

COMMONWEALTH OF MASSACHUSETTS
County of Bristol
The Superior Court

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Date: _____
BRISTOL SUPERIOR COURT
MARC J. SANTOS, ESQ.
CLERK OF COURTS

Crystal Rego and Dawn LePore, *on behalf of
themselves and all others similarly situated,*

Plaintiffs,

v.

Midland Credit Management, Inc.,

Defendant.

Civil Docket #: 2013CV00703

CLASS ACTION COMPLAINT AND DEMAND FOR JURY TRIAL

For this Class Action Complaint, Plaintiffs Crystal Rego and Dawn Lepore, by and through undersigned counsel, pleading on behalf of themselves and all others similarly situated, state as follows:

INTRODUCTION

1. Defendant Midland Credit Management, Inc. (“Midland”) is one of the largest debt collectors in the United States. As part of its Massachusetts debt collection operations, Midland regularly places more than two collection calls a week to Massachusetts consumers.
2. Midland’s practice of calling Massachusetts borrowers more than two times in a seven-day period are illegal in Massachusetts as 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, 15–16, 23, 99 N.E.3d 788, 790, 795-96 (2018).

3. Midland placed more than two collection calls to Plaintiffs Crystal Rego and Dawn Lepore (“Plaintiffs”) within a seven-day period in an attempt to collect a debt, violating the express provisions of § 7.04(1)(f).

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

PARTIES

5. Plaintiff Crystal Rego (“Ms. Rego”) is an adult individual residing in Assonet, Massachusetts, and is a “debtor” as defined by 940 C.M.R. § 7.03.

6. Plaintiff Dawn Lepore (“Ms. Lepore,” and together with Ms. Rego, the “Plaintiffs”) is an adult individual residing in East Boston, Massachusetts, and is a “debtor” as defined by 940 C.M.R. § 7.03.

7. Defendant, Midland Credit Management, Inc., is a Kansas debt collector with a principal place of business located at 350 Camino de la Reina, Suite 100, San Diego, California 92108, and is a “creditor” as defined by 940 CMR § 7.03. Upon information and belief, Midland 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 ACCOUNTS

A. Midland Engages in Unfair Business Practices When Calling Ms. Rego

8. Ms. Rego allegedly incurred a financial obligation arising out of a personal credit card (the “Rego Debt”) which meet the definition of a “debt” under 940 CMR § 7.03.

9. Midland attempted to collect the Rego Debt from Ms. Rego and, as such, initiated and engaged in “communications” as defined in 940 CMR § 7.03.

10. At all relevant times that Midland attempted to collect the Rego Debt from Ms. Rego the Rego Debt was alleged to be more than thirty days past due.

11. Midland called Ms. Rego’s residential and cellular telephones in an attempt to collect the Rego Debt.

12. Midland called Ms. Rego’s residential telephone at number 508-XXX-7065.

13. Midland called Ms. Rego’s cellular telephone at number 508-XXX-2076

14. Within the last four years, Midland called Ms. Rego’s residential and cellular telephones in excess of two times within a seven-day period in an attempt to collect the Debt.

B. Midland Engaged in Unfair Business Practices When Calling Ms. Lepore

15. Ms. Lepore allegedly incurred a financial obligation (the “Lepore Debt”) which meet the definition of a “debt” under 940 CMR § 7.03.

16. Midland attempted to collect the Debt from Ms. Lepore and, as such, initiated and engaged in “communications” as defined in 940 CMR § 7.03.

17. At all relevant times that Midland attempted to collect the Lepore Debt from Ms. Lepore, the Lepore Debt was alleged to be more than thirty days past due.

18. Midland called Ms. Lepore’s cellular telephone in an attempt to collect the Lepore Debt.

19. Midland called Ms. Lepore’s cellular telephone at number 617-XXX-7847.

20. Midland placed the calls from, *inter alia*, telephone numbers 877-434-3807 and 248-215-0341.

21. Within the last four years, Midland called Ms. Lepore's cellular telephone in excess of two times within a seven-day period in an attempt to collect the Lepore Debt.

22. For instance, Midland called Ms. Lepore more than two times between August 24, 2020 and August 26, 2020.

C. Plaintiffs Suffered Actual Damages and Injury

23. As a direct consequence of Midland's repeated calls to Plaintiffs' residential and cellular telephones in an attempt to collect the Rego and Lepore Debts, Plaintiffs became angry, frustrated and anxious, and suffered from emotional distress.

24. Midland's repeated calls to Plaintiffs were also distracting and an inconvenience to Plaintiffs, and wasted Plaintiffs' time and energy spent tending to Midland's calls.

CLASS ACTION ALLEGATIONS

A. The Class

25. Plaintiffs bring 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.

26. Plaintiffs seek 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 Midland within a seven-day period to their residence, cellular telephone, or other provided telephone number.

B. Numerosity

27. As its regular business practice, Midland 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.

28. 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.

29. Plaintiffs reasonably believe that there are thousands of Massachusetts consumers who are members of the Class.

C. Common Questions of Law and Fact

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

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

- a. Whether it was Midland'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 Midland 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 Midland willfully and knowingly placed in excess of two debt collection calls per debt per seven-day period.

D. Typicality

32. Plaintiffs' 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

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

34. 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.

35. Plaintiffs have 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

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

37. 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.

38. 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.

39. 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.

40. 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)

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

42. Defendant initiated communication via telephone in excess of two times within a seven-day period regarding a debt to Plaintiffs' residential and cellular telephones in violation of 940 CMR § 7.04(1)(f).

43. 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.

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

45. Pursuant to M.G.L. c. 93A, § 9, Plaintiffs are entitled to and do 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.

46. Pursuant to M.G.L. c. 93A, § 9, Plaintiffs are entitled to and do 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 Plaintiffs 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, Plaintiffs ask that the Court enter judgment in favor of Plaintiffs 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: October 6, 2020

PLAINTIFFS,

CRYSTAL REGO AND DAWN LEPORE

By Plaintiffs' attorneys,

LEMBERG LAW, LLC

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