

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

MOSHE Y. GUTMAN on behalf of himself and
all other similarly situated consumers

Plaintiff,

-against-

NORTHLAND GROUP INC.

Defendant.

CLASS ACTION COMPLAINT

Introduction

1. Plaintiff, Moshe Y. Gutman, brings this action against Northland Group Inc. for violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. (“FDCPA”). The FDCPA prohibits debt collectors from engaging in abusive, deceptive and unfair collection practices while attempting to collect on debts.

Parties

2. Plaintiff is a citizen of the State of New York who resides within this District.
3. Plaintiff is a 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 Edina, Minnesota.
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 Moshe Y. Gutman

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. On or about August 16, 2016, Defendant sent the Plaintiff a collection letter.
11. The said August 16, 2016 letter was an effort to collect on a consumer debt.
12. The said collection letter was confusing to the Plaintiff and is likely to be misconstrued by the “least sophisticated consumer” since it is open to more than one reasonable interpretation, at least one of which is inaccurate.
13. The Second Circuit stated in Avila v. Riexinger & Assocs., LLC, 817 F.3d 72, 74 (2d Cir. 2016)

“The question presented is whether a collection notice that states a consumer's "current balance," but does not disclose that the balance may increase due to interest and fees, complies with this provision. We hold that Section 1692e requires debt collectors, when they notify consumers of their account balance, to disclose that the balance may increase due to interest and fees.
14. The holding of the Second Circuit is that Section 1692e of the FDCPA requires every debt collector in every collection letter “to disclose that the balance may increase due to interest and fees”.

15. However, if the “Current Balance Due” will never increase and the holder of the debt will always accept payment of the amount set forth in full satisfaction of the debt then the Second Circuit alternatively stated:

“We hold that a debt collector will not be subject to liability under Section 1692e for failing to disclose that the consumer's balance may increase due to interest and fees if the collection notice *either* accurately informs the consumer that the amount of the debt stated in the letter will increase over time, *or* clearly states that the holder of the debt will accept payment of the amount set forth in full satisfaction of the debt.” *Id.* at 817.
16. The Second Circuit in *Avila* did not “hold that a debt collector must use any particular disclaimer” *Id.*
17. However, the Second Circuit did address all the possible scenarios: 1) If the “current balance” could increase over time, then the collection notice must disclose that the “balance might increase due to interest and fees”. *Id.* 2) If the “current balance” is currently increasing, then the collection notice must disclose that the amount of the debt stated, “in the letter will increase over time”. *Id.* 3) If the “current balance” will never increase and the debt collector is always willing to accept this “specified amount” in “full satisfaction” of the debt, then the debt collector must state so clearly. However, if a debt collector is willing to accept a “specified amount” in full satisfaction of the debt only if payment is made by a specific date, then the debt collector must simplify the consumer's understanding by so stating, while advising that the amount due could increase by the accrual of additional interest or fees if payment is not received by that date.
18. In this case, the “Current Balance Due” was increasing due to interest per the creditor’s contract. Nevertheless, the collection notice did not disclose that the amount of the debt stated in the letter “could” or “will” increase over time.

19. The Plaintiff, as well as the “least sophisticated consumer” was unsure as to whether or not the said account was accruing interest.
20. The “Current Balance Due” in this case was for an amount that included original principal, fees, and contractual interest.
21. The Plaintiff was left uncertain as to whether the “Current Balance Due” was accruing interest as there was no disclosure that indicated otherwise.
22. The FDCPA requires debt collectors, when notifying consumers of their account balance, to disclose that the balance may increase due to interest and fees; failure to include such disclosures would harm consumers such as the Plaintiff who may hold the reasonable but mistaken belief, that timely payment will satisfy their debts and it would abrogate the Congressional purpose of full and fair disclosure to consumers that is embodied in Section 1692e.
23. Prior to Defendant Northland Group Inc.’s collection of the said Citibank account, the account was previously being collected by United Collection Bureau, who had also sent a letter to the Plaintiff on or about April 23, 2014.
24. The balance stated in the said April 23, 2014 letter from United Collection Bureau was \$4,919.34, and in addition to that balance, interest was accruing daily as evident from the Defendant’s August 16, 2016 letter, which reflected an increase in the balance to an amount of \$5,132.15.
25. A reasonable consumer could be misled into believing that he or she could pay his or her debt in full by paying the amount as listed in the August 16, 2016 letter.
26. In fact, however, since as shown by the difference in the amount between the April 23, 2014 letter and the new increased amount in the August 16, 2016 letter, which reflected

that interest was accruing daily, a consumer who pays the balance due as stated in the letter, would be left unaware as to whether or not the debt has been paid in full.

