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Our File No.: 115464

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

Mark Santomauro, individually and on behalf of all
others similarly situated,

Plaintiff,

vs.

CMRE Financial Services, Inc.,

Defendant.

Docket No:

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

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

Mark Santomauro, 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 CMRE Financial Services, 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 Mark Santomauro is an individual who is a citizen of the State of New York residing in Suffolk County, New York.

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

7. On information and belief, Defendant CMRE Financial Services, Inc., is a California Corporation with a principal place of business in Orange 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 medical services 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 October 31, 2017. (“**Exhibit 1.**”)

15. The Letter was the initial communication Plaintiff received from Defendant.

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

17. The Letter directs Plaintiff to Defendant’s website, www.cmrefsi.com (the “Website”).

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

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

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

20. The Website states, “Your account balance may be periodically increased due to the addition of accrued interest or other charges as provided in the agreement with the original

creditor or as otherwise provided by state law.”

21. Interest was not accumulating on the Debt at the time the Letter was sent.

22. Interest was not accumulating on the Debt at the time the Debt was with Defendant.

23. Other fees and charges were not accruing on the Debt at the time the Letter was sent.

24. Other fees and charges were not accruing on the Debt at the time the Debt was with Defendant.

25. The above-referenced statement would lead the least sophisticated consumer to believe that the Debt was accruing interest.

26. The above-referenced statement would lead the least sophisticated consumer to believe that the Debt was accruing late fees.

27. The provision of the above-referenced statement, when the debt was not accruing interest at the time the letter was sent, is deceptive within the meaning of 15 U.S.C. § 1692e.

28. The provision of the above-referenced statement, when the debt was not accruing interest at the time it was with Defendant, is deceptive within the meaning of 15 U.S.C. § 1692e.

29. The provision of the above-referenced statement, when the debt was not accruing other fees and charges at the time the letter was sent, is deceptive within the meaning of 15 U.S.C. § 1692e.

30. The provision of the above-referenced statement, when the debt was not accruing other fees and charges at the time it was with Defendant, is deceptive within the meaning of 15 U.S.C. § 1692e.

31. For these reasons, Defendant violated 15 U.S.C. § 1692e.

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

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

33. 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.

34. 15 U.S.C. § 1692g(a)(1) requires the written notice provide “the amount of the debt.”

35. 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.

36. 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.

37. 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.

38. 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.

39. 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.

40. 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.

41. 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).

42. The Website’s statement that, “Your account balance may be periodically increased due to the addition of accrued interest or other charges as provided in the agreement with the original creditor or as otherwise provided by state law,” when the debt was not subject to interest and/or other charges and fees, would likely render the least sophisticated consumer unable to determine the minimum amount owed at the time of the Letter.

43. The Website’s statement that, “Your account balance may be periodically increased due to the addition of accrued interest or other charges as provided in the agreement with the original creditor or as otherwise provided by state law,” when the debt was not subject to interest and/or other charges and fees, 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.

44. The Website’s statement that, “Your account balance may be periodically increased due to the addition of accrued interest or other charges as provided in the agreement

with the original creditor or as otherwise provided by state law,” when the debt was not subject to interest and/or other charges and fees, would render the least sophisticated consumer unable to determine the amount of his or her debt.

45. The Website’s statement that, “Your account balance may be periodically increased due to the addition of accrued interest or other charges as provided in the agreement with the original creditor or as otherwise provided by state law,” when the debt was not subject to interest and/or other charges and fees, 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.

46. The Website’s statement that, “Your account balance may be periodically increased due to the addition of accrued interest or other charges as provided in the agreement with the original creditor or as otherwise provided by state law,” when the debt was not subject to interest and/or other charges and fees, did not convey “the amount of the debt” clearly from the perspective of the least sophisticated consumer.

47. The Website’s statement that, “Your account balance may be periodically increased due to the addition of accrued interest or other charges as provided in the agreement with the original creditor or as otherwise provided by state law,” when the debt was not subject to interest and/or other charges and fees, did not convey “the amount of the debt” accurately from the perspective of the least sophisticated consumer.

