

COMMONWEALTH OF MASSACHUSETTS
County of Middlesex
The Superior Court

Akshit Dhadwal, *on behalf of himself and all
others similarly situated,*

Plaintiff,

v.

Fair Collections & Outsourcing of New
England, Inc.,

Defendant.

Civil Docket #: 23CV 2513

RECEIVED

9/5/23

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CLASS ACTION COMPLAINT AND DEMAND FOR JURY TRIAL

For this Class Action Complaint, Plaintiff Akshit Dhadwal, by and through undersigned counsel, pleading on his own behalf and on behalf of all others similarly situated, states as follows:

INTRODUCTION

1. Defendant Fair Collections & Outsourcing of New England, Inc. ("Defendant" or "FCO") is a Maryland-based debt collector that regularly places more than two debt collection calls in a seven-day period to Massachusetts consumers as part of its debt collection business.

2. FCO's debt collection calling practices are illegal in Massachusetts. Indeed, the Massachusetts Attorney General has regulated it an "unfair or deceptive act or practice for a creditor" to "initiate a communication with any debtor via telephone, either in person or via text messaging or recorded audio message, in excess of two such communications in each seven-day period to either the debtor's residence, cellular telephone, or other telephone number provided by

the debtor as his or her personal telephone number, for each debt” 940 CMR § 7.04(1)(f); *see also Armata v. Target Corp.*, 480 Mass. 14 (2018).

3. Nonetheless FCO placed more than two debt collection calls to Plaintiff Akshit Dhadwal’s (“Plaintiff”) cellular telephone within a seven-day period in an attempt to collect an alleged debt from him, violating the express provisions of § 7.04(1)(f).

4. Plaintiff seeks to represent all consumers similarly situated. Plaintiff seeks injunctive relief to end FCO’s illegal practice, declaratory relief to make FCO’s violations known to the class, actual and statutory damages, as well as attorneys’ fees and costs.

PARTIES

5. Plaintiff, Akshit Dhadwal, is an adult individual residing in Framingham, Massachusetts, and is a “debtor” as defined by 940 C.M.R. § 7.03.

6. Defendant, Fair Collections & Outsourcing of New England, Inc., is a Maryland debt collector with a principal place of business at 12304 Baltimore Avenue, Suite E, Beltsville, Maryland 207045, and is a “creditor” as defined by 940 CMR § 7.03. FCO’s registered agent in the Commonwealth of Massachusetts is located at 84 State Street, Boston, Massachusetts 02109. Upon information and belief, FCO does not maintain a place of business within the Commonwealth of Massachusetts, nor does it keep any assets in the Commonwealth of Massachusetts.

ALLEGATIONS APPLICABLE TO ALL COUNTS

A. FCO Engages in Unfair Business Practices

7. Plaintiff allegedly incurred a financial obligation arising out of residential housing (the “Debt”) which meet the definition of a “debt” under 940 CMR § 7.03.

8. FCO attempted to collect the Debt from Plaintiff and, as such, initiated and

engaged in “communications” as defined in 940 CMR § 7.03.

9. At all relevant times that FCO attempted to collect the Debt from Plaintiff, the Debt was alleged to be more than thirty days past due.

10. FCO called Plaintiff’s cellular telephone, numbers 857-XXX-2024 and 857-XXX-0798, in an attempt to collect the Debt.

11. Within the last four years, FCO called Plaintiff’s cellular telephone in excess of two times within a seven-day period in an attempt to collect the Debt. For instance, FCO called Plaintiff and left messages on his voicemail on, *inter alia*, August 10, 2023, August 11, 2023, August 14, 2023, August 16, 2023, August 21, 2023, August 23, 2023, August 28, 2023 and August 29, 2023

12. When Plaintiff answered the calls, an FCO representative spoke with Plaintiff and demanded that Plaintiff make a payment towards the Debt to FCO.

13. When Plaintiff could not answer FCO’s call, FCO left messages on Plaintiff’s voicemail identifying itself and demanding that he call FCO.

B. Plaintiff Suffered Actual Damages and Injury

14. FCO’s repeated calls to Plaintiff’s cellular telephone in an attempt to collect the Debt caused Plaintiff to become angry, frustrated, and anxious, and suffer from stress and emotional distress.

15. The calls were also distracting and an inconvenience to Plaintiff and wasted his time and energy spent tending to FCO’s calls.

CLASS ACTION ALLEGATIONS

A. The Class

16. Plaintiff brings this case as a class action pursuant to M.G.L. c. 93A, § 9(2) and Rule 23 of the Massachusetts Rules of Civil Procedure.

17. Plaintiff seeks to represent the following class (the “Class”):

All consumers residing in the Commonwealth of Massachusetts who, within four years prior to the filing of this action, received in excess of two telephone calls regarding a debt from Fair Collections & Outsourcing of New England, Inc. within a seven-day period to their residence, cellular telephone, or other provided telephone number.