27. The debt collector could still seek the interest and fees that had accumulated after the notice was sent, but before the balance was paid, or sell the consumer's debt to a third party, who itself could seek the post charge-off interest and fees from the consumer.¹
28. Where a debt collector mails a debtor various different letters which show that interest is accruing daily, yet the debt collector "is willing to accept a specified amount in full satisfaction of the debt if payment is made by a specific date [it must] simplify the consumer's understanding by so stating, while advising that the amount due would increase by the accrual of additional interest or fees if payment is not received by that date."² However, if the debt collector intended on waiving the interest accruing it must clearly state that the interest is being waived.
29. The said collection letters at issue were increasing daily due to interest, but the August 16, 2016 letter specifically, failed to disclose that the balance would continue to increase due to interest and fees, or in the alternative, the August 16, 2016 letter failed to disclose that the balance was actually not increasing due to the interest being waived.
30. In any event, Defendant's said August 16, 2016 letter was "misleading" and "confusing" within the meaning of Section 1692e of the FDCPA.

Absent a disclosure by the holder of the debt that the interest accruing since the previous letter is waived, even if the debtor pays the "Amount of Debt" the Defendant and or the creditor could still seek the interest accruing since the previous letter, or sell the consumer's debt to a third party, which itself could seek the accrued interest from the consumer.³

¹ See Avila v. Riexinger & Assocs., LLC, 817 F.3d 72, 76 (2d Cir. 2016)

² *id.*

³ Avila, at *10-11.

31. Waiver of interest even when it has been made explicitly has not prevented debt-collectors from continuing to illegally charge the waived interest.
32. At the bare minimum, a debt collector must make clear even to the unsophisticated consumer that it intends to waive the accruing post charge-off interest.
33. A debt collector must disclose, that the balance due may change over time.
34. To the extent that the Creditor or the Defendant intended to waive the automatically accrued and accruing interest, it was required to disclose that in the most conspicuous of terms.
35. If the “Current Balance Due,” will never increase and the debt collector is always willing to accept this "specified amount" in "full satisfaction" of the debt, then the debt collector must clearly state that the holder of the debt will always accept payment of the amount set forth in “full satisfaction” of the debt.
36. Defendant was required to include a disclosure that the automatically accrued interest was accruing, or in the alternative, the Defendant was required to disclose that the creditor has made an intentional decision to waive the automatically accruing interest and will always accept this "specified amount" in "full satisfaction" of the debt nonetheless it did not make any of those disclosures in violation of 1692e.
37. If interest was waived, the letter would need to contain that disclosure and clearly state that no interest is accruing on this account in order to provide full and fair disclosure to consumers of the actual balance as is embodied in Section 1692e.
38. The Second Circuit adopted a safe harbor disclaimer stating "that requiring such disclosure best achieves the Congressional purpose of full and fair disclosure to consumers that is embodied in Section 1692e. It also protects consumers such as the

Plaintiff, who may hold the reasonable but mistaken belief that timely payment will satisfy their debts."⁴

39. Because the statement of the "Current Balance Due" that included original principal, fees, and contractual interest, without notice that the accruing interest was expressly waived can mislead the least sophisticated consumer into believing that payment of the amount stated will clear her account, the FDCPA requires debt collectors, when they notify consumers of their account balance, to expressly disclose that the amount of the debt stated in the letter will increase over time, *or* clearly state that the holder of the debt will always accept payment of the amount set forth in full satisfaction of the debt. *Id.* at 817.
40. Requiring such disclosure best achieves the Congressional purpose of full and fair disclosure to consumers that is embodied in Section 1692e. It also protects consumers such as the Plaintiff, who may hold the reasonable, but mistaken belief that timely payment will satisfy their debts and it protects them from other debt collectors seeking further interest on this debt in the future.
41. According to the Second Circuit's finding that the "Current Balance Due" must contain a full and fair disclosure, if a credit card account was being charged interest, pursuant to a contract and the interest was intended to be waived, disclosure of such a waiver is necessary or the consumer would not know what the balance is. "[i]n fact, however, if interest is accruing daily, [or was not expressly waived] a consumer who pays the 'current balance' stated on the notice will not know whether the debt has been paid in full. The debt collector could still seek the [accruing or unwaived] interest and fees that accumulated after the notice was sent but before the balance was paid, or sell the consumer's debt to a third party, which itself could seek the interest and fees from the

