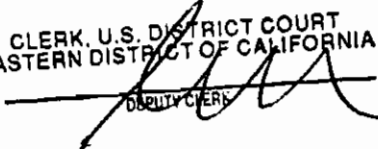


FILED

SEP 16 2011

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY 
DEPUTY CLERK

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BAKERSFIELD DIVISION**

LINDA D MORIARITY
Plaintiff.

Case No. 1:11-cv-01208 OWW JLT

v

JANALIE HENRIQUES,
and
HUNT & HENRIQUES LAW FIRM,
Defendants.

AMENDED COMPLAINT

Plaintiff, Linda D Moriarity, hereby sues Defendants, Janalie Henriques , an attorney with co-owner of Hunt & Henriques Law Firm as well as Hunt & Henriques Law Firm .

PRELIMINARY STATEMENT

1. This is an action for damages brought 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 California Fair Debt Collections Practiccs Act (RFDCPA), Cal Civil Code. §1788 *et seq.*

-JLT Moriarity v. Henriques et al

Doc. 11 Att. 1

JURISDICTION AND VENUE

2. The jurisdiction of this Court is conferred by 15 U.S.C. §1681p and 15 U.S.C. §1692k. The court has supplemental jurisdiction over state law claims.
3. Venue is proper in this District pursuant to 28 U.S.C. §1391b.
4. This is an action for damages which exceed \$75,000.00.
5. Plaintiff, Linda D Moriarity, is a natural person and is a resident of the State of California.
6. Defendant, JANALIE HENRIQUES, is a natural person and an attorney with HUNT & HENRIQUES LAW FIRM, registered member of the California BAR association
7. Defendant, HUNT & HENRIQUES LAW FIRM ("Hunt & Henriques"), is an licensed law firm, authorized to do business in California.
8. All conditions precedent to the bringing of this action have been performed, waived or excused.

FACTUAL ALLEGATIONS

1
2 9. In February 2004, Plaintiff obtained a credit card from Bank of America, later re-named to
3 FIA Cardservices through an application with Bank of America. The card (account ending in 2791).

4 10. Plaintiff maintained said account in good standing until September 2009, when circumstances
5 forced Plaintiff into default.

6 11. On April 6, 2010 Plaintiff was contacted by Frederick J Hanna & Assoc, a third party debt
7 collection attorney in Georgia, attempting to collect on an FIA Cardservices account with listing an
8 amount of \$7,498.31. However, the account number as provided, did not match any Bank of America or
9 FIA Cardservices accounts under the name of Plaintiff, Linda D. Moriarity .

10 12. On April 15, 2010, Plaintiff notified Hanna & Assoc, that this account number did not match
11 any accounts under Plaintiff's name, was not Plaintiff's account and requested validation. Plaintiff never
12 heard from Hanna & Assoc again.

13 13. On May 20, 2010, I received a first collection note, aka; debt validation letter from Hunt &
14 Henriques , alleging they represented FIA Cardservices and were attempting to collect on behalf of FIA
15 Cardservices in the amount of \$7498.31, giving the same invalid credit card account number as was
16 previously used by Hanna & Assoc.

17 14. On May 25, 2010 , Plaintiff notified Hunt & Henriques this was not an account number under
18 the name of LINDA D MORIARITY, thus that account was not hers and they were attempting to collect
19 on an erroneous/ bogus account, not Plaintiff's and demanded validation of this alleged debt knowing
20 this would be sufficient proof. Notice of cease and desist for further collection attempts until validation
21 was furnished, was included . Plaintiff also included again a copy of Plaintiff's 'fee schedule' with
22 notice of Copyright, as previously Defendants noticed on a separate matter, but which Defendants
23 continued to ignore and incur fees.

24 15. No further contact regarding the validity or verification of this account was ever received by
25 Plaintiff from Hunt & Henriques Law Firm.

