

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

SUNDAY WRIGHT,

Plaintiff,

v.

CASE NO.

AR RESOURCES, INC.,

Defendant.

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that on this date, Defendant AR Resources Inc., hereby removes the above-captioned matter to the United States District Court for the Middle District of Florida, Orlando Division, from Seminole County, Florida and in support thereof avers as follows:

1. AR Resources Inc., is a Defendant in a civil action originally filed on or about June 1, 2022, in the County Court of the Eighteenth Judicial Circuit in and for Seminole County, Florida, titled *Sunday Wright v. AR Resources Inc.* and docketed to Case No. 2022SC002232

2. This removal is timely under 28 U.S.C. § 1446(b) as Defendant received service of process on June 6, 2022.

3. Pursuant to 28 U.S.C. § 1446, attached hereto are copies of all process, pleadings and orders received by Defendant in the state court action.

5. The United States District Court for the Middle District of Florida, Orlando Division, has original jurisdiction over this action pursuant to 28 U.S.C. § 1331, in that Plaintiff has filed claims against Defendant alleging violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.*

6. On this date, the Defendant, provided notice of this Removal to counsel for Plaintiff and to the County Court of the Eighteenth Judicial Circuit in and for Seminole County, Florida.

WHEREFORE, Defendant AR Resources Inc., respectfully removes this case to the United States District Court for the Middle District of Florida, Orlando Division.

Respectfully submitted,

MESSER STRICKLER BURNETTE, LTD.

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Counsel for Defendant

Dated: July 6, 2022

CERTIFICATE OF SERVICE

I certify that on July 6, 2022, a true copy of the foregoing document was served on all counsel of record by electronic service.

MESSER STRICKLER BURNETTE, LTD.

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Dated: July 6, 2022

QR1735

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IN THE COUNTY COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR SEMINOLE COUNTY, FLORIDA
SMALL CLAIMS DIVISION

5

SUNDAY WRIGHT,

Plaintiff,

v.

AR RESOURCES, INC.,

Defendant.

Case No: _____

JURY TRIAL DEMANDED

COMPLAINT AND JURY TRIAL DEMAND

COMES NOW the Plaintiff, **SunDay Wright**, (“Ms. Wright”), by and through her attorneys, Seraph Legal, P.A., and complains of the Defendant, **AR Resources, Inc.** also known as **Accounts Receivable Resources, Inc.** (“ARR”), stating as follows:

PRELIMINARY STATEMENT

1. This is an action for damages not to exceed \$8,000, brought by Ms. Wright against ARR for violations of the **Fair Debt Collection Practices Act**, 15 U.S.C. § 1692, *et. seq.* (“**FDCPA**”), and the **Fair Credit Reporting Act**, 15 U.S.C. § 1681, *et. seq.* (“**FCRA**”).

JURISDICTION AND VENUE

2. Jurisdiction arises under the **FDCPA**, 15 U.S.C. § 1692k(d), the **FCRA**, 15 U.S.C. § 1681p and Section 34.01, Florida Statutes

3. ARR is subject to the provisions of the **FDCPA** and **FCRA** and to the jurisdiction of this Court pursuant to Section 48.193, Florida Statutes and Section 34.01, Florida Statutes.

4. Venue is proper in Seminole County, Florida, pursuant to Section 47.051, Florida Statutes, because the events giving rise to this cause of action occurred within this County.

QR1735

6/

PARTIES

5. **Ms. Wright** is a natural person residing in Seminole County, Florida and is a “consumer” as defined by the FDCPA, 15 U.S.C. § 1692a(3) and the FCRA, 15 U.S.C. § 1681a(c).

6. **ARR** is a Pennsylvania corporation with a primary business address of 1777 Sentry Parkway West, VEVA 12 Suite 101, Blue Bell, PA 19422.

7. ARR is registered to conduct business in the State of Florida where its registered agent is **CT Corporation System, 1200 South Pine Island Road Plantation, FL 33324**.

8. ARR is a “debt collector” within the meaning of the FDCPA, 15 U.S.C. §1692a(6), in that it uses postal mail or other instrumentalities of interstate commerce, for its business, the principal purpose of which is the collection of debts. Alternatively, it regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another.

9. ARR is licensed to collect consumer debts and holds Florida Consumer Collection Agency License number CCA9902156, issued by the Florida Office of Financial Regulations.

FACTUAL ALLEGATIONS

10. Sometime before March 2018, Ms. Wright sought medical treatment at a local emergency room for injuries incurred in a motor vehicle accident.

11. Ms. Wright was insured by Geico at the time.

12. Ms. Wright carried at least the minimally required \$10,000 PIP insurance.

13. PIP insurance covers personal medical expenses regardless of fault in a motor vehicle accident in Florida.

14. After the initial emergency room visit, Ms. Wright returned to the emergency room for follow up treatment caused by the same auto accident.