⁴ Avila v. Riexinger & Assocs., LLC, 817 F.3d 72, 76 (2d Cir. 2016)

consumer."⁵

42. The 8th Circuit in Haney v. Portfolio Recovery Assocs., No. 15-1932, 2016 U.S. App. LEXIS 17287 (8th Cir. Sep. 21, 2016) clearly explains that merely not including interest in post charge off statements is not express waiver of interest, and the debt collector or creditor can seek the interest in the future.
43. In fact, in this case the Plaintiff is still not sure whether there was any intent to waive the interest. There was definitely no express waiver and disclosure of waiver is mandatory if interest was originally accruing per the contract. The consumer could not know what the real balance is.
44. The intent to waive a contractual right must be unmistakably manifested and may not be inferred from doubtful or equivocal acts.⁶ A waiver of a contract right does not occur by negligence, oversight or thoughtlessness and cannot be inferred from mere silence.⁷
45. Failure to disclose such a waiver of the automatically accruing interest is in of itself deceptive and “misleading” within the meaning of Section 1692e. The Defendant knew that the balance would increase due to interest, fees and/or disbursements.
46. According to the Second Circuit in *Avila*, any debt that was accruing interest and fees would need full and complete disclosure which would either clearly state that the balance “may” or “will” increase over time or clearly state that the debt is “static” and holder of the debt will always accept payment of the amount set forth in “full satisfaction” of the debt.

⁵ Avila v. Riexinger & Assocs., LLC, 817 F.3d 72, 76 (2d Cir. 2016)

⁶ Navillus Tile, Inc. v. Turner Const. Co., 2 A.D.3d 209, 770 N.Y.S.2d 3 (1st Dep’t 2003)

⁷ Acumen Re Management Corp. v. General Sec. Nat. Ins. Co., 2012 WL 3890128, at *6 (S.D. N.Y. 2012), reconsideration denied, motion to certify appeal granted, 2012 WL 6053936 (S.D. N.Y. 2012).

47. The “Current Balance Due” is for an amount that includes original principal, fees, and contractual interest.
48. Since interest was accruing on this debt, the collection notice must inform the consumer that the amount of the debt stated in the letter may increase over time.
49. Collection letters failing to reference the accrual of interest or waiver of interest are subject to two different interpretations as to the accumulation of interest, rendering them deceptive under § 1692e(10). See Sperber v. Central Credit Services LLC No. CV 16-cv-05222 (ARR) (RLM), 2017 U.S. Dist. (E.D.N.Y. May. 1, 2017) (“This matter presents the question of whether failing to disclose [] interest, or failing to explicitly waive the right to collect it, constitutes a “false, deceptive, or misleading” practice under § 1692e... Plaintiff contends that the collection notice he received, which neither stated that [] interest was accruing nor waived the creditor’s right to collect it, is deceptive or misleading under *Avila v. Riexinger & Associates, LLC*, 817 F.3d 72 (2d Cir. 2016)... Having alleged that interest was accruing on his debt and that CCS failed to either disclose this interest or otherwise disclaim its right to collect it, Sperber has stated a plausible claim that the collection notices he received from CCS were misleading under Section 1692e of the FDCPA. See Avila, 817 F.3d at 76.”)
50. “None of the letters provided further detail regarding when or how the balance had been calculated, whether it included interest, or whether interest continued to accrue. The court finds that the “least sophisticated consumer” could have read these letters in at least two different ways. *On one hand*, an unsophisticated consumer could reasonably conclude that the balance was a fixed amount that would not be subject to further interest, late fees, or other charges. *On the other*, an unsophisticated consumer could just as reasonably

determine that the balance would continue to grow over time as interest accrued. *One of those meanings would necessarily be inaccurate.* Therefore, the court finds that Defendants' letters were deceptive as a matter of law. Courts in other districts have reached the same conclusion on similar facts. The court grants Ms. Snyder's motion for summary judgment on this issue.” Snyder v. Gordon, No. C11-1379 RAJ, 2012 U.S. Dist. LEXIS 120659, at *8-9 (W.D. Wash. Aug. 24, 2012); Avila v. Riexinger & Assocs., LLC, 817 F.3d 72, 75 (2d Cir. 2016) (“[I]n considering whether a collection notice violates Section 1692e, we apply the "least sophisticated consumer" standard...**Under this standard, a collection notice is misleading if it is "open to more than one reasonable interpretation, at least one of which is inaccurate.”**)

51. “The Court therefore finds that [the debt collectors] letters to [the debtor] are subject to two different interpretations as to the accumulation of interest, rendering them deceptive under § 1692e(10) ... The logic [applies] to stated outstanding debt and the need for consumers to be aware that this debt may be dynamic or static. They are concerned with a consumer's inability to discern whether an amount owed may grow with time, regardless of whether offers to settle are on the table or not. As [plaintiff] states, this information is relevant in a consumer's payment calculus, especially when some debts must be paid at the expense of others. And, of course, the existence of settlement offers would be entirely irrelevant to these considerations for the many consumers who are unable to take advantage of them...Plaintiff's claim is not that the stated balance was not itemized, but that it was unclear whether it was subject to future interest.” Michalek v. ARS Nat'l Sys., No. 3:11-CV-1374, 2011 U.S. Dist. LEXIS 142976, at *16-17 (M.D. Pa. Dec. 13, 2011).
52. The Plaintiff and the least sophisticated consumer could conclude from the said collection

letter, that the “Current Balance Due” is static and that his or her payment of the amount due would satisfy the debt irrespective of when payment was remitted. However, absent a disclosure by the holder of the debt that clearly stated that the holder of the debt would accept payment of the amount set forth in “full satisfaction” of the debt then even if the debtor pays the “Current Balance Due” the Defendant and or the creditor *could* still seek the automatic interest that accumulated after the breach of contract, or sell the consumer’s debt to a third party, which itself could seek the automatic interest and from the consumer. (Avila, at *10-11.)

