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Our File No.: 114588

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

Andre Hwang, individually and on behalf of all others
similarly situated,

Plaintiff,

vs.

Account Control Technology, Inc.,

Defendant.

Docket No:

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

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

Andre Hwang, individually and on behalf of all others similarly situated (hereinafter referred to as “*Plaintiff*”), by and through the undersigned counsel, complains, states and alleges against Account Control Technology, 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.

PARTIES

5. Plaintiff Andre Hwang is an individual who is a citizen of the State of New York residing in Queens County, New York.

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

7. On information and belief, Defendant Account Control Technology, Inc., is a California Corporation with a principal place of business in Los Angeles County, California.

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 (“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 September 5, 2017. (“**Exhibit 1.**”)

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

FIRST COUNT
Violation of 15 U.S.C. § 1692e

16. Plaintiff repeats and realleges the foregoing paragraphs as if fully restated herein.

17. The Letter sets forth a “Principal Balance” of \$2,620.87.

18. The Letter sets forth an “Interest” balance of \$1,025.48.

19. The Letter sets forth “Fees & Costs” of \$887.52.

20. The Letter sets forth a “Total Balance” of \$4,533.87.

21. 15 U.S.C. § 1692e requires debt collectors, when they notify consumers of their account balance, to disclose that the balance may increase due to interest and fees.

22. The Letter failed to disclose that the balance stated may increase due to interest.

23. The Letter failed to disclose that the balance stated may increase due to fees and costs.

24. The Letter, because of the aforementioned failures, violates 15 U.S.C. § 1692e.

SECOND COUNT
Violation of 15 U.S.C. § 1692g

25. Plaintiff repeats and realleges the foregoing paragraphs as if fully restated herein.

26. 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.

27. 15 U.S.C. § 1692g(a)(1) requires the written notice provide “the amount of the debt.”

28. The written notice, to comply with 15 U.S.C. § 1692g(a)(1), must convey the amount of the debt clearly from the perspective of the least sophisticated consumer.

29. The written notice, to comply with 15 U.S.C. § 1692g(a)(1), must convey the amount of the debt accurately from the perspective of the least sophisticated consumer.

30. The written notice, to comply with 15 U.S.C. § 1692g(a)(1), must convey the amount of the debt without ambiguity from the perspective of the least sophisticated consumer.

31. The written notice, to comply with 15 U.S.C. § 1692g(a)(1), must state whether interest, late fees and/or other fees are accruing.

32. The written notice, to comply with 15 U.S.C. § 1692g(a)(1), must allow the least sophisticated consumer to determine the minimum amount he or she owes at the time of the notice.

33. The written notice, to comply with 15 U.S.C. § 1692g(a)(1), must allow the least sophisticated consumer to determine what he or she will need to pay to resolve the debt at any given moment in the future.

34. The written notice, to comply with 15 U.S.C. § 1692g(a)(1), must contain an explanation, understandable by the least sophisticated consumer, of any fees or interest that may cause the balance to increase at any time in the future.

35. The failure to include the foregoing information renders an otherwise accurate statement of the “amount of the debt” violative of 15 U.S.C. § 1692g(a)(1).

36. The Letter fails to indicate the minimum amount Plaintiff owed at the time of the Letter.

37. The Letter fails to provide information that would allow the least sophisticated consumer to determine the minimum amount he or she owes at the time of the Letter.

38. The Letter fails to provide information that would allow Plaintiff to determine what Plaintiff will need to pay to resolve the debt at any given moment in the future.

39. The Letter fails to provide information that would allow the least sophisticated consumer to determine what he or she will need to pay to resolve the debt at any given moment in the future.

40. The Letter fails to provide information that would allow the least sophisticated consumer to determine the amount of interest owed.

41. For instance, the Letter fails to indicate the applicable interest rate.

42. For instance, the Letter fails to indicate the date of accrual of interest.

43. For instance, the Letter fails to indicate the amount of interest during any measurable period.

44. The Letter fails to provide information that would allow the least sophisticated consumer to determine the amount of fees owed.

45. For instance, the Letter fails to indicate the date such fees will be added.

46. For instance, the Letter fails to indicate the amount of fees during any measurable period.

47. The Letter fails to provide information that would allow the least sophisticated consumer to determine the amount of costs owed.

48. For instance, the Letter fails to indicate the date such costs will be added.

49. For instance, the Letter fails to indicate the amount of costs during any measurable period.

50. The Letter fails to contain an explanation, understandable by the least sophisticated consumer, of any fees and interest that may cause the amount stated to increase.

51. The Letter fails to state whether interest, fees and/or costs are accruing.

52. The Letter, because of the aforementioned failures, would render the least

sophisticated consumer unable to determine the minimum amount owed at the time of the Letter.

53. The Letter, because of the aforementioned failures, would render the least sophisticated consumer unable to determine what she will need to pay to resolve the debt at any given moment in the future.

54. The Letter, because of the aforementioned failures, would render the least sophisticated consumer unable to determine the amount of his or her debt.

55. The Letter, because of the aforementioned failures, would render the least sophisticated consumer unable to determine the amount of her debt because the consumer would not know whether interest and fees would continue to accrue, or whether the amount of the debt was static.

56. The Letter, because of the aforementioned failures, did not convey “the amount of the debt” clearly from the perspective of the least sophisticated consumer.

57. The Letter, because of the aforementioned failures, did not convey “the amount of the debt” accurately from the perspective of the least sophisticated consumer.

58. The Letter, because of the aforementioned failures, did not convey “the amount of the debt” without ambiguity from the perspective of the least sophisticated consumer.

