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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

DELIA AIKENS , on behalf of herself and others similarly situated,)	Case No. 2:17-cv-01519-RSL
)	
Plaintiff,)	AMENDED CLASS ACTION
)	COMPLAINT AND JURY DEMAND
)	
vs.)	
)	
PANATTE, LLC, LAND HOME)	
FINANCIAL SERVICES, INC., AND)	
MORTGAGE DEFAULT SERVICES,)	
LLC,)	
)	
Defendants)	
)	

Introduction

1. Delia Aikens (“Plaintiff”) brings this class action against Panatte, LLC (“Panatte”), Land Home Financial Services, Inc. (“LHFS”), and Mortgage Default Services, LLC (“MDS”) (collectively, “Defendants”) pursuant to the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692 *et seq.*

2. Congress enacted the FDCPA in order to eliminate “abusive debt collection practices by debt collectors [and] to insure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged.” *Clark v. Capital Credit & Collection Servs., Inc.*, 460 F.3d 1162, 1179-80 (9th Cir. 2006) (citing 15 U.S.C. § 1692(e)).

1 3. To protect consumers and ensure compliance by debt collectors, “the FDCPA is a
2 strict liability statute.” *McCullough v. Johnson, Rodenburg & Lauinger, LLC*, 637 F.3d 939, 948
3 (9th Cir. 2011).

4 4. Strict liability enhances “the remedial nature of the statute,” and courts are “to
5 interpret it liberally” to protect consumers. *Clark*, 460 F.3d at 1176.

6 5. As the Consumer Financial Protection Bureau (“CFPB”)—the federal agency
7 tasked with enforcing the FDCPA—explained, “[h]armful debt collection practices remain a
8 significant concern today. In fact, the CFPB receives more consumer complaints about debt
9 collection practices than about any other issue.”¹

10 6. In fact, over one-third of the complaints received by the CFPB involved debt
11 collectors’ attempts to collect debts that consumers did not owe.²

12 7. To combat this serious problem in the debt collection industry, the FDCPA requires
13 debt collectors to send consumers “validation notices” containing certain information about their
14 alleged debts and consumers’ rights. 15 U.S.C. § 1692g(a).

15 8. A debt collector must send this notice “[w]ithin five days after the initial
16 communication with a consumer in connection with the collection of any debt,” unless the required
17 information was “contained in the initial communication or the consumer has paid the debt.” *Id.*,
18 § 1692g(a).

19 9. And if, based upon the required disclosures, the consumer disputes the debt in
20 writing within 30 days of receiving such a notice, the debt collector must then “cease collection of
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26 ¹ See Brief for the CFPB as Amicus Curiae, Dkt. No. 14, p. 10, *Hernandez v. Williams, Zinman, & Parham*,
27 P.C., No. 14-15672 (9th Cir. Aug. 20, 2014), [http://www.ftc.gov/system/files/documents/amicus_briefs/hernandez-](http://www.ftc.gov/system/files/documents/amicus_briefs/hernandez-v.williams-zinman-parham-p.c./140821briefhernandez1.pdf)
[v.williams-zinman-parham-p.c./140821briefhernandez1.pdf](http://www.ftc.gov/system/files/documents/amicus_briefs/hernandez-v.williams-zinman-parham-p.c./140821briefhernandez1.pdf).

28 ² See Consumer Financial Protection Bureau, *Fair Debt Collection Practices Act—CFPB Annual Report 2016*
at 16-17 (2016), [https://www.consumerfinance.gov/data-research/research-reports/fair-debt-collection-practices-act-](https://www.consumerfinance.gov/data-research/research-reports/fair-debt-collection-practices-act-annual-report-2016/)
[annual-report-2016/](https://www.consumerfinance.gov/data-research/research-reports/fair-debt-collection-practices-act-annual-report-2016/).

1 the debt, or any disputed portion thereof, until the debt collector obtains verification of the debt”
2 and mails the consumer a copy of that verification. *Id.*, § 1692g(b).

