

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK
CIVIL DIVISION

KAITLIN DWYER A/K/A KAITLIN VAZQUEZ,	}	
ON BEHALF OF HERSELF AND	}	
ALL OTHERS SIMILARLY SITUATED,	}	
	}	
Plaintiff,	}	Civil Action, File No.
v	}	
	}	
THE CBE GROUP, INC.,	}	
	}	
Defendant.	}	

COMPLAINT

DEMAND FOR TRIAL BY JURY

Plaintiff, Kaitlin Dwyer a/k/a Kaitlin Vazquez [hereinafter “Dwyer”] on behalf of herself and all others similarly situated, by and through her attorney, Mitchell L. Pashkin, Esq., complains of Defendant, The CBE Group, Inc. (“CBE”), and alleges as follows:

1. This court has jurisdiction of this case pursuant to 15 U.S.C. § 1692k(d), 28 USCS § 1331, and/or pursuant to 28 USCS § 1332 (d)(2)(A).
2. Venue in this district is proper based on CBE’s regular transaction of business within this district. Venue in this district also is proper based on CBE possessing a license from the New York City Department of Consumer Affairs to operate as a “Debt Collection Agency” in New York City which includes this district. CBE also derives substantial revenue from services rendered in this district. The aforementioned transaction of business and services includes but is not limited to the collection of debt from consumers who reside in this district.
3. Venue in this district also is proper in light of the occurrences which form the basis for this

Complaint having occurred in whole or in part in this district.

4. Plaintiff demands a trial by jury pursuant to FRCP 38 (b).
5. Dwyer is a natural person who resides at 6 Elm Court, Selden, NY 11784.
6. Dwyer is a “consumer” as defined by 15 U.S.C. § 1692(a)(3) of the FDCPA.
7. On or about June 11, 2017, CBE sent Dwyer the letter annexed as Exhibit A. Dwyer received and read Exhibit A. For the reasons set forth below, Dwyer’s receipt and reading of Exhibit A deprived Dwyer of her rights to not be subject to abusive, deceptive, or misleading debt collection practices.
8. Per statements and references in Exhibit A, CBE sent Exhibit A to Dwyer in an attempt to collect a past due debt.
9. The past due debt referred to in Exhibit A was based on Plaintiff, as an individual, being issued a credit card account by Credit First, N.A. for her individual use, individually incurring charges by using the credit card account and then, as an individual, failing to pay for these charges. CBE, via Exhibit A, attempted collect the past due debt from Dwyer in her individual capacity. Based on the above, the past due debt at issue arose out of a transaction used primarily for personal, family or household purposes, and is therefore a “debt” as that term is defined by 15 U.S.C. § 1692a(5).
10. CBE is a Iowa Domestic Business Corporation and a New York Foreign Business Corporation with a principal business address of 1309 Technology Parkway, Cedar Falls, Iowa 50613.
11. Based upon Exhibit A and upon CBE possessing a license from the New York City Department of Consumer Affairs to operate as a “Debt Collection Agency”, the principal purpose of CBE is the collection of debts using the instrumentalities of interstate commerce,

including mails and telephone; and it regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due to another.

12. On Exhibit A, CBE identifies itself as a “debt collector” attempting to collect a debt. Exhibit A contains disclosures required to be made by a “debt collector” under the FDCPA as part of a communication attempting to collect a ‘debt’ or in connection with the collection of a “debt”.

13. Based upon the allegations in the above two paragraphs, CBE is a “debt collector” as defined by 15 U.S.C. § 1692a(6) of the FDCPA.

FIRST CAUSE OF ACTION-CLASS CLAIM

14. Plaintiff repeats and re-alleges the allegations contained in paragraphs 1-13 of this Complaint.

15. Exhibit A sets forth the following: “Current Balance: \$1,089.12”.

16. If on the date of Exhibit A Credit First, N.A. was not accruing interest, late charges, and/or other charges on the “Current Balance” of \$1,089.12 set forth in Exhibit A, then Defendant violated 15 USC § 1692e and/or 15 USC § 1692e(10) as a result of Exhibit A setting forth the “current” balance due or describing the balance as the “current” balance.

