

1 Robert L. Hyde, Esq. (SBN: 227183)  
bob@westcoastlitigation.com  
2 Joshua B. Swigart, Esq. (SBN: 225557)  
josh@westcoastlitigation.com

3 **Hyde & Swigart**  
4 2221 Camino Del Rio South, Suite 101  
5 San Diego, CA 92108  
6 Office Number: (619) 233-7770  
Office Fax Number: (619) 297-1022

7 Attorneys for Cristina Elizabeth Wiseman

8  
9 [Additional Attorneys for Plaintiff on Signature Page.]

10  
11 **UNITED STATES DISTRICT COURT**  
12 **SOUTHERN DISTRICT OF CALIFORNIA**

<p>13 Cristina Elizabeth Wiseman, on 14 behalf of herself and all other 15 similarly situated individuals,  16 Plaintiff,  17 v.  18 Moore Brewer Wolfe Jones Tyler &amp; 19 North and Cabrillo Credit Union,  20 Defendants.</p>	<p>13 <b>Case No: <u>'17CV0935 JAH BLM</u></b>  14 <b>Complaint For Damages</b>  15 <b>Class Action</b>  16 <b>1. Fair Debt Collection Practices</b> 17 <b>Act, 15 U.S.C. § 1692 et seq.</b> 18 <b>2. Rosenthal Fair Debt Collection</b> 19 <b>Practices Act, California Civil</b> 20 <b>Code §§ 1788-1788.32</b>  21 <b>Jury Trial Demanded</b></p>
---	--



**INTRODUCTION**

- 1  
2 1. The United States Congress has found abundant evidence of the use of  
3 abusive, deceptive, and unfair debt collection practices by many debt  
4 collectors, and has determined that abusive debt collection practices  
5 contribute to the number of personal bankruptcies, to marital instability, to the  
6 loss of jobs, and to invasions of individual privacy. Congress wrote the Fair  
7 Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. (hereinafter  
8 “FDCPA”), to eliminate abusive debt collection practices by debt collectors,  
9 to insure that those debt collectors who refrain from using abusive debt  
10 collection practices are not competitively disadvantaged, and to promote  
11 consistent State action to protect consumers against debt collection abuses.
- 12 2. The California legislature has determined that the banking and credit system  
13 and grantors of credit to consumers are dependent upon the collection of just  
14 and owing debts and that unfair or deceptive collection practices undermine  
15 the public confidence that is essential to the continued functioning of the  
16 banking and credit system and sound extensions of credit to consumers. The  
17 Legislature has further determined that there is a need to ensure that debt  
18 collectors exercise this responsibility with fairness, honesty and due regard  
19 for the debtor’s rights and that debt collectors must be prohibited from  
20 engaging in unfair or deceptive acts or practices.
- 21 3. Plaintiff Cristina Elizabeth Wiseman, through her attorneys, brings this class  
22 action on behalf of herself and other similarly situated individuals,  
23 challenging the actions of Defendant Moore Brewer Wolfe Jones Tyler &  
24 North (“Moore Brewer”) and Defendant Cabrillo Credit Union (“Cabrillo”),  
25 (jointly, “Defendants”), with regard to attempts by Defendants to unlawfully  
26 and abusively collect a debt allegedly owed by Plaintiff, and this conduct  
27 caused Plaintiff damages.  
28





1 4. Plaintiff makes these allegations on information and belief, with the exception  
2 of those allegations that pertain to a plaintiff, which Plaintiff alleges on  
3 personal knowledge.

4 5. While many violations are described below with specificity, this Complaint  
5 alleges violations of the statutes cited in their entirety.

6 6. Unless otherwise stated, all the conduct engaged in by Defendants took place  
7 in California.

8 7. Any violations by Defendants were knowing, willful, and intentional, and  
9 Defendants did not maintain procedures reasonably adapted to avoid any such  
10 specific violation.

11 8. All violations alleged regarding the FDCPA are material violations of the  
12 FDCPA as these violations would limit the ability of a hypothetical least  
13 sophisticated debtor to make an intelligent choice as to the alleged debt and  
14 actions that should be taken to resolve the alleged debt.