3 10. As noted by the CFPB and the Federal Trade Commission, “this validation
4 requirement was a ‘significant feature’ of the law that aimed to ‘eliminate the recurring problem
5 of debt collectors dunning the wrong person or attempting to collect debts which the consumer has
6 already paid.” *Hernandez*, No. 14-15672, at 5 (quoting S. Rep. No. 95-382, at 4 (1977)).

7
8 11. This case centers on Defendants’ failure to properly provide the disclosures
9 required by 15 U.S.C. §§ 1692g and 1692e(11) in their initial written communications to
10 Washington and California consumers, or within five days thereafter.

11 **Jurisdiction and Venue**

12 12. This Court has jurisdiction under 15 U.S.C. § 1692k(d) and 28 U.S.C. § 1331.

13 13. Venue is proper before this Court under 28 U.S.C. § 1391(b), as some of the acts
14 and transactions giving rise to this action occurred in this district, and because Panatte transacts
15 business and is headquartered in this district.
16

17 **Parties**

18 14. Plaintiff is a natural person who at all relevant times resided in Riverside County,
19 California.
20

21 15. Plaintiff is a “consumer” as defined by 15 U.S.C. § 1692a(3).

22 16. Plaintiff’s obligation, or alleged obligation, owed or due, or asserted to be owed or
23 due, arises from a transaction in which the money, property, insurance, or services that are the
24 subject of the transaction were incurred primarily for personal, family, or household purposes—
25 namely, a home equity loan secured for personal, family, or household expenses (the “Debt”).
26

27 17. LHFS is a corporation with its principal office in Contra Costa County, California.
28

1 18. LHFS is an entity that at all relevant times was engaged, by use of the mails and
2 telephone, in the business of attempting to collect a “debt” from Plaintiff, as defined by 15 U.S.C.
3 § 1692a(5).

4 19. Upon information and belief, at the time LHFS attempted to collect the Debt from
5 Plaintiff, the Debt was in default, or LHFS treated the Debt as if it were in default from the time
6 that LHFS acquired it for collection.

7 20. LHFS uses instrumentalities of interstate commerce or the mails in a business the
8 principal purpose of which is the collection of debts, and/or regularly collects or attempts to collect,
9 directly or indirectly, debts owed or due, or asserted to be owed or due, another.

10 21. LHFS is a “debt collector” as defined by 15 U.S.C. § 1692a(6).

11 22. MDS is a limited liability company with its principal office in Spokane County,
12 Washington.

13 23. MDS is an entity that at all relevant times was engaged, by use of the mails and
14 telephone, in the business of attempting to collect a “debt” from Plaintiff, as defined by 15 U.S.C.
15 § 1692a(5).

16 24. Upon information and belief, at the time MDS attempted to collect the Debt from
17 Plaintiff, the Debt was in default, or MDS treated the Debt as if it were in default from the time
18 that MDS acquired it for collection.

19 25. MDS uses instrumentalities of interstate commerce or the mails in a business the
20 principal purpose of which is the collection of debts, and/or regularly collects or attempts to collect,
21 directly or indirectly, debts owed or due, or asserted to be owed or due, another.

22 26. MDS is a “debt collector” as defined by 15 U.S.C. § 1692a(6).

23 27. Panatte is a limited liability company with its principal office in King County,
24 Washington.

1 28. Panatte purchases debts once owed or due, or asserted to be once owed or due, a
2 creditor.

3 29. The principal purpose of Panatte's business is the collection of debts, whether
4 through direct or indirect collection.

5 30. Panatte is licensed or otherwise registered as a debt collection agency in several
6 states throughout the country, including Arkansas, Florida, Illinois, Iowa,³ Maryland, New York,
7 North Carolina, Texas, and Washington.
8

9 31. With respect to the Debt, Panatte engaged in both direct and indirect collection
10 efforts to attempt to collect the Debt from Plaintiff.

11 32. Panatte is an entity who at all relevant times was engaged, by use of the mails and
12 telephone, in the business of attempting to collect a "debt" from Plaintiff, as defined by 15 U.S.C.
13 § 1692a(5).
14

15 33. Panatte is a "debt collector" as defined by 15 U.S.C. § 1692a(6) because it uses
16 instrumentalities of interstate commerce or the mails in a business the principal purpose of which
17 is the collection of debts.
18

19 **Factual Allegations**

20 34. In connection with the collection of the Debt, LHFS sent Plaintiff a letter dated
21 April 18, 2017.

