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5 ATTORNEYS FOR PLAINTIFF

6 IN THE UNITED STATES DISTRICT COURT
FOR THE
7 DISTRICT OF MONTANA, BILLINGS DIVISION

8 LAURA GARCIA, for herself and others) Cause No. CV-24-05-BLG-SPW
similarly situated,)
9) Judge: Hon. _____
Plaintiff,)
10)
vs.)
11)
DCI CREDIT SERVICES, INC.,)
12)
Defendant.)
13)

14 COMPLAINT AND JURY DEMAND
15 PUTATIVE CLASS ACTION

16 COME NOW Plaintiffs for their complaint against Defendant DCI Credit Services, Inc.
17 (“Defendant”), allege as follows:

18 TYPE OF ACTION

19 1. This is a putative class action brough under the Fair Debt Collection Practices
20 Act, 15 U.S.C. § 1692 *et seq.* (the “FDCPA”), and applicable state consumer protection laws.
21 The named plaintiff, Laura Garcia, brings this action for herself individually and for all persons
22 similarly situated.

1 **VENUE AND JURISDICTION**

2 2. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 and 15 U.S.C. §
3 1692k(d). This Court has jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367.

4 3. Venue is proper in the Billings division of the United States District Court for the
5 District of Montana pursuant to 28 U.S. Code § 1391(b) and Local Rule 3.2 because the actions
6 giving rise to the causes of action of the named Plaintiff commenced in Yellowstone County,
7 Montana, and arose from services provided in Dawson County, also located within the Billings
8 Division and Defendant has conducted business in Montana availing itself to the laws of
9 Montana.

10 **PARTIES**

11 4. The named Plaintiff, Laura Garcia ("Ms. Garcia") is a natural person.

12 5. The members of the proposed class are natural persons who have had consumer
13 debts placed with Defendant for collection. Upon information and belief, a large portion of the
14 proposed class are Montana residents who incurred consumer debt in Montana.

15 6. Defendant is a North Dakota corporation that is registered to do business, and
16 does business, in Montana.

17 **FACTUAL ALLEGATIONS**

18 7. Ms. Garcia repeats and re-alleges Paragraphs 1-6 as if fully set forth herein.

19 8. In July and August 2018 Laura Garcia incurred medical bills at the Glendive
20 Medical Center in the amount of \$3,705.00 (the "GMC Debt").

21 9. Ms. Garcia did not make any payments on the GMC Debt after November 21,
22 2018.

1 10. The GMC Debt was placed with Defendant for collection.

2 11. Defendant allegedly sent a request for payment of the GMC Debt to Ms. Garcia
3 with a supposed 30-day validation notice on or about July 15, 2019.

4 12. The validation notice did not comply with 15 U.S.C. § 1692g(a), specifically
5 omitting that the debtor may dispute the validity of the debt or any portion thereof and that,
6 absent dispute, Defendant would assume the debt to be valid.

7 13. Ms. Garcia retained legal counsel regarding the GMC Debt and Defendant's
8 attempt to collect the GMC Debt.

9 14. Defendant knew Ms. Garcia was represented by legal counsel regarding the
10 GMC Debt.

11 15. In settlement of the violation, on March 18, 2020, Defendant agreed "to cease
12 any and all collection efforts against [Ms. Garcia]", to "remov[e] any reports to consumer
13 reporting agencies", and to "advise [the original creditor] that the debt is 'highly disputed.'"

14 16. In June 2023 Defendant contacted Ms. Garcia in an attempt to collect a debt.

15 17. On October 2, 2023, Ms. Garcia called Defendant and spoke with a
16 representative who identified himself as "Rick".

17 18. Defendant alleged the debt was with "Glendive Gabert Medical" for a total of
18 \$3,655.75 (the "Gabert Debt").

19 19. When Ms. Garcia said she disputed the Gabert Debt, Defendant told her she did
20 not have an option to dispute, and that she had to dispute in 2019.

21 20. Defendant stated Ms. Garcia's only option was to pay the Gabert Debt in full.

22

1 33. A subclass consists of members of the class to whom Defendant made or used
2 false, deceptive, or misleading representations or means in connection with the collection of a
3 debt, including but not limited to the consumer may not dispute the debt, Defendant need not or
4 cannot validate the debt, or refusing to provide information concerning the debt or Defendant.

