

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

YISSACHER RUBASHKIN, on behalf of himself)
and all other similarly situated consumers,)
)
Plaintiffs,)
)
vs.)
)
UNITED COLLECTION BUREAU, INC. ,)
)
Defendant.)

CASE NO.

CIRCUIT COURT CASE NO: 2022-019384-CA-01

DEFENDANT, UNITED COLLECTION BUREAU INC.'S
NOTICE OF REMOVAL

PLEASE TAKE NOTICE that Defendant United Collection Bureau, Inc., (hereinafter referred to as “UCB”) respectfully files this Notice of Removal of the above-styled action from the Circuit Court of the Eleventh Judicial Circuit, in and for Miami-Dade County, Florida, where the action is now pending under Case No. 2022-019384-CA-01, to the United States District Court for the Southern District of Florida. In connection with this Notice of Removal, UCB, through its counsel, states as follows:

1. The above-styled action was commenced by Plaintiff, Yissacher Rubashkin (“Plaintiff”), in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, by the filing of a Complaint on October 10, 2022. The Complaint is attached hereto as an Exhibit.
2. The Complaint alleges violation of the Fair Debt Collection Practices Act (“FDCPA”) and the Florida Consumer Collection Practices Act (“FCCPA”).
3. A Waiver of Service of Process was filed on October 19, 2022.
4. This Court has federal question jurisdiction over this action under the provisions

of 28 U.S.C. § 1331, and the matter is removable pursuant to 28 U.S.C. § 1441 because it asserts violation of and demands relief pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. §1692 *et seq.*

5. Moreover, this Court has supplemental jurisdiction over Plaintiff's state law causes of action pursuant to 28 U.S.C. § 1367.

6. This Notice of Removal is timely, since 28 U.S.C. 1446(b) grants parties thirty (30) days to remove an action to Federal Court "after receipt . . . of a copy of the initial pleading . . . or within thirty days after the service of summons upon the defendant if such initial pleading has been filed in court and is not required to be served on the defendant, whichever period is shorter." *See* 28 U.S.C. 1446(b).

MEMORANDUM OF LAW

A. The United States District Court Has Jurisdiction Over this Matter

A state court action may be removed to a United States District Court where "the district courts of the United States have original jurisdiction[.]" 28 U.S.C. §1441(a). In the instant case, original jurisdiction is available under 28 U.S.C. §1331, which provides, "The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States."

Further, 28 U.S.C. § 1441 (b) provides that any civil action for which the district courts have original jurisdiction founded on a claim or right arising under the Constitution, treaties or laws of the united States shall be removable without regard to the citizenship or residence of the parties

This civil action purports to arise under federal law, since Plaintiff alleges that UCB violated the federal FDCPA. The Court should take pendant jurisdiction of any claim that

Plaintiff is asserting under the state law, the FCCPA Claims, since they arise from alleged facts that are substantially similar to those giving rise to Plaintiff's federal claims.

B. UCB Has Complied With the Procedure for Removal

The procedure governing removal of actions first filed in state court is governed by 28 U.S.C. §1446. Section 1446 provides that any defendant desiring to remove a civil action from state court must file a notice of removal, which contains:

a short plain statement of the grounds for removal, together with a copy of all process, pleadings and orders served upon such defendant in such action.

See 28 U.S.C. §1446. Furthermore, any notice of removal must be filed within thirty (30) days after receipt of the initial pleading. *See* 28 U.S.C. §1446.

Paragraphs 1 through 6 above set forth the grounds on which removal is sought, specifically citing the federal statutes upon which original jurisdiction is premised (under 28 U.S.C. § 1331) and the factual support for that jurisdiction. Accordingly, UCB has complied with the terms of 28 U.S.C. §1446 which dictate that a short plain statement of the grounds for removal accompany any notice of removal. In addition, this notice has annexed to it all process, pleadings and other papers that have been served on UCB in compliance with 28 U.S.C. §1446.

