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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA-SOUTHERN DIVISION**

<p>ANDREW WYNAUGHT, individually and on behalf of all others similarly situated,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>MOUNTAIN LION ACQUISITIONS, INC.,</p> <p style="text-align: center;">Defendants.</p>	<p>Case No:</p> <p>Class Action Complaint For Damages</p> <p>1) Violations of the FDCPA</p> <p>2) Violations of the California Fair Debt Buying Practices Act</p> <p>Jury Trial Demanded</p>
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Introduction

1. ANDREW WYNAUGHT, (“Plaintiff”) individually and on behalf of all others similarly situated, by and through Plaintiff’s attorneys, brings this action to challenge the actions of MOUNTAIN LION ACQUISITIONS,

1 INC., (“Defendant”), with regards to attempts by Defendant to unlawfully and
2 abusively collect a debt allegedly owed by Plaintiff, and this conduct caused
3 Plaintiff damages.

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

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

9 4. Unless otherwise stated, all the conduct engaged in by Defendants took place
10 in California.

11 5. Any violations by Defendants were knowing, willful, and intentional, and
12 Defendants did not maintain procedures reasonably adapted to avoid any such
13 specific violation.

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

17 **Jurisdiction and Venue**

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

20 8. This action arises out of Defendant’s violations of the FDCPA and
21 California’s Fair Debt Buying Practices Act.

22 9. Because Defendant does business within the State of California, and
23 maintains an agent for service of process in the City of Stanton, State of
24 California, personal jurisdiction is established.

25 10. Venue is proper pursuant to 28 U.S.C. § 1391.

26 11. At all times relevant, Defendants conducted business within the State of
27 California.
28

Parties

- 1
- 2 12. Plaintiff is a natural person who resides in the City of Laguna Niguel, County
- 3 of Orange, State of California.
- 4 13. MOUNTAIN LION ACQUISITIONS, INC. is a “debt buyer,” pursuant to
- 5 Cal. Civ. Code § 1788.50(a)(1), whose principal place of business is the City
- 6 of Irvine, State of California, and maintains a registered agent for service of
- 7 process at 9891 Irvine Center Drive, Suite 200, City of Irvine.
- 8 14. Plaintiff is a natural person allegedly obligated to pay a debt, and is a
- 9 consumer, as that term is defined by 15 U.S.C. § 1692a(3).
- 10 15. Defendant is one who uses an instrumentality of interstate commerce or the
- 11 mails in a business the principal purpose of which is the collection of debts, or
- 12 who regularly collect or attempt to collect, directly or indirectly, debts owed
- 13 or due or asserted to be owed or due another and is therefore a debt collector
- 14 as that phrase is defined by 15 U.S.C. § 1692a(6).
- 15 16. At all times relevant to the actions described below, THE OFFICES OF D.
- 16 SCOTT CARRUTHERS was acting on behalf of, and at the direction of,
- 17 MOUNTAIN LION ACQUISITIONS, INC.

18 **Factual Allegations**

- 19 17. MOUNTAIN LION ACQUISITIONS, INC. is a debt buyer pursuant to Cal.
- 20 Civ. Code § 1788.50(a)(1).
- 21 18. On December 29, 2014, a Complaint was filed by THE OFFICES OF D.
- 22 SCOTT CARRUTHERS—on behalf of and at the direction of MOUNTAIN
- 23 LION ACQUISITIONS, INC.—in the Superior Court for the County of
- 24 Orange, under case number 30-2014-00783410-CL-CL-CJC, entitled
- 25 MOUNTAIN LION ACQUISITIONS, INC. v. ANDREW WYNAUGHT and
- 26 DOES 1 through 10, inclusive.
- 27
- 28

1 19. Defendant filed the above lawsuit against Plaintiff as an attempt to collect an
2 allegedly outstanding debt.

3 20. The alleged financial obligation upon which Defendants filed the above
4 lawsuit was an old debt that Plaintiff had incurred for school financing, which
5 was therefore incurred primarily for personal, family or household purposes,
6 and is therefore a “debt” as that term is defined by 15 U.S.C. §1692a(5).

7 21. The debt allegedly owed by Plaintiff, that is, the debt that was being sued
8 upon in the state action, is a “charged-off consumer debt” pursuant to Cal.
9 Civ. Code § 1788.50(a)(2).

