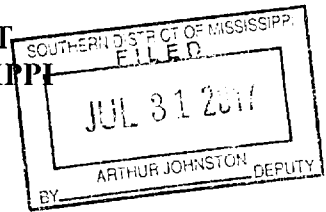


IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI



Jacob Overby, individually and on )  
behalf of all others similarly situated, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
Retail Merchants Association, Inc., )  
a Louisiana corporation, d/b/a Credit )  
Bureau of Louisiana, )  
 )  
Defendant. )

No. 3:17cv636 DPJ-FKB

Jury Demanded

**CLASS ACTION COMPLAINT**

Plaintiff, Jacob Overby, individually and on behalf of all others similarly situated, brings this action under the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA"), for a finding that Defendant's form debt collection letter violated the FDCPA, and to recover damages, and alleges:

**JURISDICTION AND VENUE**

1. This Court has jurisdiction pursuant to § 1692k(d) of the FDCPA, and 28 U.S.C. § 1331.
2. Venue is proper in this District because: a) the acts and transactions occurred here; b) Plaintiff resides here; and, c) Defendant transacts business here.

**PARTIES**

3. Plaintiff, Jacob Overby ("Overby"), is a citizen of the State of Mississippi, residing in the Southern District of Mississippi, from whom Defendant attempted to collect a delinquent consumer debt, which he allegedly owed for medical services.

4. Defendant, Retail Merchants Association, Inc., d/b/a Credit Bureau of Louisiana (“CBL”), is a Louisiana corporation that acts as a debt collector, as defined by § 1692a of the FDCPA, because it regularly uses the mails and/or the telephone to collect, or attempt to collect, delinquent consumer debts, including delinquent consumer debts in the Southern District of Mississippi. In fact, CBL was acting as a debt collector as to the delinquent consumer debt it attempted to collect from Plaintiff.

#### FACTUAL ALLEGATIONS

5. Defendant CBL sent Mr. Overby a collection letter dated August 1, 2016 demanding payment of a delinquent consumer debt that he allegedly owed, which stated, in pertinent part:

\* \* \*

ALL UNPAID ACCOUNT INFORMATION IS ROUTINELY SUBMITTED TO THE CREDIT BUREAU OF LOUISIANA, WHERE IT IS RECORDED AND REPORTED TO ANY AND ALL INQUIRING CREDIT GRANTORS.

\* \* \*

A copy of this letter is attached as Exhibit C.

6. Specifically, Defendant CBL’s letter makes it appear as if it is a credit reporting agency, when, in fact, it is not. This threat violates the FDCPA and is material because if a debt is being credit reported it impairs a consumer’s credit rating and their ability to obtain credit, which constitutes a real risk of financial harm, see, Sayles v. Advance Recovery Systems, 2017 U.S.App. LEXIS 12080 at [\*6]-[\*7] (5th Cir. 2017). This is information that affects a consumer’s decision making process in how to respond to a debt collection attempt.

7. Defendant’s collection actions complained of herein occurred within one year of the date of this Complaint.

8. Defendant’s collection communications are to be interpreted under the “unsophisticated” or “least sophisticated” consumer standard, see, Taylor v. Perrin, Landry &

Durand, 103 F.3d 1232, 1236 (5th Cir. 1997); Goswami v. Am. Collection Enter., 377 F.3d 488, 495 (5th Cir. 2004); and McMurray v. ProCollect, 687 F.3d 665, 669 (5th Cir. 2012).

**COUNT I**  
**Violation Of § 1692e of The FDCPA --**  
**Making A False, Deceptive Or Misleading Statement**

9. Plaintiff adopts and realleges ¶¶ 1-8.

10. Section 1692e of the FDCPA prohibits a debt collector from using any false, deceptive or misleading representation or means in connection with the collection of a debt, including, but limited to the false representation or implication that a debt collector operates a credit reporting agency, see 15 U.S.C. § 1692e(16).

11. Defendant's form debt collection letter makes it appear as if it is a credit reporting agency, when, in fact, it is not -- it is only making a report to itself. Thus, CBL has made a false, deceptive or misleading statement, in violation of § 1692e of the FDCPA.

12. Defendant's violation of § 1692e of the FDCPA renders it liable for statutory damages, costs, and reasonable attorneys' fees. See, 15 U.S.C. § 1692k.

**COUNT II**  
**Violation Of § 1692f Of The FDCPA --**  
**Unfair Or Unconscionable Collection Actions**

13. Plaintiff adopts and realleges ¶¶ 1-8.

14. Section 1692f of the FDCPA prohibits a debt collector from using any unfair or unconscionable means to collect or attempt to collect a debt. See, 15 U.S.C. §1692f.