26 16. On the weekend of August 6, 2010, Plaintiff was advised that some paperwork had been
27 found on the windshield of a parked vehicle on her property, by a person there to feed her pets. Plaintiff
28 was advised that paperwork was returned to an address on the paperwork, but unsure which address
exactly. Plaintiff never saw that paperwork and still has no copy of said complaint.

17. In November Plaintiff learned of complaint upon receiving from Defendants, their request
for Default Judgment for the erroneous/bogus FIA Cardservices account in the amount of \$7,498 signed
by Defendant Janalie Henriques of Hunt and Henriques Law Firm .

18. On November 7, 2010, Plaintiff sent Defendants via certified mail, a Notice Denying Service,
including a signed affidavit to that affect and an invoice for Copyright infringement per the Plaintiff's
Fee Schedule sent to Defendants in January 2010. Defendants never responded.

19. Defendants Janalic Henriques and Hunt & Henriques Law Firm violated *FDCPA 1692e* by
continuing with collection action without validation or verification of debt. The account number listed

1 in their communications is erroneous and bogus as related to Plaintiff, and remains to this date un-
2 validated and un-verified. Given the account number was not that of the Plaintiff's would explain why
3 Defendants failed to provide any form of validation or any attempt at verification to Plaintiff. However,
4 proceeded with litigation with full knowledge the account was not that of the Plaintiff's. By doing so,
5 proceeded with deliberate intent to ascertain judgment with total disregard for validity or the overall
6 emotional effect on Plaintiff, physical, mentally or financially.

7
8 20. Plaintiff's disability, Post Polio Syndrome, is highly sensitive to stress. As a result, any
9 undue stress beyond everyday issues, exacerbates her decreased physical limitations greatly and which
10 do not immediately return when the stress is removed or gone, but rather takes time to recoup to the
11 previous levels, if irreparable damage has not been done. If it has, then Plaintiff's physical limitations
12 are decreased permanently to a now lower level as well as the major increase of fatigue, like that of
13 Chronic Fatigue Syndrome, which is also associated with PPS and highly stress sensitive.

14 21. Defendants filed for and received a Default Judgment against Plaintiff granted on December
15 6, 2010 with total disregard for the fact the debt was not that of the Plaintiff's, and in doing so
16 Defendants, accredited attorneys, demonstrated their reckless disregard for distress or burden placed on
17 Defendant. Both the filing of the complaint and requesting the default judgment, knowing the debt was
18 not that of the Plaintiff's by one sworn to uphold the laws is outrageous and egregious behavior. Plaintiff
19 was forced to resume taking her anti-depressant, Welbutrin SR, as well as her Librium for general stress.
20 Both of which she had discontinued the previous year.

21 22. ALL referenced communications sent by Plaintiff were via US Postal Certified Mail and
22 delivery confirmed. Plaintiff had no actual written knowledge of complaint prior to November 2010.

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**FIRST CAUSE OF ACTION
VIOLATION OF FAIR DEBT COLLECTION
PRACTICES ACT (FDCPA), 15 U.S.C. §1692
BY DEFENDANT JANALIE HENRIQUES AND
HUNT AND HENRIQUES LAW FIRM.**

23 23. Plaintiff is a consumer within the meaning of the FDCPA, 15 U.S.C. §1692a(3).

24 24. Defendant Janalie Henriques is a debt collector within the meaning of the FDCPA,
25 15 U.S.C. §1692a(6).

26 25. Defendant Hunt & Henriques Law Firm is a law firm specializing in debt collection and are
27 debt collectors within the meaning of the *FDCPA, 15 U.S.C. §1692a(6)*.

28 26. Defendants Janalie Henriques and the Hunt & Henriques Law Firm violated the FDCPA.
Defendant's violations include, but are not limited to, the following:

- a. Defendants Janalie Henriques and Hunt and Henriques, violated *15 U.S.C. §1692e(2)* by
falsely representing the character, amount, or legal status of any debt. If account is not
Plaintiff's it is not Plaintiff's legal debt. Defendants receiving a Default Judgment
without Plaintiff having a valid opportunity to defend against complaint, has caused

1 Plaintiff severe anxiety and a feeling of despair at having been liable for a debt that does
2 not belong to Plaintiff.