53. The said August 16, 2016 letter was deceptive and misleading as it merely identified the “Current Balance Due,” yet failed to disclose that the balance may increase due to interest and fees.
54. The Plaintiff was left uncertain as to whether the “Current Balance Due” was accruing interest as there was no disclosure that indicated otherwise.
55. A reasonable consumer could read the notice and be misled into believing that he or she could always pay his or her debt in full by paying the amount listed on the notice.
56. In fact, however, since interest is accruing daily, or since there are undisclosed late fees, a consumer who pays the “Current Balance Due” stated on the notice will not know whether the debt has been paid in full.
57. The debt collector could still seek the interest and fees that accumulated after the notice was sent but before the balance was paid, or sell the consumer’s debt to a third party, which itself could seek the interest and fees from the consumer.
58. The statement of a “Current Balance Due” without notice that the amount is already increasing due to accruing interest or other charges, would mislead the unsophisticated

consumer into believing that payment of the amount stated will clear his or her account.

59. The FDCPA requires debt collectors, when notifying consumers of their account balance, to disclose that the balance may increase due to interest and fees; failure to include such disclosures would harm consumers such as the Plaintiff who may hold the reasonable but mistaken belief, that timely payment will satisfy their debts and it would abrogate the Congressional purpose of full and fair disclosure to consumers that is embodied in Section 1692e.
60. Collection notices that state only the “Current Balance Due,” but do not disclose that the balance might increase due to interest and fees, are “misleading” within the meaning of Section 1692e.
61. The Plaintiff and the least sophisticated consumer would be led to believe that the “Current Balance Due” is static and that his or her payment of the amount due would satisfy the debt irrespective of when payment was remitted.
62. A consumer who pays the “Current Balance Due” stated on the collection letter will be left unsure as to whether or not the debt has been paid in full, as the Defendant could still attempt to collect on any interest and fees that accumulated after the letter was sent but before the balance was paid.
63. The Defendant violated 15 U.S.C. § 1692e(2)(A) for misrepresenting the amount of the debt owed by the Plaintiff.
64. A debt collector, when notifying a consumer of his or her account balance, must disclose that the balance may increase due to interest and fees.
65. 15 U.S.C. § 1692e provides:

A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt.

Without limiting the general application of the foregoing, the following conduct is a violation of this section:

(2) The false representation of –
the character, amount, or legal status of any debt; or

(10) the use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer.

66. Defendant's August 16, 2016 letter is in violation of 15 U.S.C. §§ 1692e, 1692e(2)(A) and 1692e(10) of the FDCPA for the use of any false representation or deceptive means to collect or attempt to collect any debt and for misrepresenting the amount of the debt owed by the Plaintiff.
67. Said letter further states in pertinent part as follows: "CITIBANK, N.A. may report a discharge of indebtedness if required by applicable tax law."
68. The Defendant's language is deceptive and misleading and violated the FDCPA.
69. Under 26 C.F.R. §1.6050P-1(d)(2) and (3), only the discharge of principal need be reported:
- (2) Interest. The discharge of an amount of indebtedness that is interest **is not required to be reported** under this section.
- (3) Non-principal amounts in lending transactions. In the case of a lending transaction, the discharge of an amount other than stated principal **is not required to be reported** under this section. For this purpose, a lending transaction is any transaction in which a lender loans money to, or makes advances on behalf of, a borrower (including revolving credits and lines of credit).
70. It is highly improbable for one who is in debt to have income as a result of settling a debt, as that person is more likely to be insolvent; so such a discharge would not be considered as income.
71. A collection notice is deceptive when it reasonably can be read to have two or more