15. Ms. Wright provided her auto insurance to the hospital for both visits.

QRI 735

7/

16. Despite this, Emergency Medicine Professionals (“EMP”), a third-party provider at the hospital, later claimed \$1098 remained unpaid for *each* visit (the “Debts” or “alleged Debts”).

17. Ms. Wright never received a notice or a bill from EMP indicating any amounts were unpaid or overdue for either visit.

18. Ms. Wright never received a notice from EMP indicating there was any problem obtaining reimbursement from her insurance company.

19. On information and belief, EMP never submitted a claim to Geico for reimbursement for either visit.

20. Based on this presumption of payment and EMP’s lack of communication stating otherwise, Ms. Wright reasonably believed any debt to EMP had been paid.

21. The Debts arose from personal health care expenses, and therefore meets the definition of “debt” under the FDCPA, 15 U.S.C. § 1692a(5).

22. Ms. Wright disputes owing the alleged Debts.

23. Around August 2018, EMP hired ARR to collect the alleged \$1098 debt stemming from Ms. Wright’s initial visit, or otherwise assigned such alleged Debt to ARR for collection.

24. In December 2018, ARR reported the alleged \$1098 debt stemming from Ms. Wright’s initial visit to multiple *Credit Reporting Agencies* (“CRAs”), including Experian, using an account number beginning with 1229.

25. Around January 2019, EMP hired ARR to collect the alleged Debt arising from Ms. Wright’s second visit, or otherwise assigned such alleged Debt to ARR for collection.

26. In March 2019, ARR reported the second alleged Debt to multiple CRAs, including Experian, this time with an account number beginning 1265.

QRP735

8/

27. Prior to July 2021, Ms. Wright disputed ARR's reports to Experian, stating *both* amounts were not owed.

28. Experian, in response to Ms. Wright's dispute, sent ARR an *Automated Consumer Dispute Verification* ("ACDV") request for each account and asked ARR to make a reasonable investigation into the disputes.

29. Upon receipt of the ACDVs, ARR knew that Ms. Wright disputed the alleged Debts.

30. The ACDVs were sent via e-OSCAR, an online system used by CRAs to communicate with furnishers of data, such as debt collectors.

31. When responding to an ACDVs through e-OSCAR, the person sending the response must electronically sign to confirm as follows:

[b]y submitting this ACDV, you certify that you have verified the accuracy of the data in compliance with all legal requirements, and your computer and/or manual records will be adjusted to reflect the changes noted.

32. ARR returned the ACDVs to Experian, verifying it had completed its investigation and that all of its reported information was accurate.

33. Despite knowing the alleged Debts were disputed, ARR reported the alleged Debts to Experian as "previously" disputed. **SEE EXHIBIT A.**

34. In September 2021, Ms. Wright again disputed ARR's report to Experian, stating both amounts were not owed.

35. Experian then sent ARR another ACDV request for each account and asked ARR to make a reasonable investigation into the disputes.

36. Upon receipt of the ACDVs, ARR knew that Ms. Wright still disputed the alleged Debts.

QRI 735

9

37. Despite knowing the alleged debts were still disputed, ARR again reported the alleged Debt to Experian as “previously” disputed. **SEE EXHIBIT B.**

38. When reporting information to nationwide CRAs, like Experian, data furnishers, including ARR, prepare reports using the Metro II language created and maintained by the Consumer Data Industry Association (“CDIA”).

39. Metro II contains ten “compliance condition codes” (“CCCs”) for data furnishers to notate accounts as disputed, previously disputed, and so on.

40. When ARR reported the alleged Debts to Experian it used the CCC “XH”, which translates to: “account **previously** in dispute –investigation complete, reported by data furnisher.”

41. The “plain language of the “XH” code implies that any dispute the consumer previously had about the account is settled, or a solution has been found.” *Wood v. Credit One Bank*, No. 3:15-cv-594 (E.D. Va. Sept. 21, 2017).

42. Ms. Wright never indicated to ARR that she no longer disputed the alleged Debts.

43. ARR had no reason to believe that the alleged Debts were no longer disputed.

44. In fact, ARR should have known that the alleged Debts were still actively disputed, since Ms. Wright made multiple disputes regarding both accounts.

45. ARR was still obliged to disclose the fact that the alleged Debts were disputed in all communications about the alleged Debts, including its monthly reports to Experian.

46. ARR had no right to unilaterally nullify Ms. Wright’s dispute. *See, e.g., Semper v. JBC Legal Group*, 2005 WL 2172377 (W.D. Wash. Sept. 6, 2005); *Evans v. Portfolio Recovery Associates*, 889 F. 3d 337 (7th Cir 2018).

