692 (hereinafter “FDCPA”), and the Rosenthal Fair Debt
6 Collection Practices Act, California Civil Code §§ 1788 et seq. (hereinafter
7 “RFDCPA”), based upon information and belief of Plaintiff’s counsel, except for
8 allegations specifically pertaining to Plaintiff, which are based upon Plaintiff’s
9 personal knowledge.
10

11 **INTRODUCTION/PRELIMINARY STATEMENT**
12

- 13
- 14 1. Congress enacted the FDCPA in 1977 in response to the “abundant evidence
15 of the use of abusive, deceptive, and unfair debt collection practices by many
16 debt collectors.” 15 U.S.C. § 1692(a). At that time, Congress was concerned
17 that “abusive debt collection practices contribute to the number of personal
18 bankruptcies, to material instability, to the loss of jobs, and to invasions of
19 individual privacy.” *Id.* Congress concluded that “existing laws . . . [we]re
20 inadequate to protect consumers,” and that “the effective collection of debts”
21 does not require “misrepresentation or other abusive debt collection
22 practices.” 15 U.S.C. §§ 1692(b) & (c).
23
 - 24 2. Congress explained that the purpose of the Act was not only to eliminate
25 abusive debt collection practices, but also to “insure that those debt
26 collectors who refrain from using abusive debt collection practices are not
27 competitively disadvantaged.” *Id.* § 1692(e). After determining that the
28 existing consumer protection laws were inadequate, *id.* § 1692(b), Congress

1 gave consumers a private cause of action against debt collectors who fail to
2 comply with the Act. *Id.* § 1692k.

- 3
4 3. One of the purposes of the Rosenthal Fair Debt Collection Practices Act,
5 California Civil Code § 1788 is to prohibit debt collectors from engaging in
6 unfair or deceptive acts or practices in the collection of consumer debts.
7

8 **JURISDICTION AND VENUE**

- 9
10 4. The Court has jurisdiction over this action under 28 U.S.C. § 1331, 15 U.S.C.
11 § 1692 *et seq.* and 28 U.S.C. § 2201. If applicable, the Court also has pendent
12 jurisdiction over the state law claims in this action pursuant to 28 U.S.C. §
13 1367(a).
14 5. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2).
15

16 **NATURE OF THE ACTION**

- 17
18 6. Plaintiff brings this action seeking redress for Defendant's actions of using
19 false, deceptive and misleading representation or means in connection with
20 the collection of an alleged debt.
21 7. Defendant's actions violated § 1692 *et seq.* of Title 15 of the United States
22 Code, commonly referred to as the Fair Debt Collections Practices Act
23 ("FDCPA"), which prohibits debt collectors from engaging in false,
24 deceptive or misleading practices.
25 8. Defendant's actions violated California Civil Code § 1788 *et seq.* of the
26 Rosenthal Fair Debt Collection Practices Act ("RFDCPA"), which
27 prohibits debt collectors from engaging in unfair or deceptive acts or
28

1 practices in the collection of consumer debts.

2 9. Plaintiff is seeking damages, and declaratory and injunctive relief.

3 **PARTIES**

4 10. Plaintiff is a natural person and a resident of the State of California, and is a
5 "Consumer" as defined by 15 U.S.C. §1692(a)(3).

6 11. Defendant is a collection agency with its principal office located at 2701
7 Loker Avenue West, Suite 120, Carlsbad, California 92010.

8 12. Upon information and belief, Defendant is a company that uses the mail,
9 telephone, or facsimile in a business the principal purpose of which is the
10 collection of debts, or that regularly collects or attempts to collect debts
11 alleged to be due another.

12 13. Defendant is a "debt collector," as defined under the FDCPA under 15
13 U.S.C. § 1692a(6).

14 **ALLEGATIONS OF FACT**

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16
17 14. Plaintiff repeats, reiterates and incorporates the allegations contained in
18 paragraphs above herein with the same force and effect as if the same were
19 set forth at length herein.

20 15. Some time prior to June 4, 2018, an obligation was allegedly incurred to
21 ROBERT S. PUSHKIN, MD.

22 16. The ROBERT S. PUSHKIN, MD obligation arose out of a transaction in
23 which money, property, insurance or services, which are the subject of the
24 transaction, are primarily for personal, family or household purposes.

25 17. The alleged ROBERT S. PUSHKIN, MD obligation is a "debt" as defined
26 by 15 U.S.C. § 1692a(5).

27 18. ROBERT S. PUSHKIN, MD is a "creditor" as defined by 15 U.S.C. §
28 1692a(4).

1 19. Defendant contends that the ROBERT S. PUSHKIN, MD debt is past due.