- 3 b. Defendants Janalie Henriques of Hunt & Henriques Law firm violated *15 U.S.C.*
4 *§1692e(8)* as by filing a complaint against Plaintiff on July 20, 2010, Defendants did
5 communicate to the court by way of filed documents, which are public records,
6 knowingly false information as to Plaintiff's credit, by claiming an erroneous obligation.
7 Courts have held that receiving notices of collection on attorney letter head is deemed to
8 be a threat, as it implies law suit to follow. Filing was done with deliberate intent for
9 personal profit without regard of Plaintiff's actual obligation. A deliberate and intentional
10 act which would cause any normal person to experience emotional distress.
- 11 c. Defendant Hunt & Henriques Law Firm, under the direction of Janalie Henriques, co-
12 partner violated *§ 1692 g(b)* by failing to verify or validate the disputed debt and provide
13 same to Plaintiff. If they attempted to validate with original creditor, then they were fully
14 aware that account did not belong to the Plaintiff. If Defendants did verify, then they
15 moved forward with full knowledge their claim was fraudulent. If they failed to attempt
16 verification, then they simply violated this section, either way it was violated as no
17 verification or validations in any form were ever relayed to Plaintiff.
- 18 d. Defendant Janalie Henriques violated *15 U.S.C §1692f* by used unfair and
19 unconscionable means to collect a debt, by signing and causing said complaint to be filed,
20 having full knowledge the alleged account as listed in the complaint was invalid as to
21 being that of Plaintiff. Attempting to collect by court action on an alleged debt not
22 actually belonging to Plaintiff is unconscionable and could be considered fraudulent
23 filing. Obtaining a judgment against the wrong party a like situation would cause anyone
24 emotional distress.

25 WHEREFORE, Plaintiff prays judgment for damages against Defendants Hunt & Henriques Law
26 Firm and Janalie Henriques equally for actual damages, statutory damages, and punitive damages in
27 accordance with her fee schedule, attorney's fees and costs, pursuant to 15 U.S.C. §1692k (a), (b).

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SECOND CAUSE OF ACTION
VIOLATION OF CALIFORNIA ROSENTHAL FAIR DEBT
COLLECTIONS ACT,
(RFDCPA), CAL CIVIL CODE §1788
BY DEFENDANT HUNT & HENRIQUES LAW FIRM

26. Paragraphs 1 through 29 are re-alleged as though fully set forth herein.

27. Plaintiff is a natural person within the meaning of the RFDCPA, CCC. §1788.2g

1
2 28. Defendant & Henriques Law Firm is a creditor within the meaning of the RFDCPA,
3 CCC. §1788.2b,c and Defendant Janalie Henriques is a debt collector within the meaning of the
4 RFDCPA, Cal. Stat. §1788.2c.

5
6 30. Defendants Hunt & Henriques Law Firm under the direction of Janalie Henriques violated the
7 RFDCPA. Defendants' violations include, but are not limited to, the following:

- 8
9 (a) Defendants Hunt & Henriques Law Firm and Janalie Henriques violated RFDCPA,
10 §1788.15a, as Defendants were notified no such alleged service was actually made.
11 Defendants made no effort to have Plaintiff re-served.
12

13
14 31. Defendants show complete and total disregard for the legal process as prescribed either under
15 RFDCPA, FDCPA or state Rules of Civil Procedure, as this is the 3rd complaint filed against
16 Plaintiff with no valid service according in accordance with civil procedures. A 4th complaint is
17 now being litigated in state court, as Defendants seem to believe Plaintiff is an easy 'mark' and
18 will not object as with the first 3 complaints, all 4 complaints are signed by Janalie Henriques
19 personally. Defendants have established a pattern of ignoring the legal process, as the state
20 courts overlook attorney violations and simply awards them judgments without regard for validity
21 or conformity with collection laws.