10 22. This alleged debt was purchased by MOUNTAIN LION ACQUISITIONS,
11 INC. on or after January 1, 2014, pursuant to Cal. Civ. Code § 1788.50(d).

12 23. In the state action against Plaintiff, Defendant MOUNTAIN LION
13 ACQUISITIONS, INC., fails to contain the name and address of the charge-
14 off creditor, as required by 1788.58(a)(6).

15 24. In the state action against Plaintiff, Defendant MOUNTAIN LION
16 ACQUISITIONS, INC., fails to state that it has complied with 1785.52, as
17 required by 1788.58(a)(9).

18 25. In the state action against Plaintiff, Defendant MOUNTAIN LION
19 ACQUISITIONS, INC., fails to provide the name and address of all
20 purchasers after charge-off, as required by 1788.58(a)(8).

21 26. In the state action against Plaintiff, Defendant MOUNTAIN LION
22 ACQUISITIONS, INC., fails to state the nature of the debt and the transaction
23 from which it was derived, as required by 1788.58(a)(2).

24 27. By violating the numerous provisions of the Fair Debt Buyer Practices Act as
25 indicated above, Defendant has used unfair or unconscionable means to
26 collect or attempt to collect a debt in violation of 15 U.S.C. § 1692f, and has
27 also used false, deceptive, or misleading representations or means in
28

1 connection with the collection of a debt in violation of 15 U.S.C. § 1692e, and
2 thereby also violated Fair Debt Collection Practices Act.

3 28. Plaintiff defines “the Class” as: (i) all persons sued by MOUNTAIN LION
4 ACQUISITIONS, INC. in a California Court within the last year; (ii) to
5 recover a consumer debt assigned, placed, or otherwise transferred to
6 MOUNTAIN LION ACQUISITIONS, INC. on or after January 1, 2014; (iii)
7 to recover said consumer debt; (iv) where MOUNTAIN LION
8 ACQUISITIONS, INC. failed to provide the name and address of the charge-
9 off creditor as required by Cal. Civ. Code §§1788.58(a)(6), or failed to state
10 that it has complied with 1785.52, as required by 1788.58(a)(9), or failed to
11 provide the name and address of all purchasers after charge-off, as required
12 by 1788.58(a)(8), or failed to state the nature of the debt and the transaction
13 from which it was derived, as required by 1788.58(a)(2).

14 29. Defendant and Defendant’s employees or agents are excluded from the Class.

15 30. Plaintiff does not know the exact number of persons in the Class, but believes
16 them to be in the hundreds, if not thousands, making joinder of all these
17 actions impracticable.

18 31. The identity of the individual members is ascertainable through Defendant’s
19 and/or Defendant’s agents’ records or by public notice.

20 32. There is a well-defined community of interest in the questions of law and fact
21 involved affecting the members of the Class. The questions of law and fact
22 common to the Class predominate over questions affecting only individual
23 class members, and include, but are not limited to, the following:

24 a) Whether Defendant violated the FDBPA by suing members of the Class
25 and failed to provide the name and address of the charge-off creditor as
26 required by Cal. Civ. Code §§1788.58(a)(6);

27 b) Whether Defendant violated the FDBPA by suing members of the Class
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1 and failed to state that it has complied with 1785.52, as required by
2 1788.58(a)(9);

3 c) Whether Defendant violated the FDBPA by suing members of the Class
4 and failed to provide the name and address of all purchasers after charge-
5 off, as required by 1788.58(a)(8);

6 d) Whether Defendant violated the FDBPA by suing members of the Class
7 and failed to state the nature of the debt and the transaction from which it
8 was derived, as required by 1788.58(a)(2).

9 e) Whether members of the Class are entitled to the remedies under the
10 FDBPA;

11 f) Whether members of the Class are entitled to an award of reasonable
12 attorneys' fees and costs of suit pursuant to the FDBPA;

13 g) Whether Plaintiff will fairly and adequately protect the interest of the
14 Class; and,

15 h) Whether the accounts for members of the Class were transferred to
16 Defendant after January 1, 2014.

17 33. Plaintiff has retained counsel experienced in consumer class action litigation
18 and in handling claims involving unlawful debt collection practices.

