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11  
12 **UNITED STATES DISTRICT COURT**  
13 **CENTRAL DISTRICT OF CALIFORNIA**  
14

15 )  
16 DAVID MAILLET, individually and ) Case No. 5:23-cv-273  
17 on behalf of all others similarly )  
18 situated, ) **Class Action Complaint For**  
19 ) **Violations Of:**  
20 Plaintiffs, )  
21 ) **1. The Fair Debt Collection**  
22 ) **Practices Act, 15 U.S.C.**  
23 ) **§§1692, et seq.; and**  
24 ) **2. The Rosenthal Fair Debt**  
25 ) **Collection Practices Act, Cal.**  
26 ) **Civ. Code §§1788, et seq.**  
27 ) **Jury Trial Demanded**  
28 )

29  
30 **Introduction**  
31

32 1. This case arises as a result of false, deceptive, and unfair debt-  
33 collection practices promulgated nationwide by Defendant, APPLE RECOVERY  
34 SERVICES CORP. (“Defendant”), in its collection letter campaigns wherein  
35 Defendant misrepresents consumer and debtor rights.

1           2.     In particular, Plaintiff, DAVID MAILLET (“Plaintiff”), alleges that  
2 within the year preceding the filing of this Complaint, Defendant attempted to  
3 collect debts from him and other consumers and debtors by systematically sending  
4 them mail-based collection correspondence that overshadow the disclosure  
5 requirements under Federal and State statutes and making material  
6 misrepresentations that are inconsistent with the disclosure requirements  
7 aforementioned in violation of the Fair Debt Collection Practices Act (“FDCPA”),  
8 15 U.S.C. §§ 1692g(a) & 1692g(b).

9           3.     Plaintiff alleges that Defendant made such misrepresentations and  
10 omissions in its communications with Plaintiff in connection with the alleged debt  
11 described herein.

12           4.     Such conduct is inherently deceptive and misleads the least-  
13 sophisticated consumer.

14           5.     Defendant’s acts and omissions were intentional, and resulted from  
15 Defendant’s desire to mislead debtors and consumers into making payments  
16 without apprising them of their rights under both Federal and State laws.

17           6.     Thus, Plaintiff brings class action claims against Defendant, under  
18 the Federal FDCPA and the RFDCPA, both of which were enacted to “eliminate  
19 abusive debt collection practices by debt collectors,” and to “prohibit debt  
20 collectors from engaging in unfair or deceptive acts or practices in the collection  
21 of consumer debts.” 15 U.S.C. 1692(e); *Cal. Civ. Code* §1788.1(b), respectively.

22   **Jurisdiction and Venue**

23           7.     The Court has federal question jurisdiction over Plaintiffs’ FDCPA  
24 cause of action pursuant to 28 U.S.C. §1331, and supplemental jurisdiction over  
25 Plaintiffs’ RFDCPA claim pursuant to 28 U.S.C. §1367.

26           8.     Venue is proper in the Central District of California pursuant to 18  
27 U.S.C. § 1391(b) because Defendant does business within the Central District of  
28

1 California, and because Plaintiff is a resident of San Bernardino County,  
2 California, which is within the Central District of California.

3 **The Parties**

4 9. Plaintiff is a natural person residing in San Branrdino County, State  
5 of California who is allegedly obligated to pay a debt, and from whom a debt  
6 collector seeks to collect a consumer debt which is alleged to be due and owing,  
7 thereby rendering him a “consumer” under the FDCPA, 15 U.S.C. §1692a(3), and  
8 a “debtor” under the RFDCPA, *Cal. Civ. Code* §1788.2(h).

9 10. Defendant is a company that uses instrumentalities of interstate  
10 commerce and/or the mails in its business, the principal purpose of which is the  
11 collection of any debts; it also regularly collects or attempts to collect, directly or  
12 indirectly, debts owed or due or asserted to be owed or due another. Thus,  
13 Defendant is a “debt collector,” under the FDCPA, 15 U.S.C. §1692(a)6.  
14 Defendant, in the ordinary course of business, regularly, on behalf of itself or  
15 others, engages in debt collection, thereby qualifying it as a “debt collector,” under  
16 the RFDCPA, *Cal. Civ. Code* §1788.2(c).

17 11. Furthermore, Defendant is a third-party debt collector and is not an  
18 officer or employee of a creditor attempting to collect a debt on behalf of the same.  
19 Therefore, Defendant is not covered by either subsections (A) or (B) of section (6)  
20 of § 1692a of the FDCPA.

21 12. The debts Defendant attempted to collect from Plaintiff and the  
22 putative class members qualify as “debt(s),” under the FDCPA, 5 U.S.C.  
23 §1692a(5), and as “consumer debt(s),” under the RFDCPA, *Cal. Civ. Code*  
24 §1788.2(f).