22
23 Plaintiff has finally gained sufficient knowledge on how to defend against their abusive actions,
24 to rectify and be compensated for their blatant violations along with their total disregard for the
25 emotional stress and trauma their invalid actions create.

26
27 WHEREFORE, Plaintiff prays judgment for damages against Defendant Hunt & Henriques Law Firm for
28 actual damages or statutory damages, and, attorney's fees and costs, pursuant to RFDCPA §1788.17

29
30 **DEMAND FOR JURY TRIAL**

31
32 Plaintiff hereby demands a trial by jury of all issues so triable as a matter of law.

33
34 Dated: September 11, 2011

35
36 Respectfully submitted,

37
38 

39
40 Linda D Moriarity
41 27300 Buckpasser Drive
42 Tehachapi, California [93561]
43 (661) 823-7871
44

MY FEE SCHEDULE FOR MY TIME, WHICH IS JUST AS VALUABLE AS YOURS !

Now, while you were not previously noticed of MY fee schedule, I have included it as follows:

My fee schedule, to respond and/or defend against your actions, is as follows:

1. Worthless/frivolous 1st written response.....2,500.00 US dollars per item
2. Worthless/frivolous written response 2-5.....5,000.00 US dollars per item
3. Worthless/frivolous non response comm over 5 10,000.00 US dollars per item
4. Invalid verification submissions.*/frivolous***.....3,000.00 US dollars per item
5. Telephone call after C&D notice **..... 1,000.00 US dollars per call
6. Written communication 250.00 US dollars per hour

My fee schedule, for crimes committed against consumer/debtor claims, are as follows:

1. CRA inq or neg reports..... \$25,000.00 US dollars per report per account
2. Fraud.....1,000,000.00 US dollars, per party, per occurrence
3. Conspiracy to Commit Fraud.....10,000,000.00 US dollars, per party, per occurrence
4. Racketeering.....10,000,000.00 US dollars, per party, per occurrence
5. Copyright/Trademark violations.....\$5,000.00 US dollars, per party, per occurrence
6. Court appearance any cause.....100,000.00 US dollars per appearance

And as noted , the name LINDA D. MORIARITY© (and all derivatives) is now fully publically copyrighted/Trademarked and using it without expressed consent will incur a penalty as listed above. Failure to investigate, validate or verify any dispute WILL result in a complaint being filed with the FTC and all appropriate state or local agencies as well as may result in civil action against you.

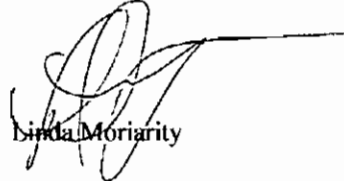
* Invalid verification submissions fee is IN ADDITION to worthless/frivolous written response fee.

** Is in ADDITION to Federal and/or state violation fines

*** Non responsive to inquiries or demands/same as 'worthless'.

^ Applies to mortgage company only

Establish October 2009
Revised March 2010



Linda Moriarity

Linda Moriarity
27300 Buckpasser Dr
Tehachapi, California

September 14, 2011

US District Court
Bakersfield Division

Case 1:11-cv-01208-OWW-JLT

Dear Judge Thurston;

I apologize for the delay in responding with my Amended Complaint. I live in the Stallion Springs area of Tehachapi, and as you may be aware of, we were evacuated due to the Comanche Complex fire for 3 days, hence somewhat of a delay.

Thank you for your time and consideration and I pray this is received within the timeframe. I had other court paperwork with a deadline ahead of this case, so while not intentionally delaying my amended version, it was a matter of which had to be handled first. Of course the evacuation did not help with emotion and stress levels at maximum.

Sincerely,


Linda D Moriarity

RECEIVED

SEP 16 2011

CLERK: U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY _____
DEPUTY CLERK