

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

FILED
U.S. DISTRICT COURT
DISTRICT OF MARYLAND

2012 APR 23 P 2:07

KENNETH A. HARKINS, JR.
7200 Wessex Drive
Temple Hills, Md. 20748
Plaintiff.

CLERK'S OFFICE
AT GREENBELT
PJM 12 CV 1229
DEPUTY

Case No. _____

-vs-

DIVERSIFIED COLLECTION SERVICES, INC.;
2476 Verna Court
San Leandro, CA 94577
Defendant.

COMPLAINT

Plaintiff, **Kenneth A. Harkins, Jr.**, hereby sues Defendant, Diversified Collection Services, Inc.; and allege:

PRELIMINARY STATEMENT

1. This is an action brought for damages for violations of the Fair Credit Reporting Act (FCRA) 15 U.S.C. §1681 *et seq.*; for damages for violations of the Fair Debt Collection Practices Act (FDCPA) 15 U.S.C. §1692 *et seq.*; for damages for violations of the Maryland Fair Debt Collection Practices Act (Md. COMMERCIAL LAW Code Ann. Title 14 Subtitle 2) ; and for damages for violations of Maryland Consumer Protection Act (Md. COMMERCIAL LAW Code Ann. Title 13) *et seq.*

JURISDICTION AND VENUE

2. The jurisdiction of this Court is conferred by 15 U.S.C. §1681p, 15 U.S.C. §1692k and supplemental jurisdiction exists for the state law claims pursuant to 28 U.S.C. §1367.
3. Venue is proper in this Circuit pursuant to 28 U.S.C. §1391b.
4. Plaintiff, Kenneth A. Harkins, Jr, is a natural person and is a resident of Maryland.
5. Upon information and belief Defendant, Diversified Collection Services, Inc, is a California corporation authorized to do business in Maryland.
6. All conditions precedent to the bringing of this action have been performed, waived or excused.

FACTUAL ALLEGATIONS

7. On April 25, 2011, Defendant initiated a hard pull of Plaintiff's credit report from Experian without permissible purpose, thereby reducing Plaintiff's credit score.

8. On November 21, 2011, Plaintiff received a letter from the Defendant attempting to collect an alleged debt.
9. On December 19, 2011 Defendant received a certified letter from the Plaintiff requesting a validation of the alleged debt and notification that failure to validate will be construed as a waiver of any and all claims against Plaintiff and their tacit agreement to compensate Plaintiff for costs and attorney fees.
10. Plaintiff contends that the illegal actions of the Defendant Diversified Collections Services, Inc., have harmed the Plaintiff, resulting in credit denials, credit delays, inability to apply for credit, loss of use of funds, mental anguish, emotional distress, humiliation, a loss of reputation, and expenditures for fees and costs.

COUNT I
VIOLATION OF FAIR CREDIT REPORTING ACT (FCRA), 15 U.S.C. §1681
WILLFUL NON-COMPLIANCE BY DEFENDANTS

11. Paragraphs 1 through 10 are re-alleged as though fully set forth herein.
12. Plaintiff is a consumer within the meaning of the FCRA, 15 U.S.C. §1681a (c).
13. Defendant willfully violated the FCRA. Defendant's violations include, but are not limited to, the following:
 - (a) Defendant willfully violated 15 U.S.C. §1681b by, obtaining Plaintiff's consumer report without a permissible purpose.
 - (b) Defendant willfully violated 15 U.S.C. §1681q by, Any person who knowingly and willfully obtains information on a consumer from a consumer reporting agency under false pretenses shall be fined under title 18, imprisoned for not more than 2 years, or both.

WHEREFORE, Plaintiff demands judgment in the amount of \$2000.00, for damages against Defendant for actual or statutory damages, and punitive damages, fees and costs, pursuant to 15 U.S.C. §1681n.

COUNT II
VIOLATION OF FAIR CREDIT REPORTING ACT (FCRA), 15 U.S.C. §1681
NEGLIGENT NON-COMPLIANCE BY DEFENDANT

14. Paragraphs 1 through 10 are re-alleged as though fully set forth herein.
15. Plaintiff is a consumer within the meaning of the FCRA, 15 U.S.C. §1681a (c).
16. Defendant negligently violated the FCRA. Defendant's violations include, but are not limited to, the following:
 - (a) Defendant negligently violated 15 U.S.C. §1681b (f) by, obtaining Plaintiff's consumer report without a permissible purpose.

WHEREFORE, Plaintiff demands judgment in the amount of \$1000.00, for damages against Defendant for actual damages, fees and costs, pursuant to 15 U.S.C. §1681o.