25 **Factual Allegations**

26 13. Within one (1) year preceding the filing of this class action lawsuit,  
27 Defendant mailed Plaintiff a collection letter dated January 15, 2023.

1 14. The alleged debt Defendant attempted to collect from Plaintiff is for  
2 \$3,891.89 originating from Texaco Oil (“the debt”).

3 15. The letter presented Plaintiff with three different options for settling  
4 the debt. Defendant represented to Plaintiff that the settlement options were only  
5 valid until February 10, 2023.

6 16. In the letter, Defendant did not inform Plaintiff of his right to request  
7 validation of the debt, nor did it inform Plaintiff that Defendant would assume the  
8 debt was valid if he did not dispute the validity of the debt within thirty days of  
9 receipt of the letter.

10 17. Moreover, nowhere does the collection letter provide Plaintiff notice  
11 that Defendant must verify the debt in writing if Plaintiff sends Defendant written  
12 notice of dispute within thirty (30) days of the initial communication.

13 18. Ultimately, these communications mislead Plaintiff as to the nature  
14 of his rights. Furthermore, Plaintiff felt harassed, anxious, and annoyed as a result  
15 of Defendant’s conduct.

16 **Class Allegations**

17 19. Plaintiff brings this class action on behalf of himself and all others  
18 similarly situated (“the Class”).

19 20. Plaintiff represents, and is a member of the following classes:

20 All persons residing in the United States, who, within the one (1) year  
21 preceding the filing of this Complaint, received collection  
22 correspondence from Defendant that did not inform them of their  
23 right to request validation of the alleged debt.

24 21. Plaintiff brings this class action on behalf of himself and all other  
25 California residents similarly situated (“the Sub-Class”):

26 All persons residing in the California, who, within the one (1) year  
27 preceding the filing of this Complaint, received collection  
28

1 correspondence from Defendant that did not inform them of their  
2 right to request validation of the alleged debt.

3 22. Collectively, the Class and Sub-Class will be referred hereinafter as  
4 “the Classes”.

5 23. As a result of Defendant’s conduct, Plaintiff and members of the  
6 Classes have been deprived of accurate and valid information regarding their rights  
7 and the obligations of debt collectors like Defendant. Defendant mislead Plaintiff  
8 and the Classes into believing, through Defendant’s material omissions, that they  
9 lacked certain rights and Defendant lacked certain obligations.

10 24. Defendant and its employees or agents are excluded from the Classes.  
11 Plaintiff does not know the number of members in the Classes, but believes the  
12 Classes members number to be in the tens of thousands, if not more. Thus, this  
13 matter should be certified as a Class action to assist in the expeditious litigation of  
14 this matter.

15 25. This lawsuit seeks statutory damages, actual damages, and injunctive  
16 relief for recovery of economic injury on behalf of the Classes and is not intended  
17 to request any recovery for personal injury and claims related thereto. Plaintiff  
18 reserves the right to expand the Classes definitions to seek recovery on behalf of  
19 additional persons as warranted as facts are learned in further investigation and  
20 discovery.

21 26. The joinder of the Classes’ members is impractical and the  
22 disposition of their claims in a class action will provide substantial benefits both  
23 to the parties and to the court. The Classes can be identified through Defendant’s  
24 records or Defendant’s agents’ records.

25 27. There is a well-defined community of interest in the questions of law  
26 and fact involved affecting the parties to be represented. The questions of law and  
27 fact to the Class predominate over questions which may affect individual Class  
28 members, including the following:

1 a. Whether, within the one (1) year preceding the filing of this  
2 Complaint, Defendant communicated with consumers in connection  
3 with debt collection and:

4 i. Failed to notify in writing within five (5) days after the  
5 communication that the debt will be assumed valid unless  
6 consumer disputes the debt within thirty (30) days;

7 ii. Failed to notify in writing within five (5) days after the  
8 communication that Defendant must verify the debt if Plaintiff  
9 disputes the debt within thirty (30) days;

10 iii. Overshadowed the disclosures required by the FDCPA, 15  
11 U.S.C. § 1692g(a); and

12 iv. Making representations to Plaintiff during the 30-day dispute  
13 period –that are inconsistent with the disclosures required by  
14 15 U.S.C. § 1692g(a).

15 b. Whether Plaintiffs and the Class members were damaged thereby,  
16 and the extent of damages for such violation; and

17 c. Whether Defendant should be enjoined from engaging in such  
18 conduct in the future.

19 28. As a person who received the grossly inadequate and misleading  
20 collection letter from Defendant, Plaintiff is asserting claims that are typical of the  
21 Class. Plaintiff will fairly and adequately represent and protect the interests of the  
22 Class in that Plaintiff has no interests antagonistic to any member of the Class.