5 34. The legal claims of the proposed class are identical to those of the named
6 Plaintiff. Because the claims of each member of the class arise from deficient validation notice,
7 the identical legal claims are present for the named Plaintiff and each member of the proposed
8 class. There are questions of law and fact that are common to the named Plaintiff and those of
9 the proposed class.

10 35. The legal claims predominate over any minor factual differences between the
11 named Plaintiff or class members.

12 36. The class members are consumers who may be unable to locate or afford legal
13 counsel.

14 37. Most of the class members are likely unaware that their legal rights have been
15 violated.

16 38. The amount of damages per consumer are not insignificant but might generally
17 be small. Hence, a consumer class action is particularly well suited to address these violations
18 and to secure recovery for the class.

19 39. The legal claims of the subclass class are identical to those of the named
20 Plaintiff. Because the claims of each member of the first subclass arise from the use of false,
21 deceptive, or misleading representations in connection with the collection of a debt, the identical
22 legal claims are present for each named plaintiff and each member of the proposed first

1 subclass. There are questions of law and fact that are common to the named Plaintiff and those
2 of the proposed subclass.

3 40. The legal claims predominate over any minor factual differences between the
4 named Plaintiff or subclass members.

5 41. The subclass members are consumers who may be unable to locate or afford
6 legal counsel.

7 42. Most of the subclass members are likely unaware that their legal rights have been
8 violated.

9 43. The amount of damages per consumer are not insignificant but might generally
10 be small. Hence a consumer class action is particularly well suited to address these violations
11 and to secure recovery for the first subclass.

12 44. The named Plaintiff will adequately and fairly represent the interests of the class
13 and the subclass.

14 45. A class action is superior to other available methods for the fair and efficient
15 adjudication of the controversies.

16 CAUSES OF ACTION

17 **Count I: Fair Debt Collection—15 U.S.C. § 1692g and 12 CFR § 1006.34**

18 46. Ms. Garcia repeats and re-alleges Paragraphs 1-45 as if fully set forth herein.

19 47. As part of the initial communication with a consumer in connection with the
20 collection of a debt, or within five days thereafter, a debt collector shall send the consumer a
21 notice containing: “(1) the amount of the debt; (2) the name of the creditor to whom the debt is
22 owed; (3) a statement that unless the consumer, within thirty days after receipt of the notice,

1 disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by
2 the debt collector; (4) a statement that if the consumer notifies the debt collector in writing
3 within the thirty-day period that the debt, or any portion thereof, is disputed, the debt collector
4 will obtain verification of the debt or a copy of a judgment against the consumer and a copy of
5 such verification or judgment will be mailed to the consumer by the debt collector; and (5) a
6 statement that, upon the consumer's written request within the thirty-day period, the debt
7 collector will provide the consumer with the name and address of the original creditor, if
8 different from the current creditor." 15 U.S.C. § 1692g(a).

9 48. In addition to the required disclosures under 15 U.S.C. § 1692g(a), 12 CFR §
10 1006.34 imposes additional disclosure requirements.

11 49. Defendant did not send the notification required under 15 U.S.C. § 1692g(a) and
12 12 CFR § 1006.34 to the class or the notice sent was deficient.

13 50. Defendant's failure to send a notification that complies with 15 U.S.C. §
14 1692g(a) and 12 CFR § 1006.34 violates the FDCPA.

15 51. Ms. Garcia is entitled to recover actual damages plus \$1,000.00 statutory
16 damages. 15 U.S.C. § 1692k(a)(1)-(2).

17 52. Plaintiff class is entitled to recover the lesser of \$500,000.00 or 1% of
18 Defendant's net worth. 15 U.S.C. § 1692k(a)(2).

19 53. Plaintiffs are entitled to recover their attorney's fees for pursuing this action.

20 **Count II: Fair Debt Collection—15 U.S.C. § 1692e and 12 CFR § 1006.18**

21 54. Ms. Garcia repeats and re-alleges Paragraphs 1-53 as if fully set forth herein.
22

1 55. A debt collector may not use any false, deceptive, or misleading representation
2 or means in connection with the collection of any debt. 15 U.S.C. § 1692e; 12 CFR § 1006.18.

