

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA**

ZANGELA JENKINS, on behalf of herself
and all others similarly situated,

Plaintiffs,

-v-

CREDIT BUREAU OF BESSEMER, INC.
and JOHN DOES 1-25,

Defendants.

Civil Case Number: _____

CIVIL ACTION

**CLASS ACTION COMPLAINT
AND
DEMAND FOR JURY TRIAL**

Plaintiff, ZANGELA JENKINS (hereinafter, "Plaintiff"), an Alabama resident, brings this class action complaint by and through her undersigned counsel, against Defendant CREDIT BUREAU OF BESSEMER, INC.(hereinafter "Defendant"), individually and on behalf of a class of all others similarly situated, pursuant to Rule 23 of the Federal Rules of Civil Procedure, based upon information and belief of Plaintiff's counsel, except for allegations specifically pertaining to Plaintiff, which are based upon Plaintiff's personal knowledge.

JURISDICTION AND VENUE

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

NATURE OF THE ACTION

3. Plaintiff brings this class action on behalf of a class of Alabama consumers seeking redress for Defendant's actions of using an unfair and unconscionable means to collect a debt.

4. Defendant's actions violated § 1692 et seq. of Title 15 of the United States Code, commonly referred to as the Fair Debt Collections Practices Act (“FDCPA”) which prohibits debt collectors from engaging in abusive, deceptive and unfair practices.
5. Plaintiff is seeking damages, and declaratory and injunctive relief.

PARTIES

6. Plaintiff is a natural person and a resident of the State of Alabama, Jefferson County, and is a “Consumer” as defined by 15 U.S.C. §1692(a)(3).
7. Defendant is a collection agency with its principal office located at 1920 3rd Avenue North, Bessemer, AL 35020.
8. Upon information and belief, Defendant is a company that uses the mail, telephone, and facsimile and regularly engages in business the principal purpose of which is to attempt to collect debts alleged to be due another.
9. Defendant is a “debt collector,” as defined under the FDCPA under 15 U.S.C. § 1692a(6).
10. John Does 1-25, are fictitious names of individuals and businesses alleged for the purpose of substituting names of Defendants whose identities will be disclosed in discovery and should be made parties to this action.

CLASS ALLEGATIONS

11. Plaintiffs bring this claim on behalf of the following case, pursuant to Fed. R. Civ. P. 23(a) and 23(b)(3).
12. The Class consists of (a) all individuals with addresses in the State of Alabama (b) who received an initial letter from Defendant (c) attempting to collect a consumer debt (d) which states “failure to pay the balance in full within 30 days may result in the account being reported as unpaid bad debt on your credit file for up to seven years”.

13. The identities of all class members are readily ascertainable from the records of Defendants and those companies and entities on whose behalf they attempt to collect and/or have purchased debts.
14. Excluded from the Plaintiff Classes are the Defendants and all officers, members, partners, managers, directors, and employees of the Defendants and their respective immediate families, and legal counsel for all parties to this action and all members of their immediate families.
15. There are questions of law and fact common to the Plaintiff Classes, which common issues predominate over any issues involving only individual class members. The principal issue is whether the Defendants' written communications to consumers, in the form attached as *Exhibit A*, violate 15 U.S.C. §1692g.
16. The Plaintiffs' claims are typical of the class members, as all are based upon the same facts and legal theories.
17. The Plaintiffs will fairly and adequately protect the interests of the Plaintiff Classes defined in this complaint. The Plaintiffs have retained counsel with experience in handling consumer lawsuits, complex legal issues, and class actions, and neither the Plaintiffs nor their attorneys have any interests, which might cause them not to vigorously pursue this action.
18. 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 Plaintiffs are informed and believe, and on that basis, allege that the Plaintiff Classes defined above are 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 Classes and those questions predominate over any questions or issues involving only individual class members. The principal issue is whether the Defendants' written communications to consumers, in the form attached as *Exhibit A*, violate 15 U.S.C. §1692g.
- (c) **Typicality:** The Plaintiffs' claims are typical of the claims of the class members. The Plaintiffs and all members of the Plaintiff Classes have claims arising out of the Defendants' common uniform course of conduct complained of herein.
- (d) **Adequacy:** The Plaintiffs will fairly and adequately protect the interests of the class members insofar as Plaintiffs have no interests that are averse to the absent class members. The Plaintiffs are committed to vigorously litigating this matter. Plaintiffs have also retained counsel experienced in handling consumer lawsuits, complex legal issues, and class actions. Neither the Plaintiffs nor their 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.