C. Conclusion

UCB has complied with the procedural requirements of 28 U.S.C. §1446, the Federal Rules of Civil Procedure, and the Local Rules of the Southern District of Florida which govern removal from state court, and this Court has original jurisdiction over this matter. Accordingly, UCB respectfully requests that the United States District Court for the Southern District of Florida take jurisdiction over this action.

WHEREFORE, Defendant UCB, hereby give notice that the state court action pending in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, under Case No. 2022-019384-CA-01 is removed to the United States District Court for the Southern District of Florida.

Respectfully Submitted November 14, 2022.

s/ Robin Taylor Symons

Robin Taylor Symons, Esq.

Florida Bar No. 356832

rsymons@grsm.com

GORDON & REES

SCULLY MANSUKHANI

100 SE Second Street, Suite 3900

Miami, FL 33131

MIA_Eservice@gordonrees.com

Tel: 305-428-5330

Counsel for Defendant

United Collection Bureau, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 14, 2022, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF, which will serve a true and correct copy of the foregoing on all counsel or parties of record on the Service List below.

s/ Robin Taylor Symons
Robin Taylor Symons, Esq.

SERVICE LIST

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Received By
UCB

IN THE CIRCUIT COURT OF THE 11TH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA

OCT 13 2022

CITIBSC

56635278

4:06pm

YISSACHER RUBASHKIN, on behalf
of himself and all other similarly
situated consumers,

Plaintiff(s),

-vs-

UNITED COLLECTION BUREAU,
INC.

Defendant.

Case No.:

CLASS ACTION COMPLAINT FOR DAMAGES

COMES NOW, Plaintiff, YISSACHER RUBASHKIN, on his own behalf and on behalf of those similarly situated (collectively, "Consumers" or "Class Members"), by and through Undersigned Counsel, sues Defendant, UNITED COLLECTION BUREAU, INC., and alleges the following based on his personal knowledge as to the allegations regarding himself, and upon information and belief as to the other allegations:

1. Plaintiff, YISSACHER RUBASHKIN, seeks redress for the illegal practices of Defendant, UNITED COLLECTION BUREAU, INC., concerning the collection of debts, in violation of the Florida Consumer Collection Protection Act, Florida Stat. § 559.55 *et seq.* ("FCCPA") and the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* ("FDCPA").

JURISDICTION AND IDENTIFICATION OF PARTIES

2. This is a class action at law seeking monetary damages in an amount that exceeds \$30,000.00, exclusive of interest, costs, and attorney's fees.

3. Accordingly, the Circuit Court has subject matter jurisdiction over this action pursuant to Fla. Stat. §26.012(2)(a).

4. This Court has personal jurisdiction over Defendant pursuant to Florida's long-arm statute.

See Fla. Stat. §§ 48.193(1).

5. Florida's long-arm statute recognizes two kinds of personal jurisdiction over a nonresident defendant: specific jurisdiction and general jurisdiction and when a Plaintiff satisfies the long-arm statute's requirements for specific jurisdiction over a Defendant, there is no need to engage in the general jurisdiction analysis.

6. Under Florida's long-arm statute, a court may exercise specific personal jurisdiction over a nonresident defendant who engaged in one of the enumerated acts listed under Fla. Stat. § 48.193(1)(a).

7. Section 48.193(1)(a)(1) states a nonresident defendant may be subjected to the jurisdiction of a court in Florida for either "[o]perating, conducting, engaging in, or carrying on a business or business venture in this state or having an office or agency in this state." Fla. Stat. § 48.193(1)(a)(1).

8. Defendant's conduct in this Action triggers the necessary prong of Florida's long-arm jurisdiction because Defendant is engaged in substantial and not isolated activity within this State by targeting Florida consumers.

9. Defendant is a debt collector and regularly conducts business in the State of Florida, where it specifically targets Florida citizens, such as Plaintiff.