19 34. Plaintiff's claims are typical of the claims of the Class, which all arise from
20 the same operative facts involving unlawful collection practices.

21 35. A class action is a superior method for the fair and efficient adjudication of
22 this controversy.

23 36. Class-wide damages are essential to induce Defendant to comply with the
24 laws alleged in this Amended Complaint.

25 37. The interests of class members in individually controlling the prosecution of
26 separate claims against Defendant is small because the maximum statutory
27 damages in an individual action under these statutes is limited. Management
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1 of these claims is likely to present significantly fewer difficulties than those
2 presented in many class claims, e.g., securities fraud.

3 38. Defendant has acted on grounds generally applicable to the Class, thereby
4 making appropriate final declaratory relief with respect to the class as a
5 whole.

6 39. Plaintiff contemplates providing notice to the putative class members by
7 direct mail in the form of a postcard and via Internet website.

8 **Causes of Action**

9 **Count I**

10 **A Class Action for Violations of the**
11 **Fair Debt Collection Practices Act (FDCPA)**
12 **15 U.S.C. §§ 1692 et seq.**

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

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

18 42. As a result of each and every violation of the FDCPA, Plaintiff is entitled to
19 any actual damages pursuant to 15 U.S.C. § 1692k(a)(1); statutory damages in
20 an amount up to \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A); and,
21 reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1692k(a)(3).

22 **Count II**

23 **A Class Action for Violations of**
24 **California Fair Debt Buying Practices Act**
25 **Cal. Civ. Code § 1788.50, et seq.**

26 43. Plaintiff repeats, re-alleges, and incorporates by reference, all other
27 paragraphs.
28

1 44. The foregoing acts and omissions constitute numerous and multiple violations
2 of the Fair Debt Buyer Practices Act, including but not limited to each and
3 every one of the above-cited provisions of the Act, Cal. Civ. Code §§
4 1788.50, et seq.

5 45. As a result of each and every violation of the Fair Debt Buyers Practices Act
6 Act, Plaintiff is entitled to any actual damages pursuant to Cal. Civ. Code §
7 1788.62(a)(1); statutory damages in the amount up to \$1,000.00 pursuant to
8 Cal. Civ. Code § 1788.62(a)(2); and reasonable attorney's fees and costs
9 pursuant to Cal. Civ. Code § 1788.62(c)(1).

10 **Prayer For Relief**

11 WHEREFORE, Plaintiff prays that judgment be entered against Defendant, and
12 Plaintiff be awarded damages from Defendant as follows:

13 **As to Count I**

- 14 • An order certifying this action to be a proper class action pursuant to
15 Federal Rule of Civil Procedure 23, establishing an appropriate Class
16 and any Subclasses the Court deems appropriate, finding that Plaintiff is
17 a proper Class representative, and appointing the lawyers and law firms
18 representing Plaintiff as counsel for the Class
- 19 • An award of actual damages pursuant to 15 U.S.C. § 1692k(a)(1) from
20 all Defendants, jointly and severally;
- 21 • An award of statutory damages of \$1,000.00 from each and every
22 Defendant individually pursuant to 15 U.S.C. § 1692k(a)(2)(A);
- 23 • An award of costs of litigation and reasonable attorney's fees, pursuant
24 to 15 U.S.C. § 1692k(a)(3).

25 **As to Count II**

- 26 • An order certifying this action to be a proper class action pursuant to
27 Federal Rule of Civil Procedure 23, establishing an appropriate Class
28 and any Subclasses the Court deems appropriate, finding that Plaintiff is

1 a proper Class representative, and appointing the lawyers and law firms
2 representing Plaintiff as counsel for the Class;

- 3 • An award of actual damages, in an amount to be determined at trial,
4 pursuant to Cal. Civ. Code § 1788.62(a)(1);
- 5 • An award of statutory damages of \$1,000.00, pursuant to Cal. Civ. Code
6 § 1788.62(a)(2);
- 7 • An award of costs of litigation and reasonable attorney's fees, pursuant
8 to Cal. Civ. Code § 1788.62(c)(1);
- 9 • Any and all other relief that this Court deems just and proper.

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

12 Respectfully submitted,

13 **Semnar & Hartman, LLP**

14 Date: 2/11/15

By: /s/ Jared M. Hartman

Jared M. Hartman

Attorneys for Plaintiffs

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