different meanings, one of which is inaccurate.⁸

72. The language in the letter that states “CITIBANK, N.A. may report a discharge of indebtedness if required by applicable tax law” could reasonably be understood by the least sophisticated consumer to mean that IRS regulations require that the client, in all circumstances, report forgiveness of debt to the IRS.
73. The words “CITIBANK, N.A. may report a discharge of indebtedness if required by applicable tax law” is reasonably read to mean that the creditor will always report forgiveness of debt.
74. The least sophisticated consumer would understand this statement to mean that the creditor is required by IRS regulations to report forgiveness of debt.
75. Although the Defendant had no duty to disclose any potential tax ramifications,⁹ when Defendant chooses to give tax disclosures, it must do so in a way that it will not mislead the least sophisticated consumer as to his or her tax consequences.
76. Current case law has made clear, that if debt collectors are providing tax advice with regards to the reporting of forgiveness of debt, they cannot provide vague, incomplete and misleading disclosures that leaves out the essential element that the reporting of forgiveness of a debt happens only if the **principal** forgiven exceeds \$600, and that reporting of forgiveness of a debt would not happen even if the amount is greater than \$600, if the \$600 or greater amount forgiven contained interest forgiveness so long as the principal was less than \$600.

⁸ Pipples v. Credit Bureau of Lockport, Inc., 886 F.2d 22, 25 (2d Cir. 1989) (Because the collection notice was reasonably susceptible to an inaccurate reading, it was deceptive within the meaning of the Act.); Clomon v. Jackson, 988 F.2d 1314, 1319 (2d Cir. 1993) (Collection notices are deceptive if they are open to more than one reasonable interpretation, at least one of which is inaccurate.); Russell v. Equifax A.R.S., 74 F.3d 30, 34 (2d Cir. N.Y. 1996) (A collection notice is deceptive when it can be reasonably read to have two or more different meanings, one of which is inaccurate. The fact that the notice's terminology was vague or uncertain will not prevent it from being held deceptive under § 1692e(10) of the Act.)

⁹ Altman v. J.C. Christensen & Assocs., 786 F.3d 191, 194, 2015 U.S. App. LEXIS 7980, *7 (2d Cir. N.Y. 2015) “[T]he FDCPA does not require a debt collector to make any affirmative disclosures of potential tax consequences when collecting a debt.”)

77. The statement “CITIBANK, N.A. may report a discharge of indebtedness if required by applicable tax law” is ambiguous, yet the vagueness and uncertainty does not erase the fundamental mischief and deception that the statement intends to cause to the consumer. A consumer reading this statement will be led to believe that if a settlement erases any amount of the debt, then the creditor is required to report the forgiveness of debt to the IRS, per the IRS regulations (creating by fear of the IRS another incentive for the consumer to pay the debt without erasing any amount through settlement). However, this statement is inherently deceptive and misleading, by giving erroneous and incomplete tax information - because in actual fact and according to IRS regulations, the creditor "**will not**" be required to report to the IRS report forgiveness of debt less than \$600, nor would the creditor be required to report an amount greater than \$600 in forgiveness if the amount contained interest.
78. If the creditor wishes to legitimately give tax advice in a sincere manner, one that does not mislead the consumer, then that creditor should specify and make clear to the least sophisticated consumer that only certain amounts require reporting, and that this applies only to principle and not to interest forgiveness.
79. The creditor should also specify what amounts are principle and what part of it is interest, in the amounts owed. Any tax advice that does not specify the tax consequences as it applies to the consumer's circumstances is nothing more than a ploy to elicit a more substantial payment from the consumer than the consumer would have paid, had he or she understood the tax reporting consequences.
80. The use of the words “CITIBANK, N.A. may report a discharge of indebtedness if required by applicable tax law” is an attempt by the debt collector to make the debtor

think that the IRS regulations always require the reporting of forgiveness of debt. The least sophisticated consumer would reasonably read the letter to mean that the creditor, in all circumstances, will report forgiveness of debt as is required by IRS regulations.¹⁰

81. In a recent decision, this court found in the case of Kaff v. Nationwide Credit, Inc., 1:13-cv-05413, No. 32 (E.D.N.Y. Mar. 31, 2015) (Towns, J.) that a statement regarding the requirement to file a 1099: "was not strictly true under all circumstances because **it failed to apprise debtors** that possible exceptions could apply to the creditor's mandatory reporting requirement, such as the exceptions **for interest and other non-principal debts.**" Kaff v. Nationwide Credit, Inc., 1:13-cv-05413, No. 32 (E.D.N.Y. Mar. 31, 2015) (Towns, J.) (emphasis added); see also Good v. Nationwide Credit, Inc., No. 14-4295, 2014 BL 302150 (E.D. Pa. Oct. 24, 2014) (Finding that the statement "American Express is required to file a form 1099C with the Internal Revenue Service for any cancelled debt of \$600 or more. Please consult your tax advisor concerning any tax questions" is not true and does not accurately reflect the relevant law the court also found that the statement's invocation of the IRS was deceptive and materially misleading in violation of the FDCPA.)
82. The Defendant tends to give erroneous and/or incomplete tax advice to consumers.
83. The FDCPA does not require that tax consequences be identified in collection letters sent to consumers; but where a debt collector has chosen to threaten the debtor with tax consequences, and has done so inaccurately, the false representation causes detrimental harm to the consumer since it concretely thwarts the consumer's ability to freely navigate a course of action in response to the collection notice. The risk in this type of harm is the

¹⁰ Russell v. Equifax A.R.S., 74 F.3d 30, 35, 1996 U.S. App. LEXIS 1042, *13 (2d Cir. N.Y. 1996) (That a notice's terminology is vague or uncertain will not prevent it from being held deceptive under 1692e.)

detrimental impact to the consumer. And such harm is precisely the kind of infringement of the consumer's best interests that the FDCPA seeks to combat.