A. The Parties

10. That all material hereto, Plaintiff, YISSACHER RUBASHKIN ("RUBASHKIN"), was a resident and citizen of the state of Florida, currently resides in Miami, Florida, and is over the age of eighteen (18) years, and otherwise *sui juris*.

11. Defendant, UNITED COLLECTION BUREAU, INC. ("UCB" or "Defendant"), is a foreign for-profit corporation, incorporated in the State of Massachusetts, with its principal place of business located at 5620 Southwyck Boulevard, Toledo, Ohio 43614 and by and through its

officers, representatives, and agents, conducted and conducts business in Miami-Dade County, Florida.

12. All conditions precedent to bringing this lawsuit have been met and/or waived.

II. GENERAL ALLEGATIONS

13. Plaintiff is a consumer as that term is defined by Fla. Stat. § 559.95(8) and as defined by Section 1692(a)(3) of the FDCPA, in that the alleged debt that Defendant sought to collect from Plaintiff is a consumer debt.

14. Defendant is a “debt collector” as that term is defined by Fla. Stat. §559.55(7) and by 15 U.S.C. § 1692a(6).

15. The alleged debt that Defendant sought to collect from Plaintiff is a consumer debt as defined by Fla. Stat. §559.55(6) and 15 U.S.C. § 1692a(5).

16. Defendant regularly engages, for profit, in the collection of alleged consumer debts.

A. Allegations Particular to Yissacher Rubashkin

17. Upon information and belief, on a date better known by Defendant, Defendant began to attempt to collect an alleged consumer debt from the Plaintiff.

18. On or about January 6, 2022, Defendant sent Plaintiff a collection letter seeking to collect a balance allegedly incurred for personal purposes. The Letter is attached hereto as **Exhibit “A”** and incorporated by reference herein.

19. Within the initial thirty days of receipt of the said collection letter dated January 6, 2022, on or about February 2, 2022 the plaintiff contacted the defendant via telephone in order to dispute the debt and have it marked as disputed.

20. Plaintiff wanted to overcome the presumption of validity at the end of the initial thirty day period.

21. Upon information and belief, the defendant's collection representative followed the collection protocols of the defendant and did not deviate from same.
22. The collection representative refused to allow the plaintiff to dispute the debt unless the plaintiff provided a reason for the dispute.
23. The conduct of defendant's collection representative violates 15 USC 1692e, 1692e(10) and 1692g.
24. Plaintiff suffered injury in fact by being subjected to unfair and abusive practices of the Defendant.
25. Plaintiff suffered actual harm by being the target of the Defendant's misleading debt collection communications.
26. Defendant violated Plaintiff's right not to be the target of misleading debt collection communications.
27. Defendant violated the Plaintiff's right to a truthful and fair debt collection process.
28. Defendant used materially false, deceptive, misleading representations and means in its attempted collection of Plaintiff's alleged debt.
29. Defendant's communications were designed to cause the debtor to suffer a harmful disadvantage in charting a course of action in response to Defendant's collection efforts.

1.) FDCPA

30. The FDCPA ensures that consumers are fully and truthfully apprised of the facts and of their rights, the act enables them to understand, make informed decisions about, and participate fully and meaningfully in the debt collection process. The purpose of the FDCPA is to provide information that helps consumers to choose intelligently. The Defendant's false representations misled the Plaintiff in a manner that deprived him of his right to enjoy these benefits, these materially misleading statements trigger liability under section 1692e of the Act.

31. These deceptive communications additionally violated the FDCPA since they frustrate the consumer's ability to intelligently choose his or her response.

32. As an actual and proximate result of Defendant's acts and omissions, Plaintiff has suffered damages, including but not limited to, fear, stress, mental anguish, emotional stress, and acute embarrassment for which he should be compensated in an amount to be proven by a jury at trial.

III. CLASS ACTION ALLEGATIONS

33. Plaintiff brings this action on his own behalf and on behalf of all others similarly situated pursuant to Fla. R. Civ. P. 1.220. This action satisfies the numerosity, commonality, typicality, adequacy, predominance, and superiority requirements of the Rule.