15. Defendant, by making it appear as if it is a credit reporting agency, when, in fact it is not, used unfair or unconscionable means to collect a debt, in violation of § 1692f of the FDCPA.

16. Defendant's violation of § 1692f of the FDCPA renders it liable for statutory damages, costs, and reasonable attorneys' fees. See, 15 U.S.C. § 1692k.

### CLASS ALLEGATIONS

17. Plaintiff, Jacob Overby, brings this action individually and as a class action on behalf of all persons similarly situated in the State of Mississippi from whom Defendant attempted to collect a delinquent consumer debt, allegedly owed for medical services, via the same form collection letter (Exhibit A), that Defendant sent to Plaintiff, from one year before the date of this Complaint to the present. This action seeks a finding that Defendant's form letter violates the FDCPA, and asks that the Court award damages as authorized by § 1692k(a)(2) of the FDCPA.

18. Defendant CBL regularly engages in debt collection, using the same form collection letter it sent Plaintiff Overby, in its attempts to collect delinquent consumer debts from other persons.

19. The Class consists of more than 35 persons from whom Defendant CBL attempted to collect delinquent consumer debts, by sending other consumers the same form collection letter they sent Plaintiff Overby.

20. Plaintiff Overby'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.

21. 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.

22. Plaintiff Overby 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 Overby has retained counsel experienced in litigation.

### **PRAYER FOR RELIEF**


Plaintiff, Jacob Overby, individually and on behalf of all others similarly situated, prays that this Court:

1. Certify this action as a class action;
2. Appoint Plaintiff Overby as Class Representative of the Class, and his attorneys as Class Counsel;
3. Find that Defendant's form collection letter violated the FDCPA;
4. Enter judgment in favor of Plaintiff Overby and the Class, and against Defendant, for statutory damages, costs, and reasonable attorneys' fees as provided by § 1692k(a) of the FDCPA; and,
5. Grant such further relief as deemed just.

**JURY DEMAND**

Plaintiff, Jacob Overby, individually and on behalf of all others similarly situated,  
demands trial by jury.

Jacob Overby, individually and on  
behalf of all others similarly situated,

By: /s/ EDWIN WOODS JR.   
BOND BOTES & WOODS, PC.

Dated: July 31, 2017

PREPARED BY:

EDWIN WOODS JR.  
BOND BOTES & WOODS, P.C.  
5760 I-55 NORTH, STE 100  
JACKSON MS 39211  
(601) 353-5000  
[lwilkinson@bondnbotes.com](mailto:lwilkinson@bondnbotes.com)

JS 44 (Rev. 06/17)

**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**  
 Jacob Overby, individually and on behalf of all others similarly situated.

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

**(c) Attorneys (Firm Name, Address, and Telephone Number)**  
 Bond, Botes & Woods, P.C., Edwin Woods Jr  
 5760 I-55 North, Ste 100  
 Jackson MS 39211

BY: ARTHUR JOHNSTON DEPUTY

**DEFENDANTS**  
 Retail Merchants Association, Inc.,  
 a Louisiana Corporation, d/b/a Credit Burea of Louisiana

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

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

Attorneys (If Known)  
 Lamar P. Pugh  
 333 Texas St, Ste 2100  
 Shreveport LA 71101

SOUTHERN DISTRICT OF MISSISSIPPI  
 FILED  
 JUL 31 2017  
 ARTHUR JOHNSTON  
 DEPUTY

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

1 U.S. Government Plaintiff

3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant

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	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1 Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input checked="" type="checkbox"/> 2 Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3 Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

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

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	SOCIAL SECURITY
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/D1WW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
			IMMIGRATION	FEDERAL TAX SUITS
			<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

**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 (specify)

6 Multidistrict Litigation - Transfer

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 U.S.C. § 1692 et seq

Brief description of cause:

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$ STATUTORY DAMAGES & ATTORNEY FEES

CHECK YES only if demanded in complaint:  
 JURY DEMAND:  Yes  No

**VIII. RELATED CASE(S) IF ANY** (See instructions):

JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

DATE 7/31/17 SIGNATURE OF ATTORNEY OF RECORD [Signature]

FOR OFFICE USE ONLY

RECEIPT #	AMOUNT	APPLYING IFP	JUDGE	MAG. JUDGE

34643046072

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Consumer Sues Retail Merchants Association Over 'False' Credit Reporting Threats](#)

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