23 29. There is a well-defined community of interest in the questions of law  
24 and fact involved affecting the parties to be represented. The questions of law and  
25 fact to the Sub-Class predominate over questions which may affect individual Sub-  
26 Class members, including the following:

1 a. Whether, within the one (1) year preceding the filing of this  
2 Complaint, Defendant communicated with consumers in connection  
3 with debt collection and:

4 i. Failed to notify in writing within five (5) days after the  
5 communication that the debt will be assumed valid unless  
6 consumer disputes the debt within thirty (30) days;

7 ii. Failed to notify in writing within five (5) days after the  
8 communication that Defendant must verify the debt if Plaintiff  
9 disputes the debt within thirty (30) days;

10 b. Whether Plaintiff and the Sub-Class members were damaged thereby,  
11 and the extent of damages for such violation; and

12 c. Whether Defendant should be enjoined from engaging in such  
13 conduct in the future.

14 30. As a person who received the grossly inadequate and misleading  
15 collection letters from Defendant, Plaintiff is asserting claims that are typical of  
16 the Sub-Class. Plaintiff will fairly and adequately represent and protect the  
17 interests of the Sub-Class in that Plaintiff have no interests antagonistic to any  
18 member of the Sub-Class.

19 31. Plaintiff and the members of the Classes have all suffered irreparable  
20 harm as a result of the Defendant's unlawful and wrongful conduct. Absent a class  
21 action, the Classes will continue to face the potential for irreparable harm. In  
22 addition, these violations of law will be allowed to proceed without remedy and  
23 Defendant will likely continue such illegal conduct, resulting in consumers who  
24 continue to lack notice of their rights and Defendant's obligations.

25 32. Because of the size of the individual Classes member's claims, few,  
26 if any, members of the Classes could afford to seek legal redress for the wrongs  
27 complained of herein.

28

1 33. Plaintiff has retained counsel experienced in handling class action  
2 claims and claims involving violations of the FDCPA and RFDCPA.

3 34. A class action is a superior method for the fair and efficient  
4 adjudication of this controversy. Class-wide damages are essential to induce  
5 Defendant to comply with federal and California law. The interest of the Classes'  
6 members in individually controlling the prosecution of separate claims against  
7 Defendant is small because the maximum statutory damages in an individual  
8 action under the FDCPA and/or RFDCPA are minimal. Management of these  
9 claims is likely to present significantly fewer difficulties than those presented in  
10 many class claims.

11 35. Defendant has acted on grounds generally applicable to the Classes,  
12 thereby making appropriate final injunctive relief and corresponding declaratory  
13 relief with respect to the Classes as a whole.

14 **COUNT I**

15 **Violation of the Fair Debt Collection Practices Act**

16 **(On behalf of the Classes)**

17 36. Plaintiff incorporates by reference the preceding paragraphs of this  
18 Complaint.

19 37. A debt collector must make the disclosure required by FDCPA §  
20 1692g(a)(3) which Defendant failed to do.

21 38. A debt collector must make the disclosure required by FDCPA §  
22 1692g(a)(4) which Defendant failed to do.

23 39. A debt collector must not overshadow the disclosures required by 15  
24 U.S.C. § 1692g(a) during the thirty (30) day dispute period, which Defendant in  
25 fact did.

26 40. A debt collector must not make representations to consumers or  
27 debtors during the thirty (30) day dispute period that are inconsistent with the  
28 disclosures required by 15 U.S.C. § 1692g(b).





1 44. Thus by engaging in conduct prohibited by Sections g(a)(3) and  
2 g(a)(4) of the FDCPA, Defendant violated the RFDCPA.

3 45. As a direct proximate result of Defendant's conduct, Plaintiff and the  
4 Sub-Class have suffered actual damages and other harm, thereby entitling them to  
5 seek statutory damages in the amount of \$1,000.00 each, actual damages and  
6 reasonably incurred attorney's fees and costs. *Cal. Civ. Code* §1788.30.

7 **Prayer for Damages**

8 Wherefore, Plaintiff respectfully requests the Court grant Plaintiff and the  
9 Sub-Class members the following relief against Defendant:

- 10 a. That this action be certified as a class action on behalf of the Sub-  
11 Class and Plaintiff be appointed as the representative of the Sub-  
12 Class;
- 13 b. For statutory damages of \$1,000.00 for Plaintiff and each member of  
14 the Sub-Class pursuant to *Cal. Civ. Code* §1788.30.
- 15 c. For actual damages according to proof;
- 16 d. For reasonable attorneys' fees and costs of suit;
- 17 e. For prejudgment interest at the legal rate; and
- 18 f. For such further relief as this Court deems necessary, just, and proper.

19 **Trial by Jury**

20 Pursuant to the seventh amendment to the Constitution of the United States  
21 of America, Plaintiff is entitled to, hereby does demand a jury trial.

22  
23 Dated: February 20, 2023

24  
25 By: /s/Todd M. Friedman

26 Todd M. Friedman, Esq.

27 **LAW OFFICES OF TODD M. FRIEDMAN, P.C.**

28 Attorneys for Plaintiff