15 9. Through this complaint, Plaintiff does not allege that any state court judgment  
16 was entered against Plaintiff in error, and Plaintiff does not seek to reverse or  
17 modify any judgment of any state court.

18 **JURISDICTION AND VENUE**

19 10. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331, 15 U.S.C. §  
20 1692(k), and 28 U.S.C. § 1367 for supplemental state claims.

21 11. This action arises out of Defendants' violations of the Fair Debt Collection  
22 Practices Act, 15 U.S.C. §§ 1692 et seq. (“FDCPA”) and the Rosenthal Fair  
23 Debt Collection Practices Act, California Civil Code §§ 1788-1788.32  
24 (“Rosenthal Act”).

25 12. Because Defendants do business within the State of California, personal  
26 jurisdiction is established.

27 13. Venue is proper pursuant to 28 U.S.C. § 1391.  
28

1 14. At all times relevant, Defendants conducted business within the State of  
2 California.

3 **PARTIES**

4 15. Plaintiff is a natural person who resides in the County of San Diego, State of  
5 California.

6 16. Defendants are located in the County of San Diego, in the State of California.  
7 Defendant Moore Brewer's principal office is in La Jolla. Defendant Cabrillo  
8 is a credit union with branches nationwide, including various cities within San  
9 Diego county.

10 17. Plaintiff is a natural person allegedly obligated to pay a debt, and is a  
11 consumer, as that term is defined by 15 U.S.C. § 1692a(3).

12 18. Defendant Moore Brewer is a person who uses an instrumentality of interstate  
13 commerce or the mails in a business the principal purpose of which is the  
14 collection of debts, or who regularly collect or attempt to collect, directly or  
15 indirectly, debts owed or due or asserted to be owed or due another and are  
16 therefore debt collectors as that phrase is defined by 15 U.S.C. § 1692a(6).  
17 Defendant Moore Brewer, at all material times hereto, on behalf of and with  
18 authorization of Defendant Cabrillo, collects debts due and owed to  
19 Defendant Cabrillo.

20 19. Plaintiff is a natural person from whom a debt collector sought to collect a  
21 consumer debt which was due and owing or alleged to be due and owing from  
22 Plaintiff, and is a debtor as that term is defined by California Civil Code §  
23 1788.2(h).

24 20. Defendants, in the ordinary course of business, regularly, on behalf of  
25 themselves, or others, engage in debt collection as that term is defined by  
26 California Civil Code § 1788.2(b), are therefore, debt collectors as that term is  
27 defined by California Civil Code § 1788.2(c).  
28



1 21. This case involves money, property or their equivalent, due or owing or  
2 alleged to be due or owing from a natural person by reason of a consumer  
3 credit transaction. As such, this action arises out of a consumer debt and  
4 “consumer credit” as those terms are defined by Cal. Civ. Code § 1788.2(f).

5 **FACTUAL ALLEGATIONS**

6 22. Sometime before May 17, 2016, Plaintiff is alleged to have incurred certain  
7 financial obligations.

8 23. These financial obligations were primarily for personal, family or household  
9 purposes and are therefore a “debt” as that term is defined by 15 U.S.C.  
10 §1692a(5).

11 24. These alleged obligations were money, property, or their equivalent, which is  
12 due or owing, or alleged to be due or owing, from a natural person to another  
13 person and are therefore a “debt” as that term is defined by California Civil  
14 Code §1788.2(d), and a “consumer debt” as that term is defined by California  
15 Civil Code §1788.2(f).

16 25. Sometime around May, 2016, Plaintiff allegedly fell behind in the payments  
17 allegedly owed on the alleged debt. As it is irrelevant to this action, Plaintiff  
18 currently takes no position as to the validity of this alleged debt.

19 26. Subsequently, but before June 14, 2016, the alleged debt was assigned,  
20 placed, or otherwise transferred to Defendant Moore Brewer for collection.