84. Such a statement in a collection letter suggests to the least sophisticated consumer that failure to pay will get the consumer into trouble with the IRS.¹¹
85. The statement in the said letter is false and misleading, in violation of 15 U.S.C. §§ 1692e, 1692e(2), and 1692e(10).
86. Plaintiff suffered injury in fact by being subjected to unfair and abusive practices of the Defendant.
87. Plaintiff suffered actual harm by being the target of the Defendant's misleading debt collection communications.
88. Defendant violated the Plaintiff's right not to be the target of misleading debt collection communications.
89. Defendant violated the Plaintiff's right to a truthful and fair debt collection process.
90. Defendant used materially false, deceptive, misleading representations and means in its attempted collection of Plaintiff's alleged debt.
91. 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.
92. 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 him of his

¹¹ Kaff v. Nationwide Credit, Inc., 1:13-cv-05413, No. 32 (E.D.N.Y. Mar. 31, 2015) (Towns, J.); Wagner v. Client Services, Inc., No. 08-5546, 2009 WL 839073, 2009 U.S. Dist. LEXIS 26604 (E.D.Pa., March 26, 2009); Sledge v. Sands, 182 F.R.D. 255 (N.D.Ill. 1998).

right to enjoy these benefits, these materially misleading statements trigger liability under section 1692e of the Act.

93. These deceptive communications additionally violated the FDCPA since they frustrate the consumer's ability to intelligently choose his or her response.
94. Plaintiff seeks to end these violations of the FDCPA. Plaintiff has suffered damages including but not limited to, fear, stress, mental anguish, emotional stress and acute embarrassment. Plaintiff and putative class members are entitled to preliminary and permanent injunctive relief, including, declaratory relief, and damages.

CLASS ALLEGATIONS

95. This action is brought as a class action. Plaintiff brings this action on behalf of himself and on behalf of all other persons similarly situated pursuant to Rule 23 of the Federal Rules of Civil Procedure.
96. The identities of all class members are readily ascertainable from the records of Northland Group Inc. and those business and governmental entities on whose behalf it attempts to collect debts.
97. Excluded from the Plaintiff's Class is the Defendant and all officers, members, partners, managers, directors, and employees of Northland Group Inc., and all of their respective immediate families, and legal counsel for all parties to this action and all members of their immediate families.
98. There are questions of law and fact common to the Plaintiff's Class, which common issues predominate over any issues involving only individual class members. The principal issues are whether the Defendant's communications with the Plaintiff, such as the above stated claims, violate provisions of the Fair Debt Collection Practices Act.

99. The Plaintiff's claims are typical of the class members, as all are based upon the same facts and legal theories.
100. The Plaintiff will fairly and adequately protect the interests of the Plaintiff's Class defined in this complaint. The Plaintiff has retained counsel with experience in handling consumer lawsuits, complex legal issues, and class actions, and neither the Plaintiff nor his attorneys have any interests, which might cause them not to vigorously pursue this action.
101. This action has been brought, and may properly be maintained, as a class action pursuant to the provisions of Rule 23 of the Federal Rules of Civil Procedure because there is a well-defined community interest in the litigation:
- (a) **Numerosity:** The Plaintiff is informed and believes, and on that basis alleges, that the Plaintiff's Class defined above is so numerous that joinder of all members would be impractical.
 - (b) **Common Questions Predominate:** Common questions of law and fact exist as to all members of the Plaintiff's Class and those questions predominate over any questions or issues involving only individual class members. The principal issues are whether the Defendant's communications with the Plaintiff, such as the above stated claims, violate provisions of the Fair Debt Collection Practices Act.
 - (c) **Typicality:** The Plaintiff's claims are typical of the claims of the class members. Plaintiff and all members of the Plaintiff's Class defined in this complaint have claims arising out of the Defendant's common uniform course of conduct complained of herein.

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

(e) **Superiority:** A class action is superior to the other available means for the fair and efficient adjudication of this controversy because individual joinder of all members would be impracticable. Class action treatment will permit a large number of similarly situated persons to prosecute their common claims in a single forum efficiently and without unnecessary duplication of effort and expense that individual actions would engender. Certification of a class under Rule 23(b)(1)(A) of the Federal Rules of Civil Procedure is appropriate because adjudications with respect to individual members create a risk of inconsistent or varying adjudications which could establish incompatible standards of conduct for Defendant who, on information and belief, collects debts throughout the United States of America.