47. By indicating that the Debts were “previously disputed,” ARR falsely reported that the alleged Debts were no longer disputed by Ms. Wright.

QR1735

10

48. Further, ARR had no right to determine on its own whether the dispute had merit; the FDCPA requires a debt collector to communicate a debt is disputed, and 1692e(8) “does not require an individual’s dispute be valid or even reasonable. Instead, the plaintiff must simply make clear that he or she disputes the debt. *DeKoven v. Plaza Assocs.*, 599 F.3d 578, 582 (7th Cir. 2010) (“[A] consumer can dispute a debt for ‘no reason at all’”)

49. ARR should have reported the alleged Debts with an indication of “account information disputed by consumer,” CCC code “XB.”

50. The distinction between reporting a debt as “previously in dispute” and “currently in dispute” is significant, as many commercially used credit scoring algorithms disregard a collection account reported *currently* in dispute, but not those *previously in dispute*.

51. ARR’s failure to disclose that the alleged Debts were currently disputed materially damaged Ms. Wright’s credit scores.

52. The failure to properly report a disputed debt *as disputed* creates a concrete injury-in-fact because the failure to disclose this information affects credit scores, meaning Ms. Wright suffered “a real risk of financial harm caused by an inaccurate credit rating.” *Evans v. Portfolio Recovery Associates*, 889 F. 3d 337, 345 (7th Cir 2018).

53. ARR has reported numerous consumer debts to CRAs which it knows to be disputed without disclosure of the dispute and has been sued for this behavior by other consumers at least ten times within the two years preceding the filing of this complaint.

54. ARR’s failure to report the alleged Debts as presently disputed prevented third parties who received Ms. Wright’s credit report from learning that Ms. Wright disputed the alleged Debts, even though it was her right to have such information communicated to them.

55. ARR has no system in place to verify that disputes have been resolved.

QRI 735
11/

56. Indeed, Ms. Wright never withdrew her disputes, and rejects ARR's unilateral "investigation."

57. Upon information and belief, ARR never contacted the creditor, nor Ms. Wright's insurance company to evaluate if the alleged debts were actually paid or should have been paid as she contended in her disputes.

58. Reporting a debt to a CRA is an attempt to collect the debt alleged in the report.

59. ARR's reports to the CRAs were "communications" as defined by 15 U.S.C. § 1692a(2).

60. Ms. Wright has hired the aforementioned law firm to represent her in this matter and has assigned to them her right to recover reasonable fees.

COUNT I
VIOLATIONS OF THE FDCPA - 15 U.S.C. § 1692e

61. Ms. Wright adopts and incorporates paragraphs 1 – 60 as if fully restated herein.

62. ARR violated 15 U.S.C. § 1692e by making false and/or deceptive representations in connection with the collection of alleged debts when ARR reported two debts it knew to be disputed without disclosure of the disputes, reporting them as "previously" disputed.

63. ARR's actions render it liable for the above-stated violations of the FDCPA.

64. Accordingly, Ms. Wright is entitled to her actual damages, statutory damages not to exceed \$1,000.00, attorneys' fees, and costs.

WHEREFORE, Ms. Wright respectfully requests this Honorable Court enter judgment against ARR and for her as follows:

- a. Statutory damages of **\$1,000.00**, pursuant to 15 U.S.C. § 1692k(a)(2)(A);
- b. Actual damages, pursuant to 15 U.S.C. § 1692k(a)(1);
- c. Reasonable costs and attorneys' fees pursuant to 15 U.S.C. § 1692k(a)(3); and,

QR1735

- d. Such other relief that this Court deems just and proper.

12/

COUNT II
VIOLATIONS OF THE FDCPA - 15 U.S.C. § 1692e(2)(a)

65. Ms. Wright adopts and incorporates paragraphs 1 – 60 as if fully restated herein.

66. ARR violated **15 U.S.C. § 1692e(2)(a)** when it made a false representation about the character, amount, or legal status of two alleged Debts when ARR reported the alleged Debts, which it knew were disputed, without disclosure of the disputes, alternately reporting it as “previously” disputed.

67. ARR’s actions render it liable for the above-stated violations of the FDCPA.

68. Accordingly, Ms. Wright is entitled to her actual damages, statutory damages not to exceed \$1,000.00, attorneys’ fees, and costs.

WHEREFORE, Ms. Wright respectfully requests this Honorable Court enter judgment against ARR and for her as follows:

- a. Statutory damages of **\$1,000.00**, pursuant to 15 U.S.C. § 1692k(a)(2)(A);
- b. Actual damages, pursuant to 15 U.S.C. § 1692k(a)(1);
- c. Reasonable costs and attorneys’ fees pursuant to 15 U.S.C. § 1692k(a)(3); and,
- d. Such other relief that this Court deems just and proper.