21 27. Defendant Moore Brewer was an authorized representative of and an attorney  
22 for Defendant Cabrillo.

23 28. On or about June 14, 2016, Defendants jointly mailed a dunning letter to  
24 Plaintiff. A few days later, Plaintiff received that letter.

25 29. This communication to Plaintiff was a “communication” as that term is  
26 defined by 15 U.S.C. § 1692a(2), and an “initial communication” consistent  
27 with 15 U.S.C. § 1692g(a).  
28



1 30. This communication was a “debt collection” as Cal. Civ. Code 1788.2(b)  
2 defines that phrase, and an “initial communication” consistent with Cal. Civ.  
3 Code § 1812.700(b).

4 31. This initial communication stated “[a]t this time, the unpaid balance on your  
5 MasterCard account is \$6,686.35, plus accruing interest, attorney fees and  
6 other charges as provided under the terms of your account documents.”

7 32. Through this conduct, Defendants were collecting an amount (including any  
8 interest, fee, charge, or expense incidental to the principal obligation) when  
9 such amount was not expressly authorized by the agreement creating the debt  
10 or permitted by law. Consequently, Defendant Moore Brewer violated 15  
11 U.S.C. § 1692f and 1692f(1) by engaging into unfair and abusive debt  
12 collection practices.

13 33. Because this omission violated the language in 15 U.S.C. §§ 1692f and  
14 1692f(1), both Defendants also violated Cal. Civ. Code § 1788.17 as it  
15 incorporates 1692f(1).

16 34. Defendants failed within five days after its initial communication with  
17 Plaintiff, to provide written notification containing a statement that unless  
18 Plaintiff, within thirty days after receipt of that notice, disputed the validity of  
19 the debt, or any portion thereof, Defendants would assume the debt was valid,  
20 or failed within five days after its initial communication with Plaintiff to  
21 provide a written notice containing a statement that if Plaintiff notified  
22 Defendants in writing, within the thirty-day period that the debt, or any  
23 portion thereof, was disputed, Defendants would obtain verification of the  
24 debt or a copy of a judgment against Plaintiff and a copy of such verification  
25 or judgment would be mailed to Plaintiff by Defendants and that Defendants  
26 would provide Plaintiff with the name and address of the original creditor.  
27 This omission by Defendant Moore Brewer violated 15 U.S.C. § 1692g.  
28



1 35. The written disclosures under 15 U.S.C. § 1692g are one of the most  
2 important requirements under the FDCPA, and Congress expressly requires  
3 debt collectors to provide debtor’s with their rights.

4 36. Because this omission violated the language in 15 U.S.C. § 1692g,  
5 Defendants also violated Cal. Civ. Code § 1788.17 as it incorporates 15  
6 U.S.C. § 1692g.

7 37. The June 14, 2016 communication also stated that “[i]f a judgment is entered  
8 against you, you will be responsible for attorney fees and costs in addition to  
9 the unpaid balance on your account, which will further increase your debt to  
10 the Credit Union.”

11 38. In realty, if a judgment were entered against Plaintiff, she *may* be responsible  
12 for reasonable attorney fees and costs.

13 39. Through this conduct, Defendants used a false, deceptive, or misleading  
14 representation or means in connection with the collection of a debt.  
15 Consequently, Defendant Moore Brewer violated 15 U.S.C. § 1692e and 15  
16 U.S.C. § 1692e(10).

17 40. Through this conduct both Defendants also violated Cal. Civ. Code § 1788.17  
18 as it incorporates 15 U.S.C. § 1692e and 15 U.S.C. § 1692e(10).

19 41. As a direct and proximate result, Plaintiff was personally affected and  
20 suffered injury, including but not limited to mental anguish and anxiety,  
21 sleeplessness, irritability, and frustration.

22 *Vicarious Liability*

23 42. At all material times, Moore Brewer was an authorized agent of Cabrillo, and  
24 an attorney representing Cabrillo.