48. The Website’s statement that, “Your account balance may be periodically increased due to the addition of accrued interest or other charges as provided in the agreement with the original creditor or as otherwise provided by state law,” when the debt was not subject to interest and/or other charges and fees, did not convey “the amount of the debt” without ambiguity from the perspective of the least sophisticated consumer.

49. The Website’s statement that, “Your account balance may be periodically increased due to the addition of accrued interest or other charges as provided in the agreement with the original creditor or as otherwise provided by state law,” when the debt was not subject to interest and/or other charges and fees, renders the statement of the amount of the debt, even if otherwise accurate, violative of 15 U.S.C. § 1692g(a)(1).

50. The Website’s statement that, “Your account balance may be periodically increased due to the addition of accrued interest or other charges as provided in the agreement

with the original creditor or as otherwise provided by state law,” when the debt was not subject to interest and/or other charges and fees, did not adequately set forth “the amount of the debt” as required by 15 U.S.C. § 1692g.

51. The Website’s statement that, “Your account balance may be periodically increased due to the addition of accrued interest or other charges as provided in the agreement with the original creditor or as otherwise provided by state law,” when the debt was not subject to interest and/or other charges and fees, violates 15 U.S.C. § 1692g.

CLASS ALLEGATIONS

52. Plaintiff brings this action individually and as a class action on behalf of all persons similarly situated in the State of New York from whom Defendant attempted to collect a consumer debt that was neither accumulating interest nor subject to fees or other charges, where Defendant sent the consumer a letter directing the consumer to Defendant’s website, from one year before the date of this Complaint to the present.

53. 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.

54. Defendant regularly engages in debt collection.

55. The Class consists of more than 35 persons from whom Defendant attempted to collect delinquent consumer debts that was neither accumulating interest nor subject to fees or other charges, where Defendant sent the consumer a letter directing the consumer to Defendant’s website.

56. 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.

57. 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.

58. 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

59. 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: August 20, 2018

BARSHAY SANDERS, PLLC

By: /s/ Craig B. Sanders

Craig B. Sanders, Esq.

100 Garden City Plaza, Suite 500

Garden City, New York 11530

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Attorneys for Plaintiff

Our File No.: 115464

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100 GARDEN CITY PLAZA, SUITE 500
GARDEN CITY, NEW YORK 11530

CMRE FINANCIAL SERVICES, INC
 3075 E IMPERIAL HWY SUITE 200
 BREA CA 92821-6753



Phone: (800) 783-9118
 customerservice@cmrefsi.com | www.cmrefsi.com
 Hours: 7:00 am - 6:00 pm Pacific Standard Time

002257

Notice: Please see reverse side for important information regarding your rights



MARK SANTOMAURO
 529 LOMBARD ST
 NORTH BABYLON NY 11703-1203



Statement Date: October 31, 2017

Patient Name: MARK SANTOMAURO

Dear Mark Santomauro

RADADVANTAGE, APC has placed the account for collection with our office. We may be reached at (800) 783-9118, Monday through Friday between the hours of 7:00 am and 6:00 pm PST.

For your convenience, you may pay with your Visa, MasterCard, American Express, Discover Card, Western Union Quick Collect, personal check, or money order. To pay your bill online, go to www.cmrefsi.com. You may also access our automated payment center 24 hours a day, 7 days a week using your CMRE account number and PIN number located at the bottom left hand portion of this notice when making your payment.

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 of this office in writing within 30 days of receiving this notice, this office will provide you with the name and address of the original creditor if different from the current creditor.

You may send your written request to CMRE Financial Services, Inc., 3075 E. Imperial Highway, Suite 200, Brea, CA 92821 to the attention of: Resolution Department. Please be sure to include and refer to the below-referenced CMRE account number and statement date.

Sending an eligible check for payment to us is deemed sufficient authorization to complete the payment by electronic debit. By doing so, your checking account will be debited for the amount of the check and your canceled check will not be returned to your bank.

