

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

Miguel Ibanez,  
  
Plaintiff,

v.

Rent Recovery Solutions, LLC,  
  
Defendant.

Case No. 1:24-cv-624

**COMPLAINT FOR DAMAGES  
UNDER THE FAIR DEBT  
COLLECTION PRACTICES ACT AND  
OTHER EQUITABLE RELIEF**

**JURY TRIAL DEMANDED**

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**PARTIES**

1. Plaintiff, Miguel Ibanez (“Miguel”), is a natural person who resided in Austin, Texas, at all times relevant to this action.
2. Defendant, Rent Recovery Solutions (“RRS”), is a Georgia limited liability company that maintained its principal place of business in Atlanta, Georgia, at all times relevant to this action.

**JURISDICTION AND VENUE**

3. Pursuant to 28 U.S.C. §1331, this Court has federal question jurisdiction over this matter as it arises under the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692 et seq.
4. Pursuant to 28 U.S.C. § 1391(b), venue is proper because a substantial part of the events giving rise to this claim occurred in this judicial district.

**ARTICLE III STANDING**

5. Miguel has Article III standing to bring his FDCPA claims against RRS because RRS’s collection efforts with respect to the alleged debt caused Miguel to suffer concrete and

particularized harm, inter alia, because the FDCPA provides him with the legally protected right not to be misled about the legal status of a debt or treated unfairly with respect to any action for the collection of any consumer debt.

6. Moreover, the emotional distress Miguel experienced is a sufficient concrete injury to establish Article III standing. See *Mayfield v. LTD Fin. Servs., L.P.*, No. 4:20-CV-01966, 2021 WL 4481089, at \*4 (S.D. Tex. Sept. 30, 2021) (citing *Rideau v. Keller Indep. Sch. Dist.*, 819 F.3d 155, 169 (5th Cir. 2016) (“[E]motional harm satisfies the ‘injury in fact’ requirement of constitutional standing.”)) (additional internal quotation marks omitted); see also *Smith v. Moss Law Firm, P.C.*, No. 18-2449, 2020 WL 584617, at \*5 (N.D. Tex. Feb. 6, 2020) (“legal costs, anxiety, and worry” caused by defendant's alleged FDCPA violation were concrete and particularized injuries for purposes of FDCPA claim).
7. RRS’s failure to report a disputed debt as disputed violates a consumer right that Congress sought to protect by enacting FDCPA.
8. RRS’s attempts to unfairly collect an alleged debt from Miguel clearly “disadvantages other debt collectors,” who properly follow FDCPA. 15 U.S. Code § 1692(e) (Congressional findings and declaration of purpose).

### **STATEMENT OF FACTS**

9. At all times relevant to this action, RRS collected consumer debts.
10. RRS regularly uses instrumentalities of interstate commerce and the mails to collect consumer debts owed or due or asserted to be owed or due another.
11. The principal source of RRS’s revenue is debt collection.
12. RRS is a "debt collector" as defined by 15 U.S.C. § 1692a(6).

13. As described, *infra*, RRS contacted Miguel to collect a debt that was incurred primarily for personal, family, or household purposes.
14. This alleged obligation is a “debt” as defined by 15 U.S.C. § 1692a(5).
15. Miguel is a “consumer” as defined by 15 U.S.C. § 1692a(3).
16. On or around April 17, 2024, Miguel alarmingly found that RRS reported a derogatory account in collections on his credit report.
17. On April 18, 2024, Miguel mailed a letter disputing an alleged debt with RRS by USPS certified mail (the “Dispute Letter”). *See* Exhibit A.
18. Miguel notified RRS in the Dispute Letter that he only wanted communication by email.
19. The assigned tracking number for the Dispute Letter in USPS certified mail is 9589071052700429657738.
20. RRS received the Dispute Letter on April 25, 2024, as shown by USPS tracking.
21. On April 30, 2024, RRS emailed Miguel (the “Response Email”) in response to his Dispute Letter. *See* Exhibit B.

**A. Misleading Disclosures**

22. A representative of RRS named Ermisha Wingfield sent the Response Email to Miguel from their work email, ewingfield@rentrecoveryolutions.com.
23. That work email is typical of employee work emails, i.e. it may send or receive messages.
24. However, the Response Email misled and confused Miguel by stating that “This e-mail has been sent from a non-responding email account.”
25. RRS’ Response Email also instructed Miguel to only contact it by telephone or postal mail.
26. RRS frustrated Miguel because it sent him an email that denied him the ability to communicate with RRS through email, his preferred communication method.

27. RRS frustrated Miguel's attempt to respond because it provided him instructions that contradicted his Dispute Letter.
28. It is unfair that in response of Miguel's email-only communication preference, RRS contradicted his preference with instructions for him to only use telephone or postal mail communications.

**B. No Opt-Out**

29. RRS disclosed to Miguel in the Response Email that "This is an attempt to collect a debt and any information obtained will be used for the purpose."
30. The Response Email did not provide an opt out.
31. In the Response Email, RRS attempted to collect a debt from Miguel without providing an opt-out.
32. Regulation F, 12 C.F.R § 1006.6(e)(3), which implements FDCPA, states:

A debt collector who communicates or attempts to communicate with a consumer electronically in connection with the collection of a debt using a specific email address, telephone number for text messages, or other electronic-medium address must include in such communication or attempt to communicate a clear and conspicuous statement describing a reasonable and simple method by which the consumer can opt out of further electronic communications or attempts to communicate by the debt collector to that address or telephone number.