25 43. Pursuant to *Fox v. Citicorp Credit Services*, 15 F.3d 1507, 1505, the actions of  
26 the attorney are to be imputed to the client on whose behalf they are taken.  
27  
28

1 44. At all relevant times, the actions taken by Moore Brewer were in the scope of  
2 the agency relationship and in furtherance of Cabrillo's interests, and  
3 therefore, imputed upon Cabrillo.

4 45. Prior to the debt collection activities described above, Cabrillo retained  
5 Moore Brewer as Cabrillo's legal representative to collect on Cabrillo's debt.

6 46. Moore Brewer's representation of Cabrillo continues to present, and all acts  
7 and omissions described above were conducted at the direction and control of  
8 Cabrillo, and thus, imputed on Cabrillo under the common law agency  
9 doctrine of respondeat superior, and vicarious liability.

10 **CLASS ALLEGATIONS**

11 47. Plaintiff brings this action on behalf of himself and all others similarly  
12 situated, as a member of the proposed class (hereafter "The Class") defined as  
13 follows:

14 All persons within California who received any  
15 collection correspondence from Defendants, within  
16 the one year prior to the filing of this Complaint,  
17 that is identical or substantially similar to the June  
18 14, 2016 correspondence Plaintiff received from  
19 Defendant.

20 48. Plaintiff represents, and is a member of, The Class, because Plaintiff received  
21 Defendant's June 14, 2016 correspondence.

22 49. Defendants, their employees and agents are excluded from The Class.  
23 Plaintiff does not know the number of members in The Class, but believes the  
24 Class members number in the hundreds, if not more. Thus, this matter should  
25 be certified as a Class Action to assist in the expeditious litigation of the  
26 matter.

27 50. Plaintiff and members of The Class were harmed by the acts of Defendants in  
28 at least the following ways: (a) Defendants, either directly or through their  
agents, illegally communicated with Plaintiff and The Class members in





1 writing in which they demanded unauthorized fees in violation of § 1692f(1);  
2 (b) Defendants, either directly or through their agents failed to provide a  
3 written disclosure pursuant to § 1692g to Plaintiff and The Class members  
4 that unless Plaintiff and The Class members, within thirty days after receipt of  
5 that notice, disputed the validity of the debt, or any portion thereof,  
6 Defendants would assume the debt was valid, and failed within five days after  
7 its initial communication with Plaintiff and The Class members to provide a  
8 written notice containing a statement that if Plaintiff and The Class members  
9 notified Defendants in writing, within the thirty-day period that the debt, or  
10 any portion thereof, was disputed, Defendants would obtain verification of the  
11 debt or a copy of a judgment against Plaintiff and The Class members; (c)  
12 Defendants, either directly or through their agents, illegally communicated  
13 with Plaintiff and The Class members in writing in which they included  
14 similar language within Plaintiff's correspondence, using false, deceptive, and  
15 misleading statements. Plaintiff and The Class members were damaged  
16 thereby.

17 51. The Class is so numerous that the individual joinder of all of its members is  
18 impractical. While the exact number and identities of The Class members are  
19 unknown to Plaintiff at this time and can only be ascertained through  
20 appropriate discovery, Plaintiff is informed and believes and thereon alleges  
21 that The Class includes hundreds of members. Plaintiff alleges that The Class  
22 members may be ascertained by the records maintained by Defendant.

23 52. The suit seeks damages and injunctive relief on behalf of The Class, and it  
24 expressly not intended to request any recovery for personal injury and claims  
25 related thereto. Plaintiff reserves the right to expand The Class definition to  
26 seek recovery on behalf of additional persons as warranted as facts are  
27 learned in further investigation and discovery.  
28



1 53. Common questions of fact and law exist as to all members of The Class  
2 which predominate over any questions affecting only individual members of  
3 The Class. These common legal and factual questions, which do not vary  
4 between The Class members, and which may be determined without reference  
5 to the individual circumstances of any Class members, include, but are not  
6 limited to, the following:

7 a. Whether Defendants have a policy of communicating with  
8 consumers in connection with the collection of an alleged debt wherein Defendants  
9 demand unauthorized fees within its correspondences to consumers;

10 b. Whether Defendants fail to inform consumers and provide certain  
11 disclosures pursuant to § 1692g;

12 c. Whether Defendants' letter is false and misleading to the least  
13 sophisticated consumers;

14 d. The nature and extent of damages and other remedies to which the  
15 conduct of Defendants entitles the Class members.