2 20. Defendant is a company that uses mail, telephone or facsimile in a business
 3 the principal purpose of which is the collection of debts, or that regularly
 4 collects or attempts to collect debts incurred or alleged to have been incurred
 5 for personal, family or household purposes on behalf of creditors.

6 21. ROBERT S. PUSHKIN, MD directly or through an intermediary contracted
 7 the Defendant to collect the alleged debt.

8 22. On or about June 4, 2018, the Defendant caused to be delivered to the
 9 Plaintiff a collection letter in an attempt to collect the alleged ROBERT S.
 10 PUSHKIN, MD debt. *See Exhibit A.*

11 23. The June 4, 2018 letter was sent or caused to be sent by persons employed
 12 by Defendant as a “debt collector” as defined by 15 U.S.C. §1692a(6).

13 24. The June 4, 2018 letter is a “communication” as defined by 15 U.S.C.
 14 §1692a(2).

15 25. The Plaintiff received and read the Letter sometime after June 4, 2018.

16 26. The Letter stated in part:

Account	Amount Referred	Principal Balance	Other Charges	Court Costs	Attorney Fees	Interested Balance	Total Balance
XXX07	\$537.36	\$176.33	\$0	\$0	\$0	\$29.03	\$205.36

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 19
 20
 21 27. Upon reading the Letter received from the Defendant, the Plaintiff, as would
 22 any unsophisticated consumer, was left unsure as to the balance of the debt;
 23 either \$537.36 or \$205.36.

24 28. By failing to accurately state the amount of the alleged debt in either
 25 letter, Defendant violated the FDCPA and harmed the Plaintiff.

26
 27 29. The Plaintiff was harmed by being misrepresented as to the amount of the
 28 debt, by being subjected to abusive collection practices from which she had

1 a substantive right to be free, and by the Defendant attempting to charge
2 different amounts without providing an explanation of the charges in the
3 Collection Letter. Defendant further created the risk of harm that the
4 Plaintiff would pay more money than she actually owed.

5 30. Defendant could have taken the steps necessary to bring its actions
6 within compliance with the FDCPA, but neglected to do so and
7 failed to adequately review its actions to ensure compliance with the
8 law.

9 **CLASS ALLEGATIONS**

10 31. Plaintiff brings claims, pursuant to the Federal Rules of Civil Procedure
11 (hereinafter “FRCP”) Rule 23, individually and on behalf of the following
12 consumer class (the “Class”) consisting of: a) All consumers who have an
13 address the state of California b) who were sent a collection letter from the
14 Defendant c) attempting to collect a consumer debt d) which fails to clearly
15 state the amount of the alleged debt (e) which letter was sent on or after a
16 date one year prior to the filing of this action and on or before a date 21 days
17 after the filing of this action.

18 32. The identities of all class members are readily ascertainable from the records
19 of Defendant and those companies and entities on whose behalf they attempt
20 to collect and/or have purchased debts.

21 33. Excluded from the Plaintiff Class are the Defendant and all officers,
22 members, partners, managers, directors, and employees of the Defendant and
23 their respective immediate families, and legal counsel for all parties to this
24 action and all members of their immediate families.

25 34. There are questions of law and fact common to the Plaintiff Class, which
26 common issues predominate over any issues involving only individual class
27
28

1 members. The principal issue is whether the Defendant's written
2 communications to consumers, in the forms attached as *Exhibit A*, violate
3 15 U.S.C. § 1692e.

4 35. The Plaintiff's claims are typical of the class members, as all are based upon
5 the same facts and legal theories.

6 36. The Plaintiff will fairly and adequately protect the interests of the Plaintiff
7 Class defined in this complaint. The Plaintiff has retained counsel with
8 experience in handling consumer lawsuits, complex legal issues, and class
9 actions, and neither the Plaintiff nor Plaintiff's attorneys have any interests,
10 which might cause them not to vigorously pursue this action.

11 37. This action has been brought, and may properly be maintained, as a class
12 action pursuant to the provisions of Rule 23 of the Federal Rules of Civil
13 Procedure because there is a well-defined community interest in the
14 litigation:

15 (a) **Numerosity:** The Plaintiff is informed and believes, and on that basis
16 alleges, that the Plaintiff Class defined above is so numerous that
17 joinder of all members would be impractical.

18 (b) **Common Questions Predominate:** Common questions of law and
19 fact exist as to all members of the Plaintiff Class and those questions
20 predominate over any questions or issues involving only individual
21 class members. The principal issue is whether the Defendant's written
22 communications to consumers, in the forms attached as *Exhibit A*,
23 violate 15 U.S.C. § 1692e.