34. The proposed Class is defined as:

All consumers that were not given the opportunity to dispute the debt without providing a reason.

35. Plaintiff reserves the right to modify or amend the definition of the proposed Class before the Court determines whether certification is appropriate.

36. There are questions of law and fact common to the class and these questions predominate over any questions affecting only individual class members. The principal question presented by this claim is whether the Defendant violated the FCCPA and FDCPA.

37. The members of the class are unsophisticated individuals, whose rights will not be vindicated in the absence of a class action. Prosecution of separate actions by individual members of the classes would create the risk of inconsistent or varying adjudications resulting in the establishment of inconsistent or varying standards for the parties and would not be in the interest of judicial economy.

38. Collection attempts, such as those made by the Defendant are evaluated by the objective standard of the hypothetical "least sophisticated consumer."

39. Plaintiff does not currently know the exact number of Class Members or their identities because such information is in Defendant's exclusive control and can only be ascertained by review of its records. However, Plaintiff believes that there are thousands of Class Members, and that the Class Members are sufficiently numerous and geographically dispersed so that joinder of all Class Members is impracticable.

40. Plaintiff's claims are typical of the Class.

41. The factual basis of Defendant's misconduct is common to all Class Members and resulted in injury to all Class Members.

42. There are numerous questions of law and fact common to the Class and those common questions predominate over any questions affecting only individual Class Members.

43. A class action is superior to other methods for the fair and efficient adjudication of this controversy. Treatment as a class action will permit many similarly situated persons to adjudicate their common claims in a single forum simultaneously, effectively, and without the duplication of effort and expense, and risk of inconsistent rulings that numerous individual actions would cause. Class treatment will also permit the adjudication of small claims by Class Members who otherwise might not be able to afford to litigate their claims individually. This class action presents no difficulties in management that would preclude maintenance as a class action.

44. This forum is particularly desirable for the prosecution of this class action because Defendant specifically targets Florida consumers, and the lead Plaintiff is domiciled in Florida. As a result of the foregoing, litigating on a class action basis in this forum will decrease the cost of discovery and prosecution.

45. Plaintiff has suffered the harm alleged on behalf of the Class and has no interests antagonistic to the interests of any other Class Members. He is committed to the prosecution of

this action and has retained counsel experienced in the prosecution of class actions and complex commercial actions. Accordingly, Plaintiff is an adequate representative and will fairly and adequately protect the interests of the Class Members. Plaintiff is not aware of any other pending litigation concerning this controversy that involves Class Members.

46. Finally, the Class is readily definable and is one for which records exist in Defendant's files.

COUNT I – Violations of the FCCPA (Brought by Plaintiff on Behalf of himself and the Members of a Class, Against Defendant)

47. Plaintiff adopts and incorporates the allegations in Paragraphs 1-46.

48. This cause of action is brought on behalf of Plaintiff and the members of a class.

49. The class consists of all persons whom Defendant's records reflect resided in the State of Florida and were not given the opportunity to dispute the debt with no reason and the Plaintiff asserts that the letter contained violations of Fla. Stat. § 559.72(7) inter alia for abusing and harassing the Plaintiff.

50. Because the Defendant violated the FCCPA, the Plaintiff and the members of the class are entitled to damages in accordance with the FCCPA.

51. Pursuant to Fla. Stat. § 559.77(2), Plaintiff is entitled to recover his reasonable attorneys' fees and costs.

WHEREFORE, Plaintiff respectfully demands the entry of preliminary and permanent injunctive relief and entry of judgment against Defendant, awarding Plaintiff and the class members damages as follows:

- a. Statutory damages provided under the Fla. Stat. § 559.77.

- b. Attorney fees and costs incurred in bringing this action as provided by statute; and
- c. Any other relief that this Court deems appropriate and just under the circumstances.