102. Certification of a class under Rule 23(b)(2) of the Federal Rules of Civil Procedure is also appropriate in that a determination that the above stated claims, violate provisions of the Fair Debt Collection Practices Act, and is tantamount to declaratory relief and any monetary relief under the FDCPA would be merely incidental to that determination.

103. Certification of a class under Rule 23(b)(3) of the Federal Rules of Civil Procedure is also appropriate in that the questions of law and fact common to members of the Plaintiff's Class predominate over any questions affecting an individual member, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy.
104. Further, Defendant has acted, or failed to act, on grounds generally applicable to the Rule (b)(1)(A) and (b)(2) Class, thereby making appropriate final injunctive relief with respect to the Class as a whole.
105. Depending on the outcome of further investigation and discovery, Plaintiff may, at the time of class certification motion, seek to certify one or more classes only as to particular issues pursuant to Fed. R. Civ. P. 23(c)(4).

CAUSE OF ACTION

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

106. Plaintiff repeats, reiterates, and incorporates the allegations contained in paragraphs numbered one (1) through one hundred and five (105) herein with the same force and effect as if the same were set forth at length herein.
107. This cause of action is brought on behalf of Plaintiff and the members of two classes.
108. The first class involves all individuals whom Defendant's records reflect resided in the State of New York and who were sent a collection letter in substantially the same form letter as the letter sent to the Plaintiff on or about August 16, 2016; and (a) the collection letter was sent to a consumer seeking payment of a personal debt; and (b) the collection letter was not returned by the postal service as undelivered; and (c) the Plaintiff asserts that the letter contained violations of 15 U.S.C. §§ 1692e, 1692e(2)(A) and 1692e(10) of

the FDCPA for the use of any false representation or deceptive means to collect or attempt to collect any debt and for misrepresenting the amount of the debt owed by the Plaintiff.

109. The second class involves all individuals whom Defendant's records reflect resided in the State of New York and who were sent a collection letter in substantially the same form letter as the letter sent to the Plaintiff on or about August 16, 2016; and (a) the collection letter was sent to a consumer seeking payment of a personal debt; and (b) the collection letter was not returned by the postal service as undelivered; and (c) the Plaintiff asserts that the letter contained violations of 15 U.S.C. §§ 1692d, 1692e, 1692e(5), 1692e(8), 1692e(10), and 1692f, for harassment and by threatening to engage in an act which is legally prohibited.

Violations of the Fair Debt Collection Practices Act

110. The Defendant's actions as set forth above in the within complaint violates the Fair Debt Collection Practices Act.
111. 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 Plaintiff's favor and against the Defendant and award damages as follows:

- (a) Statutory 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: Brooklyn, New York
August 16, 2017

/s/ Maxim Maximov
Maxim Maximov, Esq.
Attorneys for the Plaintiff
Maxim Maximov, LLP
1701 Avenue P
Brooklyn, New York 11229
Office: (718) 395-3459
Facsimile: (718) 408-9570
E-mail: m@maximovlaw.com

Plaintiff requests trial by jury on all issues so triable.

/s/ Maxim Maximov
Maxim Maximov, Esq.

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

MOSHE Y. GUTMAN

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

(c) Attorneys (Firm Name, Address, and Telephone Number) MAXIM MAXIMOV, LLP OFFICE: (718) 395-3459 1701 AVENUE P FAX: (718) 408-9570 BROOKLYN, NEW YORK 11229 E-MAIL: M@MAXIMOV.LAW.COM

DEFENDANTS

NORTHLAND GROUP INC.

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

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

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

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

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Insurance, Personal Injury, Real Estate, etc.

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

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 15 U.S.C. SECTION 1692 -- FAIR DEBT COLLECTION PRACTICES ACT (FDCPA) Brief description of cause: UNLAWFUL AND DECEITFUL DEBT COLLECTION BUSINESS PRACTICES

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 08/16/2017 SIGNATURE OF ATTORNEY OF RECORD /S/ MAXIM MAXIMOV, ESQ.

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

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, N/A, counsel for _____, 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:

N/A

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? NO
 - b) Did the events of 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/ MAXIM MAXIMOV, ESQ.

UNITED COLLECTION BUREAU, INC.
5620 SOUTHWYCK BLVD SUITE 206
TOLEDO OH 43614

April 23, 2014
1-877-236-3770

MOSHE Y GUTMAN
19 VALLEY VIEW TER
SPRING VALLEY NY 10977-3607

Creditor:	CITIBANK, N.A.
Regarding:	CITI VISA
Last Four Digits of Creditor Account Number:	XXXXXXXXXXXX4386
United Collection Bureau, Inc. Reference Number:	[REDACTED]
Current Account Balance:	\$4919.34

Unless you dispute the validity of this debt or any portion thereof, please make your payment to Citibank at the remit address below or call our office for arrangements.