16 54. As a person that received collection correspondences from Defendants  
17 wherein Defendants fail to inform her of the total amount of debt by omitting  
18 the amount of interest and charges, Plaintiff is asserting claims that are typical  
19 of The Class.

20 55. Plaintiff further received Defendants' correspondence in which Defendants  
21 demanded unauthorized fees, failed to provide Plaintiff with certain required  
22 disclosures pursuant to § 1692g, and included false and/or misleading  
23 statements, and thus asserting claims that are typical of The Class.

24 56. Plaintiff will fairly and adequately protect the interests of the members of The  
25 Class. Plaintiff has retained attorneys experienced in the prosecution of class  
26 actions.

27 57. A class action is superior to other available methods of fair and efficient  
28 adjudication of this controversy, since individual litigation of the claims of all



1 Class members is impracticable. Even if every Class member could afford  
2 individual litigation, the court system could not. It would be unduly  
3 burdensome to the courts in which individual litigation of numerous issues  
4 would proceed. Individualized litigation would also present the potential for  
5 varying, inconsistent, or contradictory judgments and would magnify the  
6 delay and expense to all parties and to the court system resulting from  
7 multiple trials of the same complex factual issues. By contrast, the conduct of  
8 this action as a class action presents fewer management difficulties, conserves  
9 the resources of the parties and of the court system, and protects the rights of  
10 each Class member.

11 58. The prosecution of separate actions by individual Class members would  
12 create a risk of adjudications with respect to them that would, as a practical  
13 matter, be dispositive of the interests of the other Class members not parties to  
14 such adjudications or that would substantially impair or impede the ability of  
15 such non-party Class members to protect their interests.

16 59. Defendants have acted or refused to act in respects generally applicable to  
17 The Class, thereby making appropriate final and injunctive relief with regard  
18 to the members of the Class as a whole.

19 **CAUSES OF ACTION**

20 **COUNT I**

21 **FAIR DEBT COLLECTION PRACTICES ACT (FDCPA)**

22 **15 U.S.C. §§ 1692 ET SEQ.**

23 **(PLAINTIFF V. MOORE BREWER, ONLY)**

24 60. Plaintiff repeats, re-alleges, and incorporates by reference, all other  
25 paragraphs.

26 61. The foregoing acts and omissions constitute numerous and multiple violations  
27 of the FDCPA, including but not limited to each and every one of the above-  
28 cited provisions of the FDCPA, 15 U.S.C. § 1692 et seq.

1 62. As a result of each and every violation of the FDCPA, Plaintiff and each Class  
2 member is entitled to statutory damages in an amount up to \$1,000.00  
3 pursuant to 15 U.S.C. § 1692k(a)(2)(A); and, reasonable attorney’s fees and  
4 costs pursuant to 15 U.S.C. § 1692k(a)(3) from Defendant Moore Brewer.  
5

6  
7  
8  
9 **COUNT II**

10 **ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT (ROSENTHAL ACT)**

11 **CAL. CIV. CODE §§ 1788-1788.32**

12 **(PLAINTIFF V. ALL DEFENDANTS)**

13 63. Plaintiff repeats, re-alleges, and incorporates by reference, all other  
14 paragraphs.

15 64. The foregoing acts and omissions constitute numerous and multiple violations  
16 of the Rosenthal Act, including but not limited to each and every one of the  
17 above-cited provisions of the Rosenthal Act, Cal. Civ. Code §§ 1788-1788.32

18 65. As a result of each and every violation of the Rosenthal Act, Plaintiff and  
19 each Class member is entitled to statutory damages for a knowing or willful  
20 violation in the amount up to \$1,000.00 pursuant to Cal. Civ. Code §  
21 1788.30(b); and reasonable attorney’s fees and costs pursuant to Cal. Civ.  
22 Code § 1788.30(c) from each and every defendant, jointly and severally.