59. The Letter, because of the aforementioned failures, renders the statement of the amount of the debt, even if otherwise accurate, violative of 15 U.S.C. § 1692g(a)(1).

60. The Letter, because of the aforementioned failures, did not adequately set forth “the amount of the debt” as required by 15 U.S.C. § 1692g.

61. The Letter, because of the aforementioned failures, violates 15 U.S.C. § 1692g.

CLASS ALLEGATIONS

62. Plaintiff brings this action individually and as a class action on behalf of all persons similarly situated in the Eastern District of New York from whom Defendant attempted to collect a consumer debt using a collection letter that fails to disclose that the balance stated may increase due to interest, fees and/or costs, from one year before the date of this Complaint to the present.

63. This action seeks a finding that Defendant’s conduct violates the FDCPA, and asks that the Court award damages as authorized by 15 U.S.C. § 1692k.

64. Defendant regularly engages in debt collection.

65. The Class consists of more than 35 persons from whom Defendant attempted to collect delinquent consumer debts using a collection letter that fails to disclose that the balance stated may increase due to interest, fees and or costs.

66. 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.

67. 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.

68. 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 consumer protection laws.

JURY DEMAND

69. 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 Plaintiff's attorneys as Class Counsel; and
- c. Find that Defendant's actions violate the FDCPA; and

- d. Grant 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: February 13, 2018

BARSHAY SANDERS, PLLC

By: /s/ Craig B. Sanders
Craig B. Sanders, Esq.
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Garden City, New York 11530
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Fax: (516) 706-5055
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Attorneys for Plaintiff
Our File No.: 114588



Account Control Technology, Inc.

5531 Business Park South, Ste 100
PO Box 11750
Dept. 5160938 - 18C
Bakersfield, CA 93389-1750

ACCOUNT IDENTIFICATION

Client: U S DEPARTMENT OF EDUCATION

Account No.: 5160938

ANDRE HWANG
15011 23RD AVE
WHITESTONE, NY 11357-3615

Principal Balance	:\$ 2,620.87
Interest	:\$ 1,025.48
Penalty Charges	:\$ 0.00
Fees & Costs	:\$ 887.52
Total Balance	:\$ 4,533.87

September 5, 2017

Help Us Help You

Over the past several years we have helped thousands of borrowers resolve their defaulted student loans. Our experience has shown borrowers will honor their promise to repay when they are given the opportunity to do so in accordance with their income and expenses. Depending on your financial circumstances, there are different options that may be available to you. We therefore suggest you telephone our toll-free number 1-844-898-1130 so that one of our representatives can assist you.

- Rehabilitate your loan by demonstrating your commitment to repay on a monthly basis. Accounts that successfully rehabilitate will receive a waiver of all collection costs remaining at the time of rehabilitation.

In addition, you can assess your repayment options, including the possibility of loan rehabilitation, by visiting <https://documents.accountcontrol.com>.

- Establish an affordable monthly payment plan based upon your verifiable income and financial information.
- Compromise settlements, waiving a portion of your debt, can be arranged for payment of the remaining balance.

Working together with our Customer Support Staff, we are confident one of these options can fit your needs. However, you should be aware that the Department of Education (ED) has authority to implement Federal offsets, wage garnishment, or litigation procedures against borrowers who fail to voluntarily resolve their student loan obligations (Debt Collection Improvement Act, 31 U.S.C. 3720D and 31 C.F.R. 258.11).

If you do not make arrangements to pay the account in full or agree to an acceptable payment plan, we may forward this account to the U.S. Department of Education (ED) for Administrative Wage Garnishment or litigation in Federal Court.

THIS HAS BEEN SENT TO YOU BY A DEBT COLLECTOR. THIS IS AN ATTEMPT TO COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

SEE THE REVERSE SIDE OF THIS LETTER FOR IMPORTANT INFORMATION.

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 ANDRE HWANG (b) County of Residence of First Listed Plaintiff QUEENS (c) Attorneys (Firm Name, Address, and Telephone Number) BARSHAY SANDERS, PLLC 100 Garden City Plaza, Ste 500, Garden City, NY 11530 (516) 203-7600 DEFENDANTS ACCOUNT CONTROL TECHNOLOGY, INC. County of Residence of First Listed Defendant LOS ANGELES 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) 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) 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 O 1 O 1 O 2 O 2 O 3 O 3 Incorporated or Principal Place of Business In This State Incorporated and Principal Place of Business In Another State Foreign Nation PIF DEF O 4 O 4 O 5 O 5 O 6 O 6

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 PERSONAL INJURY O 365 Personal Injury - Product Liability O 367 Health Care/ Pharmaceutical Personal Injury Product Liability O 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY O 370 Other Fraud O 371 Truth in Lending O 380 Other Personal Property Damage O 385 Property Damage Product Liability 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 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 O No

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

DATE March 7, 2018 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? NO
b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? YES
c) If this is a Fair Debt Collection Practice Act case, specific the County in which the offending communication was received: QUEENS

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? Yes No

(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

Andre Hwang, individually and on behalf of all others similarly situated)	
_____)	
<i>Plaintiff(s)</i>)	
)	Civil Action No.
v.)	
)	
Account Control Technology, Inc.)	
_____)	
<i>Defendant(s)</i>)	

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*
Account Control Technology, Inc.
C/O C T CORPORATION SYSTEM
818 West Seventh Street, Suite 930
Los Angeles, California 90017

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

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [NY Man Claims Account Control Technology Sent Misleading Collection Letter](#)