COUNT III
VIOLATIONS OF THE FDCPA - 15 U.S.C. § 1692e(8)

69. Ms. Wright adopts and incorporates paragraphs 1 – 60 as if fully restated herein.

70. ARR violated **15 U.S.C. § 1692e(8)** by communicating credit information known to be disputed, without disclosure of dispute, when ARR reported the alleged Debts to Experian monthly, reporting the alleged Debts as “previously” disputed.

71. ARR’s actions render it liable for the above-stated violations of the FDCPA.

QR1735

13

72. Accordingly, Ms. Wright is entitled to her actual damages, statutory damages not to exceed \$1,000.00, attorneys' fees, and costs.

WHEREFORE, Ms. Wright respectfully requests this Honorable Court enter judgment against ARR and for her as follows:

- a. Statutory damages of **\$1,000.00**, pursuant to 15 U.S.C. § 1692k(a)(2)(A);
- b. Actual damages, pursuant to 15 U.S.C. § 1692k(a)(1);
- c. Reasonable costs and attorneys' fees pursuant to 15 U.S.C. § 1692k(a)(3); and,
- d. Such other relief that this Court deems just and proper.

COUNT IV
VIOLATIONS OF THE FDCPA - 15 U.S.C. § 1692e(10)

73. Ms. Wright adopts and incorporates paragraphs 1 – 60 as if fully restated herein.

74. ARR violated **15 U.S.C. § 1692e(10)** by making false and/or deceptive representations in connection with the collection of alleged debts when ARR reported two debts it knew to be disputed without disclosure of the disputes, reporting them as “previously” disputed.

75. ARR's actions render it liable for the above-stated violations of the FDCPA.

76. Accordingly, Ms. Wright is entitled to her actual damages, statutory damages not to exceed \$1,000.00, attorneys' fees, and costs.

WHEREFORE, Ms. Wright respectfully requests this Honorable Court enter judgment against ARR and for her as follows:

- a. Statutory damages of **\$1,000.00**, pursuant to 15 U.S.C. § 1692k(a)(2)(A);
- b. Actual damages, pursuant to 15 U.S.C. § 1692k(a)(1);
- c. Reasonable costs and attorneys' fees pursuant to 15 U.S.C. § 1692k(a)(3); and,
- d. Such other relief that this Court deems just and proper.

QK1735

14

COUNT V
VIOLATIONS OF THE FCRA

77. Ms. Wright adopts and incorporates paragraphs 1 – 60 as if fully stated herein.

78. ARR violated 15 U.S.C. § 1681s-2(b) when it failed to update, modify, or correct its reports after receiving notice of disputes from a CRA, Experian. Specifically, ARR failed to label the debt as disputed, despite Ms. Wright never withdrawing her disputes.

79. The information ARR reported and verified was clearly inaccurate, and indeed no investigation was actually conducted by the Defendant.

80. ARR conduct was willful and intentional, or, alternately, was done with a reckless disregard for its duties under the FCRA to make reasonable investigations, and its policies could reasonably be foreseen to cause harm to Ms. Wright.

81. Alternatively, ARR's conduct was negligent, and ARR is liable to Ms. Wright for Ms. Wright's actual damages for loss of credit opportunities, emotional distress and anguish and related economic and non-economic injuries pursuant to 15 U.S.C. § 1681o, as well as Ms. Wright's attorneys' fees and costs.

82. As a result of its conduct, ARR is liable to Ms. Wright pursuant to the FCRA for statutory damages of up to \$1,000 for *each occurrence*, and other relief.

WHEREFORE, Ms. Wright respectfully requests this Honorable Court enter judgment against ARR:

- a. The greater of statutory damages of \$1,000 per incident (totaling \$2,000) pursuant to 15 U.S.C. § 1681n(a)(1)(A) or Ms. Wright's actual damages for loss of credit opportunities, emotional distress and anguish and related economic and non-economic injuries pursuant to 15 U.S.C. § 1681n(a)(1)(A) or 15 U.S.C. § 1681o(a)(1);

QR 1735
15

- b. Reasonable costs and attorneys' fees pursuant to 15 U.S.C. §1681n(a)(3) and/or 15 U.S.C. §1681o(a)(2); and,
- c. Such other relief that this Court deems just and proper.

JURY TRIAL DEMANDED

Ms. Wright demands a jury trial on all issues so triable.

Respectfully submitted this **June 1, 2022**, by:

SERAPH LEGAL, P. A.

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ATTACHED EXHIBITS

- A. Plaintiff's Experian Consumer Disclosure – July 13, 2021**
- B. Plaintiff's Experian Consumer Disclosure – October 16, 2021**