19. 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 Classes 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.

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

ALLEGATIONS OF FACT

21. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered above with the same force and effect as if the same were set forth at length herein.
22. Some time prior to May 17, 2016, an obligation was allegedly incurred to ABC Child Development Inc. ("ABC")
23. The ABC obligation arose out of a transaction in which money, property, insurance or services, which are the subject of the transaction, are primarily for personal, family or household purposes.
24. The alleged ABC obligation is a "debt" as defined by 15 U.S.C. § 1692a(5).
25. ABC is a "creditor" as defined by 15 U.S.C. § 1692a(4).
26. Defendant contends that the ABC debt is past due.
27. Defendant collects and attempts to collect debts incurred or alleged to have been incurred for personal, family or household purposes on behalf of creditors using the United States Postal Services, telephone and internet.

28. ABC directly or through an intermediary contracted Defendant to collect the ABC debt.
29. On or about May 17, 2016, the Defendant caused to be delivered to the Plaintiff a collection letter in an attempt to collect the alleged ABC debt. *See Exhibit A.*
30. The May 17, 2016 letter was sent or caused to be sent by persons employed by Defendant as a “debt collector” as defined by 15 U.S.C. §1692a(6).
31. The May 17, 2016 letter (“Letter”) is a “communication” as defined by 15 U.S.C. §1692a(2).
32. The May 17, 2016 Collection Letter contains a 30-day Validation Notice, advising the Plaintiff of her rights to request validation of her alleged debt.
33. The Letter further states in part;

“Failure to pay the balance in full within 30 days may result in the account being reported as unpaid bad debt on your credit file for up to seven years.”
34. Pursuant to the FDCPA, a consumer has a right within thirty days of receipt of the initial letter to dispute the debt with the debt collector in writing, and if done properly, the debt collector must cease all collection activities until they are able to verify the debt.
35. The 30-day validation notice must not be either “overshadowed” or contradicted by other language or material in the original collection letter.
36. The statement noted in Paragraphs 33 obscured and diminished the thirty day FDCPA validation rights of the Plaintiff.
37. The least sophisticated debtor would interpret the statement in Paragraph 32 to mean that, if he/she does not pay the balance in full within 30 days of the date of the letter, the account will be reported on his credit history.
38. The least sophisticated debtor would be left unsure as to what his/her rights are with regard

to disputing the validity of the alleged debt.

39. There is a risk of real harm associated with the Defendant's deceptive and misleading collection practices.
40. Congress adopted the debt validation provisions of section 1692g to guarantee that consumers would receive adequate notice of their rights under the FDCPA. *Wilson*, 225 F.3d at 354, citing *Miller v. Payco-General Am. Credits, Inc.*, 943 F.2d 482, 484 (4th Cir.1991).
41. The rights afforded to consumers under Section 1692g(a) are amongst the most powerful protections provided by the FDCPA.
42. Once a consumer makes a timely, written notice of dispute to the debt collector, the debt collector is required by law to cease collection of the account until verification of the debt is obtained.
43. Defendant's actions as described herein are part of a pattern and practice used to collect consumer debts.
44. Defendant could have taken the steps necessary to bring its actions within compliance with the FDCPA, but neglected to do so and failed to adequately review its actions to ensure compliance with the law.
45. On information and belief, Defendant sent a written communication, in the form annexed hereto as **Exhibit A** to at least 50 natural persons in the State of Alabama within one year of the date of this Complaint.

COUNT I

VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT 15 U.S.C. §1692g et seq.

46. Plaintiff repeats, reiterates and incorporates the allegations contained in the paragraphs

numbered above with the same force and effect as if the same were set forth at length herein.