24 (c) **Typicality:** The Plaintiff's claims are typical of the claims of the class
25 members. The Plaintiff and all members of the Plaintiff Class have
26 claims arising out of the Defendant's common uniform course of
27 conduct complained of herein.
28

1 (d) **Adequacy:** The Plaintiff will fairly and adequately protect the
2 interests of the class members insofar as Plaintiff has no interests that
3 are averse to the absent class members. The Plaintiff is committed to
4 vigorously litigating this matter. Plaintiff has also retained counsel
5 experienced in handling consumer lawsuits, complex legal issues, and
6 class actions. Neither the Plaintiff nor Plaintiff's counsel have any
7 interests which might cause them not to vigorously pursue the instant
8 class action lawsuit.

9 (e) **Superiority:** A class action is superior to the other available means
10 for the fair and efficient adjudication of this controversy because
11 individual joinder of all members would be impracticable. Class
12 action treatment will permit a large number of similarly situated
13 persons to prosecute their common claims in a single forum efficiently
14 and without unnecessary duplication of effort and expense that
15 individual actions would engender.
16

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

22 39. Depending on the outcome of further investigation and discovery, Plaintiff
23 may, at the time of class certification motion, seek to certify a class(es) only
24 as to particular issues pursuant to Fed. R. Civ. P. 23(c)(4).
25

26 **COUNT I**
27 **VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT**
28

15 U.S.C. §1692e et seq.

1
2 40.Plaintiff repeats, reiterates and incorporates the allegations contained in
3 paragraphs above herein with the same force and effect as if the same were
4 set forth at length herein.

5 41.Defendant’s debt collection efforts attempted and/or directed towards the
6 Plaintiff violated various provisions of the FDCPA, including but not
7 limited to 15 U.S.C. § 1692e.

8 42.Pursuant to 15 U.S.C. § 1692e, a debt collector may not use any false,
9 misleading and/or deceptive means to collect or attempt to collect any
10 debt or to obtain information concerning a consumer.

11 43.The Defendant violated said section in its letters to the Plaintiff by:
12 a. Using a false, deceptive, and misleading representations or
13 means in connection with the collection of a debt;
14 b. Falsely representing the amount of the alleged debt in violation of
15 1692e(2)(A);
16 c. Making a false representation or using deceptive means to collect
17 a debt in violation of 1692e(10).
18

19 44.Pursuant to § 1788 of the RFDCPA, a debt collector may not engage in
20 unfair or deceptive acts or practices in the collection of consumer debts.

21 45. By reason thereof, Defendant is liable to Plaintiff for judgment that
22 Defendant's conduct violated Section 1692e *et seq.* of the FDCPA, Section
23 1788 of the RFDCPA, actual damages, statutory damages, costs and
24 attorneys' fees.
25

26 **DEMAND FOR TRIAL BY JURY**

1 46. Pursuant to Rule 38 of the Federal Rules of Civil Procedure,
2 Plaintiff hereby request a trial by jury on all issues so triable.

3
4 **PRAYER FOR RELIEF**

5
6 **WHEREFORE**, Plaintiff demands judgment against Defendants as follows:

- 7 (a) Awarding Plaintiff and the Class statutory damages;
8 (b) Awarding Plaintiff and the Class actual damages;
9 (c) Awarding Plaintiff costs of this Action, including reasonable
10 attorneys' fees and expenses;
11 (d) Awarding pre-judgment interest and post-judgment interest;
12 and
13 (e) Awarding Plaintiff and the Class such other and further relief
14 as this Court may deem just and proper.
15

16
17 Dated: July 09, 2018

18 /s/ Jonathan A. Stieglitz
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28 **PRO HAC VICE MOTION TO BE FILED**

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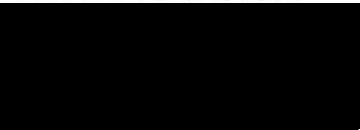
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2701 Loker Avenue West, Suite 120
 Carlsbad, CA 92010-6639
 Tel: 760-444-5750

BRITTANI C GATTONI



Dear BRITTANI C GATTONI:

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

Detailed below is a breakdown of the total balance now due on your account. We have listed the amount referred to us by the original creditor, the principal balance due, interest and any other charges. You can access these account details or pay online by going to our web site at www.pavtsc.com. If you have any further questions, please call our office at 760-444-5750.

Also enclosed is a detailed itemization of your account.

Letter Date: 6/4/2018
Account(s) for: BRITTANI C GATTONI

Account #	Client Acct #	Client	Date of Referral	Date of Service	Last Payment Date
4607	RP2119	ROBERT S. PUSHKIN, MD	12/20/13	04/11/13	10/31/16

Interest accrued at 10.000% from date of last payment.

Account #	Amount Referred	Principal Balance	Other Charges	Court Costs	Attorney Fees	Interest Balance	Total Balance
4607	\$537.36	\$176.33	\$0	\$0	\$0	\$29.03	\$205.36

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit Accuses TSC Accounts Receivable Solutions of FDCPA Violations](#)