Calls to and from this office may be monitored or recorded.

Liz Mercado, Ext 249
 Collections Account Rep

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

H01

Please retain top portion for your records.

H01

CMRE Account #:	[REDACTED] 1689
Pin #:	1689
Phone:	(800) 783-9118
Patient:	MARK SANTOMAURO
Creditor Name:	RADADVANTAGE, APC
Creditor Account #:	[REDACTED] 370.1
Creditor Balance:	\$575.00
Total Due:	\$575.00

To pay your bill online, go to www.cmrefsi.com

Statement Date: October 31, 2017

Remit To:
 CMRE FINANCIAL SERVICES, INC
 3075 E IMPERIAL HWY SUITE 200
 BREA CA 92821-6753

Important information about your debt.

We are required under state law to notify consumers of the following rights. This list does not contain a complete list of rights that consumers have under state and federal law.

New York Residents:

**NOTICE PURSUANT TO SECTION 1.2 (a) OF THE REGULATIONS OF
THE NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES**

In accordance with the Fair Debt Collection Practices Act, 15 U.S.C. Section 1692 et seq., debt collectors are prohibited from engaging in abusive, deceptive, and misleading debt collection efforts, including but not limited to: (i) the use or threat of violence; (ii) the use of obscene or profane language; and (iii) repeated phone calls made with the intent to annoy, abuse or harass.

If a creditor or debt collector receives a money judgement against you in court, state and federal laws may prevent the following types of income from being taken to pay the debt:

1. Supplemental social security income, (SSI);
2. Social Security;
3. Public Assistance (Welfare);
4. Spousal support, maintenance (alimony) or child support;
5. Unemployment benefits;
6. Disability benefits;
7. Workers' Compensation benefits;
8. Public or private pensions;
9. Veterans' benefits;
10. Federal student loans, federal student loans, federal student grants, and federal work study funds; and
11. Ninety percent of your wages or salary earned in the last sixty days.

**NOTICE PURSUANT TO SECTION 1.2 (b) OF THE REGULATIONS OF
THE NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES**

(i) The name of the original creditor of the debt and the amount of the debt as of the charge-off are referenced on the reverse of this document; (ii) No interest has accrued on the debt since the charge-off; (iii) There are no additional non-interest charges or fees which have accrued since the charge-off; and (iv) There have been no payments on the account since the charge-off

New York City Residents:

This collection agency is licensed by the New York Department of Consumer Affairs, License Number: 3495596

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

EASTERN DISTRICT OF NEW YORK

Mark Santomauro, individually and on behalf of all others similarly situated,

Plaintiff(s)

v.

CMRE Financial Services, Inc.,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

CMRE Financial Services, Inc.
C/O C T CORPORATION SYSTEM
111 EIGHTH AVENUE
NEW YORK, NEW YORK, 10011

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

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

MARK SANTOMAURO

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

(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

CMRE FINANCIAL SERVICES, INC.

County of Residence of First Listed Defendant ORANGE (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)

- 01 U.S. Government Plaintiff
02 U.S. Government Defendant
03 Federal Question (U.S. Government Not a Party)
04 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
01 01 Incorporated or Principal Place of Business In This State
02 02 Incorporated and Principal Place of Business In Another State
03 03 Foreign Nation
PIF DEF
04 04
05 05
06 06

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

Table with 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, Labor, etc.

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

- 01 Original Proceeding
02 Removed from State Court
03 Remanded from Appellate Court
04 Reinstated or Reopened
05 Transferred from Another District (specify)
06 Multidistrict Litigation - Transfer
08 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 No

VIII. RELATED CASE(S) IF ANY

JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

August 23, 2018 /s Craig 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.

Case is Eligible for Arbitration

I, _____, 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:

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? Yes 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? Yes 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 No
 - c) If this is a Fair Debt Collection Practice Act case, specific the County in which the offending communication was received: SUFFOLK

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

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit Argues CMRE Financial Services Failed to Clearly State Debt Amount in Letter](#)