SECOND CAUSE OF ACTION-CLASS CLAIM

17. Plaintiff repeats and re-alleges the allegations contained in paragraphs 1-13 of this Complaint.

18. Exhibit A sets forth the following: “Current Balance: \$1,089.12”.

19. Upon information and belief, Credit First, N.A. continued to accrue interest, late charges, and/or other charges on the “Current Balance” of \$1,089.12 set forth in Exhibit A.

20. Exhibit A failed to notify Dwyer that her “Current Balance” of \$1,089.12 may increase

due to the aforementioned accrued interest, late charges, and/or other charges.

21. For the above reason, as a result of the aforementioned omission from Exhibit A, Defendant violated 15 USC § 1692e by sending Exhibit A to Dwyer.

THIRD CAUSE OF ACTION-CLASS CLAIM

22. Plaintiff repeats and re-alleges the allegations contained in paragraphs 1-13 of this Complaint.
23. Exhibit A amounted to a false, deceptive or misleading means in connection with the collection of a debt in violation of 15 USC 1692e, 15 USC 1692e(2)(A), and 15 USC 1692e(10).

FOURTH CAUSE OF ACTION-CLASS CLAIM

24. Plaintiff repeats and re-alleges the allegations contained in paragraphs 1-13 of this Complaint.
25. As a result of sending Exhibit A to Dwyer, Defendant violated of 15 USC 1692g.

CLASS ALLEGATIONS

26. Plaintiff brings this action on behalf of a class pursuant to Fed. R. Civ. P. 23(a) and (b)(3).
27. The class consist of (a) all natural persons (b) who received a letter from CBE dated between June 11, 2017 and the present to collect a past due consumer debt, (c) in a form materially identical or substantially similar to Exhibit A
28. The class members are so numerous that joinder is impracticable. On information and belief, there are more than 50 members.
29. There are questions of law and fact common to the class members, which common questions predominate over any questions that affect only individual class members.

30. The predominant common question is whether Defendant's letters violate the FDCPA.
31. Plaintiff will fairly and adequately represent the interests of the class members.
32. Plaintiff has retained counsel experienced in consumer credit and debt collection abuse cases and class actions.
33. A class action is the superior means of adjudicating this dispute.
34. Individual cases are not economically feasible.

WHEREFORE, Plaintiff requests the following relief:

1. A Judgment against Defendant in favor of Plaintiff and the class members for statutory damages in an amount to be determined at trial, and costs and attorney's fees; and
2. Any and all other relief deemed just and warranted by this court.

Dated: June 12, 2018

/s/

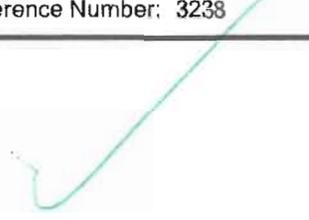
Mitchell L. Pashkin, Esq. (MLP-9016)
Attorney For Plaintiff
775 Park Avenue, Suite 255
Huntington, NY 11743
(631) 335-1107



The CBE Group, Inc.
1300 Technology Pkwy, Cedar Falls, IA 50613
8:00 a.m. - 9:00 p.m. CT Monday-Thursday
8:00 a.m. - 5:00 p.m. CT Friday

06/11/17

Creditor: Credit First N.A.
Account Number: 600213059
CS Number: 20-12850240
Reference Number: 3238



Save On Your Balance

Current Balance: \$1,089.12

Save \$261.39. That's 24% Off Your Balance!

One low payment of \$827.73

Ready to take advantage of this offer or discuss other options?

Give us a call. We can work with you to find the best payment option.

Dear Kaitlin Dwyer :

We understand getting caught up on bills isn't easy. To help, we'd like to offer you the chance to resolve your account for less than the balance owed. Make a payment of \$827.73 and save \$261.39 off the full balance.

Please call us if you would like to take advantage of this offer or if you would like to discuss other payment options. We are committed to helping you find ways to resolve your debt.



Pay Online – Account resolution the easy way
Login to your account at www.paycbegroup.com to quickly and easily pay your balance in full or setup payment arrangements.

This is an attempt to collect a debt; any information obtained will be used for that purpose.
This communication is from a debt collector.
NOTICE: SEE REVERSE SIDE FOR IMPORTANT INFORMATION.