When calling our office at 1-877-236-3770, please refer to reference number [REDACTED]

To view your account or make secure payments online, visit consumerview.ucbinc.com.

Sincerely,
United Collection Bureau, Inc.

Business Hours: 8:00 a.m. – 8:00 p.m. EST Monday – Thursday
8:00 a.m. – 5:00 p.m. EST Friday
8:00 a.m. – 12:00 p.m. EST Saturday

This is an attempt to collect a debt by United Collection Bureau, Inc., a debt collector, and any information obtained will be used for that purpose.

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 this debt is valid. If you notify this office in writing 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.

SEE REVERSE SIDE FOR IMPORTANT INFORMATION

24CU027000CDN

PLEASE RETURN THIS PORTION WITH PAYMENT. DO NOT ATTACH CHECK TO STUB.

Creditor:	CITIBANK, N.A.
Regarding:	CITI VISA
Last Four Digits of Creditor Account Number:	XXXXXXXXXXXX4386
Current Account Balance:	\$4919.34



PO BOX 140310
TOLEDO OH 43614

ADDRESS SERVICE REQUESTED

REMIT TO:

April 23, 2014

United Collection Bureau, Inc.
PO BOX 140310
TOLEDO OH 43614

53346645 294036521



MOSHE Y GUTMAN
19 VALLEY VIEW TER
SPRING VALLEY NY 10977-3607

361



Northland Group Inc.



P.O. Box 390905
Minneapolis, MN 55439
Mail Code CNYE4

866-595-2447
For General Business Hours, please visit us at:
www.payments2northland.com

August 16, 2016

Moshe Y Gutman
1337 49th St
Brooklyn, NY 11219



ACCOUNT INFORMATION

Creditor: **CITIBANK, N.A.**
Regarding: **CITI VISA**
Original Account #: *****4386
Current Balance Due: **\$5,132.15**

NORTHLAND REFERENCE NUMBER



Settle your account in 3 or 6 payments!

In order to assist you in clearing this debt, we are offering options.

Option I: CITIBANK, N.A. will allow you to settle your account for \$2,052.84 in 3 payments starting on 09/06/16. If you need additional time to respond to this offer, please contact us. We are not obligated to renew this offer. The payments can be no more than 30 days apart. Upon receipt and clearance of all three payments of \$684.28, a letter will be sent confirming the above referenced account has been resolved.

Option II: CITIBANK, N.A. will allow you to settle your account for \$2,309.46 in 6 payments starting on 09/06/16. If you need additional time to respond to this offer, please contact us. We are not obligated to renew this offer. The payments can be no more than 30 days apart. Upon receipt and clearance of all 6 payments of \$384.91, a letter will be sent confirming the above referenced account has been resolved.


Please contact the representative below at 866-595-2447 if you have any questions. These are not your only options. Make check payable to Citi.


Sincerely,

Kyle Lundeen

CITIBANK, N.A. may report a discharge of indebtedness if required by applicable tax law. This reporting may have tax consequences to you. Please contact your tax advisor if you have any questions.

 **Pay Online:** www.payments2northland.com

 **Pay by Phone:** Please call Northland Group, Inc. at 866-595-2447. We offer check by phone, Western Union, and debit card.

 **Pay by Mail:** Send payments to PO Box 390905, Minneapolis, MN 55439.

This is an attempt to collect a debt by a debt collector and any information obtained will be used for that purpose. This communication is sent to you by Northland Group, Inc., a debt collector and a member of ACA International. This collection agency's New York City Department of Consumer Affairs License number is 1283580.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

MOSHE Y. GUTMAN on behalf of himself and
all other similarly situated consumers

Plaintiff,

-against-

NORTHLAND GROUP INC.

Defendant.

SUMMONS IN A CIVIL ACTION

TO: NORTHLAND GROUP INC.
7831 GLENROY ROAD, #250
EDINA, MINNESOTA 55439

YOU ARE HEREBY SUMMONED and required to file with the Clerk of this Court
and serve upon PLAINTIFF'S ATTORNEY:

MAXIM MAXIMOV, ESQ.
MAXIM MAXIMOV, LLP
1701 AVENUE P
BROOKLYN, NEW YORK 11229

an answer to the complaint which is herewith served upon you, with **21** days after service of this
summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will
be taken against you for the relief demanded in the complaint.

CLERK

DATE

BY DEPUTY CLERK

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Northland Group Accused of Multiple FDCPA Violations](#)