B. Numerosity

18. As its regular business practice, FCO hounds Massachusetts consumers with numerous debt collection calls per week. Class members are believed to be so numerous that joinder of all members is impractical.

19. The exact number and identities of class members are unknown at this time and can only be ascertained through discovery. Identification of the class members is a matter capable of ministerial determination from Defendant’s records.

C. Common Questions of Law and Fact

20. There are common questions of law and fact raised in this Complaint which predominate over any questions affecting only individual class members.

21. The following questions of law and fact common to the class members are ripe for determination and are raised herein:

- a. Whether it was FCO’s practice and policy during the Class Period to place more than two collection calls within a seven-day period to Massachusetts debtors;

- b. Whether FCO violated M.G.L. c. 93A § 2 and 940 CMR § 7.04(1)(f) by placing in excess of two debt collection calls per debt per seven-day period; and
- c. Whether FCO willfully and knowingly placed in excess of two debt collection calls per debt per seven-day period.

D. Typicality

22. Plaintiff's claims are typical of the claims of the class members, since each of the claims arises from receiving in excess of two debt collection calls within a seven-day period.

E. Protecting the Interests of Class Members

23. Plaintiff will fairly and adequately represent the interests of class members, all of whom are victims of Defendant's unlawful conduct.

24. All of the class members' claims arise from the very course of conduct and specific activities complained of herein and require application of the same legal principles.

25. Plaintiff has retained counsel experienced in bringing class actions and debt collection abuse claims and who stands ready, willing, and able to represent the Class.

F. Proceeding Via Class Action is Superior and Advisable

26. A class action is superior to other available methods for the fair and efficient adjudication of the controversy.

27. Absent a class action, most members of the class would find the cost of litigating their claims to be prohibitive and, therefore, would have no effective remedy at law.

28. The class treatment of common questions of law and fact is also superior to multiple individual actions or piecemeal litigation in that it conserves the resources of the court and the litigants and promotes consistency and efficiency of adjudication.

29. Prosecution of separate actions could result in inconsistent or varying adjudications with respect to individual class members that would establish incompatible standards of conduct for Defendant and other debt collectors. Conversely, adjudications with respect to individual class members would be dispositive of the interest of all other class members.

30. The amount of money at issue is such that proceeding by way of a class action is the only economical and sensible manner in which to vindicate the injuries sustained by Plaintiffs and the other class members.

COUNT I
VIOLATIONS OF M.G.L. c. 93A, § 2,
AND 940 CMR § 7.04(1)(f)

31. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

32. Defendant initiated communication via telephone in excess of two times within a seven-day period regarding a Debt to Plaintiff's cellular telephone in violation of 940 CMR § 7.04(1)(f).

33. Defendant's failure to comply with 940 CMR § 7.04(1)(f) constitutes an unfair or deceptive act in violation of M.G.L. c. 93A § 2.

34. Defendant willfully or knowingly violated 940 CMR § 7.04(1)(f), and as such, Plaintiff is entitled to double or treble damages plus reasonable attorney's fees and costs.

35. Pursuant to M.G.L. c. 93A, § 9, Plaintiff is entitled to and does seek equitable relief in the form of an injunction preventing Defendant from placing in excess of two collection calls within any seven days to any Massachusetts consumers' telephone regarding a debt.

36. Pursuant to M.G.L. c. 93A, § 9, Plaintiff is entitled to and does seek declaratory relief such that:

- Defendant knowingly and willfully violated M.G.L. c. 93A c. 93A, § 2 and 940 CMR § 7.04(1)(f) as to Plaintiff and the class; and
- It has been Defendant's practice and history to place in excess of two debt collection telephone calls within seven days to Massachusetts consumers regarding a debt.

DEMAND FOR RELIEF

WHEREFORE, Plaintiff asks that the Court enter judgment in favor of Plaintiff and the Class and against Defendant, as follows:

- A) An injunction preventing Defendant from placing in excess of two collection calls within any seven days to any Massachusetts consumers' telephone regarding a debt;
- B) Declaratory relief as prayed for herein;
- C) Awarding actual and/or statutory damages under M.G.L. c. 93A § 9;
- D) Awarding actual and/or statutory damages under M.G.L. c. 93A § 9 for the Class;
- E) Awarding treble damages under M.G.L. c. 93A § 9;
- F) Awarding treble damages under M.G.L. c. 93A § 9 for the Class;
- G) Awarding reasonable attorney fees, litigation expenses and costs incurred pursuant to M.G.L. c. 93A § 9; and
- H) Granting such other and further relief this Court deems just and appropriate.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: September 5, 2023

PLAINTIFF,
AKSHIT DHADWAL

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