**COUNT III
VIOLATION OF FAIR DEBT COLLECTION
PRACTICES ACT (FDCPA), 15 U.S.C. §1692
BY DEFENDANT**

17. Paragraphs 1 through 10 are re-alleged as though fully set forth herein.
18. Plaintiff is a consumer within the meaning of the FDCPA, 15 U.S.C. §1692a (3).
19. Defendant is a debt collector within the meaning of the FDCPA, 15 U.S.C. §1692a (6).
20. Defendant violated the FDCPA. Defendant's violations include, but are not limited to, the following:
 - (a) Defendant violated 15 U.S.C. §1692e (2) by, falsely representing the character, amount, or legal status of any debt.
 - (b) Defendant violated 15 U.S.C. §1692e (5) by, threatening to take any action that could not legally be taken or that was not intended to be taken.
 - (c) Defendant violated 15 U.S.C. §1692e (10) by, the use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer.
 - (d) Defendant violated 15 U.S.C. §1692f (1) by, attempting the collection of any amount (including any interest, fee, charge, or expense incidental to the principal obligation) unless such amount is expressly authorized by the agreement creating the debt or permitted by law.

WHEREFORE, Plaintiff demands judgment in the amount of \$1000.00, for damages against Defendant for actual or statutory damages, and punitive damages, fees and costs, pursuant to 15 U.S.C. §1692k.

**COUNT IV
VIOLATION OF
MARYLAND FAIR DEBT COLLECTION PRACTICES ACT,
Md. COMMERCIAL LAW Code Ann. Title 14 Subtitle 2 §14-202
BY DEFENDANT**

21. Paragraphs 1 through 10 are re-alleged as though fully set forth herein.
22. Defendant violated §14-202 (8) Claiming, attempting, or threatening to enforce a right with knowledge that the right does not exist.

WHEREFORE, Plaintiff demands judgment in the amount of \$5000.00, for damages against Defendant for emotional distress or mental anguish pursuant to Maryland Fair Debt Collection Practices Act §14-203.

COUNT V
VIOLATION OF MARYLAND CONSUMER PROTECTION ACT,
Md. COMMERCIAL LAW Code Ann. Title 13
BY DEFENDANT

23. Paragraphs 1 through 10 are re-alleged as though fully set forth herein.
24. Plaintiff is a consumer within the meaning of Title 13 Subtitle 1 §13-101(c)(1).
25. Defendant is a merchant within the meaning of Title 13 Subtitle 1 §13-101(g)(1).
26. Defendant violated Title 13 Subtitle 3 §13-301(1) by, falsely disparaging, or misleading oral or written statement, visual description, or other representation of any kind which has the capacity tendency, or effect of deceiving or misleading consumers.
27. Defendant violated Title 13 Subtitle 3 §13-301 (2) by, Representation that:
 - (a) (ii) A merchant has a sponsorship, approval, status, affiliation, or connection which he does not have.
28. Defendant violated Title 13 Subtitle 3 §13-301(3) by, failure to state a material fact if the failure deceives or tends to deceive.
29. Defendant violated Title 13 Subtitle 3 §13-301(14) by, Violation of a provision of:
 - (iii) Title 14, Subtitle 2 of this article, the Maryland Consumer Debt Collection Act.
30. Defendant violated Title 13 Subtitle 3 §13-302 by, Any practice prohibited by this title is a violation of this title, whether or not any consumer in fact has been misled, deceived, or damaged as a result of that practice.
31. Defendant violated Title 13 Subtitle 3 §13-303 by, A person may not engage in any unfair or deceptive trade practice, as defined in this subtitle or as further defined by the Division, in:
 - (5) The collection of consumer debts.

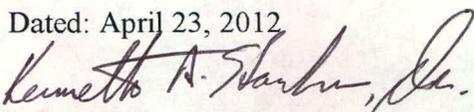
WHEREFORE, Plaintiff demands judgment in the amount of \$6000.00, for damages against Defendant for violations pursuant to Md. COMMERCIAL LAW Code Ann. Title 13 Subtitle 4 §13-410.

WHEREFORE, Plaintiff, Kenneth A. Harkins, Jr., respectfully requests judgment be entered against Defendant, DIVERSIFIED COLLECTION SERVICES, INC., for the total amount of \$15,000.00 plus court costs, and any other relief that this Honorable Court deems appropriate.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury of all issues so triable as a matter of law.

Dated: April 23, 2012


Respectfully submitted,

Kenneth A. Harkins, Jr.

7200 Wessex Drive

Temple Hills, Maryland 20748

(202) 550-8001