3 56. Defendant represented to Plaintiffs, including Ms. Garcia, that it would cease
4 collection of debts and did not.

5 57. Defendant represented to Plaintiffs, including Ms. Garcia, that it would mark
6 debts as disputed but did not.

7 58. Defendant represented to Plaintiffs, including Ms. Garcia, that they could not
8 dispute their debts.

9 59. Defendant represented to Plaintiffs, including Ms. Garcia, that Defendant had no
10 obligation to validate and could not provide any validation for debts.

11 60. Defendant represented that it had no obligation to send any information to
12 Plaintiffs, including Ms. Garcia, and refused to send information requested by Plaintiffs.

13 61. Defendant's representations to Plaintiffs were false, deceptive, or misleading and
14 violated 15 U.S.C. § 1692e and 12 CFR § 1006.18.

15 62. Ms. Garcia is entitled to recover actual damages plus \$1,000.00 statutory
16 damages. 15 U.S.C. § 1692k(a)(1)-(2).

17 63. Plaintiff class is entitled to recover the lesser of \$500,000.00 or 1% of
18 Defendant's net worth. 15 U.S.C. § 1692k(a)(2).

19 64. Plaintiffs are entitled to recover their attorney's fees for pursuing this action.

20 **Count III: Fair Debt Collection—15 U.S.C. § 1692c and 12 CFR § 1006.6**

21 65. Ms. Garcia repeats and re-alleges Paragraphs 1-64 as if fully set forth herein.

22

1 statutorily sufficient notice of her right to dispute and the consequences of not disputing. Mont.
2 Code Ann. § 30-14-133(1).

3 77. Ms. Garcia is entitled to three times her money damages not exceeding
4 \$100,000.00. Mont. Code Ann. § 30-14-133(1).

5 78. Ms. Garcia is entitled to recover her attorneys' fees in this action.

6 **Count V: State Consumer Protection Act**

7 79. Ms. Garcia repeats and re-alleges Paragraphs 1-78 as if fully set forth herein.

8 80. Using any false, deceptive, or misleading representation or means in connection
9 with the collection of any debt is a violation of the Montana Consumer Protection Act.

10 81. Defendant used false, deceptive, or misleading representations and means in the
11 collection of debts from Plaintiffs and members of the subclass.

12 82. Ms. Garcia suffered an ascertainable loss when Defendant used false, deceptive,
13 or misleading representations and means in the collection of debts from Ms. Garcia.

14 83. Ms. Garcia is entitled to recover \$500.00 for Defendant's use of false, deceptive,
15 or misleading representations and means in the collection of debts. Mont. Code Ann. § 30-14-
16 133(1).

17 84. Ms. Garcia is entitled to three times her money damages not exceeding
18 \$100,000.00. Mont. Code Ann. § 30-14-133(1).

19 85. Ms. Garcia is entitled to recover their attorneys' fees in this action.

20 **JURY DEMAND**

21 Plaintiffs demand a trial by jury on all claims.

22

RELIEF REQUESTED

WHEREFORE, Plaintiffs pray for judgment against Defendant and relief as follows:

- A. This Court certify the class and subclass and appoint Ms. Garcia as the class representative and Ms. Garcia’s legal counsel as class counsel;
- B. Ms. Garcia be awarded her actual damages and statutory damages as permitted under 15 U.S.C. § 1692k(a)(1);
- C. Ms. Garcia be awarded treble damages (not to exceed \$100,000.00) as permitted under Mont. Code Ann. § 30-14-133(1);
- D. Members of the class be awarded statutory damages as permitted by 15 U.S.C. § 1692k(a)(2)(B);
- E. Ms. Garcia be awarded \$500.00 on Counts IV and V;
- F. Ms. Garcia be awarded treble damages (not to exceed \$100,000.00) as permitted under Mont. Code Ann. § 30-14-133(1);
- G. Plaintiffs’ costs and attorneys’ fees;
- H. Interest accruing on any judgment amount in favor of the Plaintiffs, or any of them, at the applicable legal rate from the date of entry of judgment until paid in full; and
- I. Such other relief as this Court deems just.

DATED this 11 day of January 2024.

FELT MARTIN PC


By: Martin S. Smith
Attorneys for Plaintiff