33. RRS failed to include a clear and conspicuous statement describing a reasonable and simple method by which the consumer can opt out of further electronic communications, as required by Regulation F and, by extension, the FDCPA.

34. Upon information and belief, it is the policy and procedure of RRS to send consumers emails in connection with collection of an alleged debt without the required opt-out.

**C. Communicating Credit Information Known to be False**

35. On May 3, 2024, RRS reported or updated its reporting on Miguel's credit report. *See* Exhibit C.
36. At the time of its reporting on May 3, 2024, RRS possessed actual knowledge that Miguel disputed the alleged debt.
37. Despite being in receipt of Miguel's Dispute Letter for more than a week, RRS failed to report the alleged debt as disputed on Miguel's credit report.
38. RRS reported false information on Miguel's credit report by failing to communicate that a debt is disputed.
39. Upon information and belief, the policies and procedures of RRS fail to process consumer disputes in a reasonable and timely manner.
40. Because RRS' policies and procedures fail to process consumer disputes in a reasonable and timely manner, it reports false information and fails to report consumer debts as disputed in its reporting to Credit Bureaus.

**COUNT ONE**

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

41. Plaintiff re-alleges and incorporates by reference Paragraphs 5 through 40 above as if fully set forth herein.
42. In order to establish a violation of Section 1692d of the FDCPA, a consumer need not prove intentional conduct by the debt collector. *See Ellis v. Solomon & Solomon, P.C.*, 591 F.3d 130, 135 (2nd Cir. 2010); *Horkey v. J.V.D.B. & Assocs., Inc.*, 333 F.3d 769, 774 (7th Cir.

2013) (“[Plaintiff] points to no evidence in the record regarding [Defendant’s] intent, which is just as well, because intent is irrelevant” in a § 1692d claim).

43. “Instead, applying an objective standard, as measured by the ‘least sophisticated consumer,’ the consumer need only show that the likely effect of the debt collector’s communication or conduct could be construed as harassment, oppression or abuse.” *See Lee v. Credit Mgmt., LP*, 846 F. Supp. 2d 716, 721 (S.D. Tex. 2012).
44. The likely effect of Defendant’s debt collection efforts, as measured by the “least sophisticated consumer” standard, was “to harass, oppress, or abuse” Plaintiff.
45. Defendant violated 15 U.S.C. § 1692d by engaging in conduct the natural consequence of which is to harass, oppress, or abuse Plaintiff in connection with the collection of the debt.

## **COUNT TWO**

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

46. Plaintiff re-alleges and incorporates by reference Paragraphs 5 through 40 above as if fully set forth herein.
47. A debt collector’s intent to violate the FDCPA may be inferred by its maintenance of policies and procedures which, in themselves, violate the FDCPA. *See Anchondo v. Anderson, Crenshaw & Associates, L.L.C.*, 256 F.R.D. 661, 671 (D.N.M. 2009); *see also Kromelbein v. Envision Payment Sol., Inc.*, 2013 WL 3947109, \*7 (M.D. Penn. Aug. 1, 2013)(“company policy can be just as much a violation of [FDCPA] as the rogue act of an individual employee. If anything, a company policy that violates the FDCPA is a more egregious transgression because it indicates endemic, rather than isolated, disregard for debtor rights.”); *citing Edwards v. Niagara Credit Sol., Inc.*, 586 F. Supp. 2d 1346, 1354 (N.D. Ga. 2008)

(awarding maximum damages in part because conduct was company policy, thereby making it routine and frequent).

48. Defendant's policies and procedures, as described, *supra*, constitutes "conduct the natural consequence of which is to harass, oppress, or abuse" consumers.

49. Defendant's practice, therefore, violates Section 1692d of the FDCPA, which provides:

A debt collector may not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt.

*See* 15 U.S.C. §1692d.

50. Because Defendant's practice, in itself, violates the FDCPA, it reflects an intent to harass consumers generally.

### **COUNT THREE**

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

51. Plaintiff re-alleges and incorporates by reference Paragraphs 5 through 40 above as if fully set forth herein.

52. Defendant violated 15 U.S.C. § 1692e by using false, deceptive, or misleading representations or means in connection with the collection of the debt.

### **COUNT FOUR**

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

53. Plaintiff re-alleges and incorporates by reference Paragraphs 5 through 40 above as if fully set forth herein.

54. Defendant violated 15 U.S.C. § 1692e(8) by communicating to any person credit information which is known or which should be known to be false, including the failure to communicate that a disputed debt is disputed.

**COUNT FIVE**

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

55. Plaintiff re-alleges and incorporates by reference Paragraphs 5 through 40 above as if fully set forth herein.
56. Defendant violated 15 U.S.C. § 1692f by using unfair or unconscionable means to collect the debt.

**JURY DEMAND**

57. Plaintiff demands a trial by jury.

**PRAYER FOR RELIEF**

58. Plaintiff prays for the following relief:
- a. Judgment against Defendant for actual damages, statutory damages, and costs and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k.
  - b. For such other legal and/or equitable relief as the Court deems appropriate.

RESPECTFULLY SUBMITTED,

Date: June 6, 2024

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