PLEASE DETACH AND RETURN LOWER PORTION WITH ENCLOSED ENVELOPE841_CDCBEG04_3238

PO BOX 2547
WATERLOO, IA 50704-2547
CHANGE SERVICE REQUESTED

IF PAYING BY CREDIT/DEBIT FILL OUT BELOW

CARD NUMBER	EXP DATE	SELECT CARD USING FOR PAYMENT
SIGNATURE	<input type="checkbox"/> VISA <input type="checkbox"/> MASTERCARD <input type="checkbox"/> DISCOVER <input type="checkbox"/> AMERICAN EXPRESS	
PAYMENT AMOUNT		
ACCT#: 600213059 CS #:20-12850240 REF #: 3238 DATE: 06/11/17		

CALL: (888)499-4956
2012850240-108-1696-3132935



449096067

 Kaitlin Dwyer
 6 Elm Ct
 Selden NY 11784-3919

THE CBE GROUP, INC.
Payment Processing Center
PO BOX 2068
Waterloo, IA 50704-2068

001286 1 011

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TO ALL CONSUMERS – Notice about Electronic Check Conversion: When you provide a check as payment, you authorize us either to use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction. When we use information from your check to make an electronic fund transfer, funds may be withdrawn from your account as soon as the same day we receive your payment and you will not receive your check back from your financial institution. Also, you authorize us to represent a check as an electronic fund transfer from your account if your payment is returned unpaid.

Please be aware of the following rights. This list does not contain a complete list of the rights consumers have under state and federal law.

California Residents: The state Rosenthal Fair Debt Collection Practices Act and the federal Fair Debt Collection Practices Act require that, except under unusual circumstances, collectors may not contact you before 8 a.m. or after 9 p.m. They may not harass you by using threats of violence or arrest or by using obscene language. Collectors may not use false or misleading statements or call you at work if they know or have reason to know that you may not receive personal calls at work. For the most part, collectors may not tell another person, other than your attorney or spouse, about your debt. Collectors may contact another person to confirm your location or enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission at 1-877-FTC-HELP or <http://www.ftc.gov/>.

Non-profit credit counseling services may be available in the area. State and federal law require debt collectors to treat you fairly and prohibit debt collectors from making false statements or threats of violence, using obscene or profane language, and making improper communications with third parties, including your employer.

As required by law, you are hereby notified that a negative credit agency report reflecting on your credit record may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit obligations.

Colorado Residents: The Colorado office of The CBE Group is located at 1776 S. Jackson Street, Suite 900, Denver, CO 80210, telephone (720)287-8648. FOR INFORMATION ABOUT THE COLORADO FAIR DEBT COLLECTION PRACTICES ACT, SEE WWW.COAG.GOV/CAR. A consumer has the right to request in writing that a debt collector or collection agency cease further communication with the consumer. A written request to cease communication will not prohibit the debt collector or collection agency from taking any other action authorized by law to collect the debt.

Massachusetts Residents: NOTICE OF IMPORTANT RIGHTS. You have the right to make a written or oral request that telephone calls regarding your debt not be made to you at your place of employment. Any such oral request will be valid for only ten days unless you provide written confirmation of the request postmarked or delivered within seven days of such request. You may terminate this request by writing to the debt collector.

Minnesota Residents: This collection agency is licensed by the Minnesota Department of Commerce.

Nevada Residents: NOTE: If you pay or agree to pay all or any part of the debt referenced in this letter, your payment or agreement to pay may be construed as your acknowledgment of the debt and that you agree to waive any applicable statute of limitations. Seek legal advice if you have questions concerning your legal right or obligations relating to this debt.

New York City Borough Residents: Department of Consumer Affairs, City of New York, License # 1080974. Please contact Matt Wolk at the number listed on the front of this letter regarding this matter.

North Carolina Residents: North Carolina Department of Insurance Permit # 3568, North Carolina Department of Insurance Permit # 103066, North Carolina Department of Insurance Permit # 109072, North Carolina Department of Insurance Permit # 111791, North Carolina Department of Insurance Permit #112794.

Tennessee Residents: This collection agency is licensed by the Collection Service Board, State Department of Commerce and Insurance.

Utah Residents: As required by Utah law, you are hereby notified that a negative credit report reflecting on your credit record may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit obligations.

Wisconsin Residents: This collection agency is licensed by the Division of Banking in the Wisconsin Department of Financial Institutions, www.wdfi.org.