23 **PRAYER FOR RELIEF**

24 WHEREFORE, Plaintiff and each Class member prays that judgment be entered  
25 against Defendant, and Plaintiff and each Class member be awarded damages from  
26 each Defendant, as follows:

- 27 • This action be certified as a class action on behalf of The Class and  
28 Plaintiff be appointed as the representative of The Class;



- Appoint Plaintiff’s Counsel as Class Counsel in this matter; and

**CAUSES OF ACTION**

**COUNT I**

**FAIR DEBT COLLECTION PRACTICES ACT (FDCPA)**

**15 U.S.C. §§ 1692 ET SEQ.**

**(PLAINTIFF V. MOORE BREWER, ONLY)**

- An award of statutory damages of \$1,000.00 per class member, or of \$500,000.00 or 1% of Defendant’s net worth, whichever is the lesser, pursuant to 15 U.S.C. § 1692k(a)(2)(A);
- An award of costs of litigation and reasonable attorney’s fees, pursuant to 15 U.S.C. § 1692k(a)(3);
- Prejudgment interest; and
- Any and all other relief that the Court deems just and proper.

**COUNT II**

**ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT (ROSENTHAL ACT)**

**CAL. CIV. CODE §§ 1788-1788.32**

**(PLAINTIFF V. ALL DEFENDANTS)**

- An award of statutory damages of \$1,000.00 pursuant to Cal. Civ. Code § 1788.30(b);
- An award of costs of litigation and reasonable attorney’s fees, pursuant to Cal. Civ. Code § 1788.30(c);
- Prejudgment interest; and
- Any and all other relief that the Court deems just and proper.

///

///



**DEMAND FOR JURY TRIAL**

66. Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Respectfully submitted,  
**Hyde & Swigart**

Date: May 8, 2017

By: s/Joshua B. Swigart  
Joshua B. Swigart  
josh@westcoastlitigation.com  
Attorneys for Plaintiff

Additional Counsel for Plaintiff:  
Abbas Kazerounian, Esq. (SBN: 249203)  
ak@kazlg.com  
**Kazerouni Law Group, APC**  
245 Fischer Avenue  
Costa Mesa, CA 92626  
Telephone: (800) 400-6808  
Facsimile: (800) 520-5523

Daniel G. Shay, Esq (SBN: 250548)  
danielshay@tcpafdcpa.com  
**Law Office of Daniel G. Shay**  
409 Camino Del Rio South, Ste 101B  
San Diego, CA 92108  
Telephone: (619) 222-7429  
San Diego, CA 92108  
Facsimile: (866) 431-3292



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

Cristina Elizabeth Wiseman, on behalf of herself and all others similarly situated

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

(c) Attorneys (Firm Name, Address, and Telephone Number) Joshua B. Swigart, Esq., Hyde & Swigart 619-233-7770 2221Camino Del Rio South, Suite 101, San Diego, CA 92108

DEFENDANTS

Moore Brewer Wolfe Jones Tyler & North and Cabrillo Credit Union

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)

'17CV0935 JAH BLM

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)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, 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)

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

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. §1692 et. seq. (FDCPA) Brief description of cause: Defendant violated Fair Debt Collection Practices Act

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 5,000,000.00 CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 05/08/2017 SIGNATURE OF ATTORNEY OF RECORD s/ Joshua B. Swigart

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

### Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading 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. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I. **(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
  
- II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
  - United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
  - United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
  - Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
  - Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
  
- III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
  
- IV. **Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
  
- V. **Origin.** Place an "X" in one of the six boxes.
  - Original Proceedings. (1) Cases which originate in the United States district courts.
  - Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
  - Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
  - Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
  - Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
  - Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
  
- VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
  
- VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
  - Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
  - Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
  
- VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.



# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Debt Collectors Hit with California Woman's FDCPA Lawsuit](#)

---