47. Pursuant to 15 USC §1692g, a debt collector:

- (a) Within five days after the initial communication with a consumer in connection with the collection of any debt, a debt collector shall, unless the following information is contained in the initial communication or the consumer has paid the debt, send the consumer a written notice containing –
 - (1) The amount of the debt;
 - (2) The name of the creditor to whom the debt is owed;
 - (3) A statement that unless the consumer, within thirty days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt-collector;
 - (4) A statement that the consumer notifies the debt collector in writing within thirty-day period that the debt, or any portion thereof, is disputed, the debt collector will obtain verification of the debt or a copy of a judgment against the consumer and a copy of such verification or judgment will be mailed to the consumer by the debt collector; and
 - (5) A statement that, upon the consumer's written request within the thirty-day period, the debt collector will provide the consumer with the name and address of the original creditor, if different from the current creditor.

48. Under §1692g, it is not enough for a debt collector to merely include the validation notice.

The validation notice may not be either "overshadowed" or contradicted by other language or material in the letter.

49. The Defendant violated 1692g by using language in the letter that would overshadow the Plaintiff's validation rights, specifically by indicating that Plaintiff had to pay her debt within thirty days of the date of the letter in order to avoid credit reporting, rather than within receipt of the letter.

50. By reason thereof, Defendant is liable to Plaintiff for judgment that Defendant's conduct violated Section 1692g *et seq.* of the FDCPA, actual damages, statutory damages, costs and attorneys' fees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against Defendants as follows:

- (a) Declaring that this action is properly maintainable as a Class Action and certifying Plaintiff as Class representative, and Plaintiff's counsel, as Class Counsel;
- (b) Awarding Plaintiff and the Class statutory damages;
- (c) Awarding Plaintiff and the Class actual damages;
- (d) Awarding Plaintiff costs of this Action, including reasonable attorneys' fees and expenses;
- (e) Awarding pre-judgment interest and post-judgment interest; and
- (f) Awarding Plaintiff and the Class such other and further relief as this Court may deem just and proper.

Dated: May 10, 2017

/s/ David I. Schoen
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DEMAND FOR TRIAL BY JURY

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

Dated: May 10, 2017

/s/ David I. Schoen
DAVID I. SCHOEN

PO BOX 590
Bessemer AL 35021-0590



CREDIT BUREAU OF BESSEMER, INC.
Collection Service Division
(205) 428-7323 - (866) 428-7323

Date May 17, 2016

Total Due: \$165.00

*****AUTO**3-DIGIT 352
ZANGELA M JENKINS 01081689-071



Sent To:
CREDIT BUREAU OF BESSEMER, INC.
Collection Service Division
PO BOX 590
Bessemer, AL 35021-0590

(Detach upper portion and return with payment. Keep the bottom for your records)

Date: May 17, 2016
Client #: [REDACTED] 0826
Acct #: [REDACTED]
PIN #: [REDACTED]
Re: ABC CHILD DEVELOPMENT INC
For: ZANGELA JENKINS
Total Due: \$165.00

Make a payment on our secure website at www.cbbessemer.com
using the PIN# and ACCT# provided.

**THIS COMMUNICATION IS FROM A DEBT COLLECTOR
COLLECTION NOTICE**

Your account with ABC CHILD DEVELOPMENT INC has been placed for collection. The account is now past due. You are instructed to mail your balance in full or contact our office immediately at 205-428-7323 or 1-866-428-7323 to pay your account or to discuss this outstanding balance. Failure to pay the balance in full within 30 days may result in the account being reported as unpaid bad debt on your credit file for up to seven years. You should act now to avoid the possibility of this account being sent for further collection efforts allowed by law.

**THIS IS AN ATTEMPT TO COLLECT A DEBT. INFORMATION GAINED
MAY BE USED FOR THAT PURPOSE**

*****NOTICE*****

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of the debt or any portion thereof this office will assume that this debt is valid. If you notify this office in writing within 30 days from receiving this notice, this office will obtain verification of the debt against you and mail you a copy of such verification. If you notify this office in writing within 30 days after receiving this notice the office will provide you with the name and address of the original creditor, if different from the current creditor. This is an attempt to collect a debt. Any information obtained will be used for that purpose.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Wrong Day: Debt Collector Implies False Deadline, Suit Says](#)