COUNT II – Violations of the Fair Debt Collection Practices Act (Brought by Plaintiff on Behalf of himself and the Members of a Class, Against Defendant

- 52. Plaintiff adopts and incorporates the allegations in Paragraphs 1-46.
- 53. This cause of action is brought on behalf of Plaintiff and the members of a class.
- 54. The class consists of all persons whom Defendant's records reflect resided in the State of Florida and who were not allowed to dispute the debt without a reason and the Plaintiff asserts that the conduct violates 15 U.S.C. §§ 1692e, 1692e(10) and 1692g.
- 55. The Defendant's actions as set forth above in the within complaint violates the Fair Debt Collection Practices Act.
- 56. Because the Defendant violated the Fair Debt Collection Practices Act, the Plaintiff and the members of the class are entitled to damages in accordance with the Fair Debt Collection Practices Act.

WHEREFORE, Plaintiff respectfully demands the entry of preliminary and permanent injunctive relief and entry of judgment against Defendant, awarding Plaintiff and the class members damages as follows:

- d. Statutory damages provided under the FDCPA, 15 U.S.C. § 1692(k);
- e. Attorney fees and costs incurred in bringing this action as provided by statute; and
- f. Any other relief that this Court deems appropriate and just under the circumstances.

DEMAND FOR JURY TRIAL

Plaintiff demands a jury trial on all issues so triable.

DATED: October 6, 2022

LEVY & PARTNERS, PLLC
*Attorneys for Plaintiff and Plaintiff Class
members*
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By: /s/ Omar M. Salazar II

OMAR M. SALAZAR II, ESQ.
Fla. Bar No.: 0106175
ELY R. LEVY, ESQ.
Fla. Bar No.: 15452

EXHIBIT A

United Collection Bureau, Inc.
5620 Southwyck Blvd.
Toledo OH 43614
1-800-935-1798
www.uchbinc.com

To: YISSACHER G RUBASHKIN
1152 98th St
Bay Harbor Islands FL 33154-1717

January 6, 2022

UCB Reference Number: 56635278

United Collection Bureau, Inc. is a debt collector. We are trying to collect a debt that you owe to CITIBANK, N.A. We will use any information you give us to help collect the debt.

Our information shows:

You had a CITI MASTERCARD credit card from CITIBANK, N.A. with account number ending in 4745.	
As of 02-03-21, you owed:	\$1706.42
Between 02-03-21 and today:	
You were charged the amount in interest:	\$0.00
You were charged this amount in fees:	\$0.00
You paid or were credited this amount toward the debt:	\$0.00
Total amount of the debt now:	\$1706.42

How can you dispute the debt?

- Call or write to us by 02-20-22 to dispute all or part of the debt. If you do not, we will assume that our information is correct.
- If you write to us by 02-20-22, we must stop collection on any amount you dispute until we send you information that shows you owe the debt. You may use the form below or write to us without the form. You may also include supporting documents. We accept disputes electronically at www.requests.uchbinc.com.

What else can you do?

- Write to ask for the name and address of the original creditor, if different from the current creditor. If you write by 02-20-22, we must stop collection until we send you that information. You may use the form below or write to us without the form. We accept such requests electronically at www.requests.uchbinc.com.
- Go to www.cfpb.gov/debt-collection to learn more about your rights under federal law. For instance, you have the right to stop or limit how we contact you.
- Contact us about your payment options.

Notice: See reverse side for important information.

Mail this form to:
PO BOX 140310
TOLEDO OH 43614

1-800-935-1798

YISSACHER G RUBASHKIN
1152 98th St
Bay Harbor Islands FL 33154-1717

How do you want to respond?

Check all that apply:

- ☐ I want to dispute the debt because I think:
 - ☐ This is not my debt.
 - ☐ The amount is wrong.
 - ☐ Other (please describe or attach additional information).
- ☐ I want you to send me the name and address of the original creditor.
- ☐ I enclosed this amount: \$

Make your check payable to Citibank. Include the reference number 56635278.