22 35. A true and correct copy of LHFS's April 18, 2017 letter to Plaintiff is attached as
23 Exhibit A.
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28 ³ Iowa's Office of the Attorney General maintains a list of all collection entities registered with the state. Those entities are classified either as "Creditors/Assignees" or "Debt Collectors." Of note, Panatte presently appears on this list as a "Debt Collector" rather than an "Assignee" or "Creditor." See https://www.iowaattorneygeneral.gov/media/cms/Formated_Spreadsheet_3DE52390AE035.pdf (last visited December 29, 2017).

1 36. LHFS's April 18, 2017 letter was its initial communication with Plaintiff with
2 respect to the Debt.

3 37. Plaintiff did not receive any other communications from LHFS within five days of
4 the April 18, 2017 letter.

5 38. The April 18, 2017 letter opens: "Congratulations! The servicing of your home loan
6 has been transferred to Land Home Financial Services. This letter serves as your official
7 notification of the transfer which is effective 4/10/2017." Ex. A.

8 39. The April 18, 2017 letter then instructs:

9
10 **Send Payments to**
11 Land Home Financial Services
12 ATTN: Payment Processing
13 PO Box 25164
14 Santa Ana, CA 92799-5164

14 *Id.* (emphasis in original).

15 40. LHFS's April 18, 2017 letter goes on to state: "**We understand that you maybe**
16 **[sic] in arrears on your mortgage loan payments. We have many programs to assist you.**
17 **Please contact the investor of your loan at (844) 736-7531 today.**" *Id.* (emphasis in original).

18 41. The April 18, 2017 letter continues:

19
20 **Effective 4/10/2017, ClearSpring Loan Servicing, Inc, [sic] will not be**
21 **accepting payments from you. Future payments must be sent to Land Home**
22 **Financial Services at the loan payment address listed above. If you are**
23 **currently having your payments automatically withdrawn from your checking**
24 **or savings account, they will stop that service on 4/9/2017. Please be sure to**
25 **send a check to Land Home Financial Services for your next payment. You**
26 **will be receiving a monthly invoice in the mail from Land Home.**

25 *Id.* (emphasis in original).

26 42. The April 18, 2017 letter also states: "This is an attempt to collect a debt. Any
27 information obtained will be used for that purpose (FDCPA 15 U.S.C. §§ 1692 *et seq*). You are
28 now communicating with a debt collector." *Id.*

1 43. The April 18, 2017 letter goes on to describe LHFS as follows:

2 Scope of responsibilities: The servicer is responsible for all ongoing administration
3 of your loan, including receipt and processing of payments, resolution of payment
4 related issues, and response to any other inquiries you may have regarding your
5 loan.

6 *Id.*

7 44. In its April 18, 2017 letter, LHFS failed to provide Plaintiff with certain initial
8 disclosures required by 15 U.S.C. § 1692g(a).

9 45. In particular, LHFS's April 18, 2017 letter did not provide Plaintiff: (i) a statement
10 that unless she, within thirty days after receipt of the notice, disputes the validity of the Debt, or
11 any portion thereof, the Debt will be assumed to be valid by LHFS (in violation of 15 U.S.C. §
12 1692g(a)(3)); (ii) a statement that if she notifies LHFS in writing within the thirty-day period that
13 the Debt, or any portion thereof, is disputed, LHFS will obtain verification of the Debt or a copy
14 of a judgment against her and a copy of such verification or judgment will be mailed to her by
15 LHFS (in violation of 15 U.S.C. § 1692g(a)(4)); or (iii) a statement that, upon Plaintiff's written
16 request within the thirty-day period, LHFS will provide her with the name and address of the
17 original creditor, if different from the current creditor (in violation of 15 U.S.C. § 1692g(a)(5)).

18 46. Separately, but also in connection with the collection of the Debt, MDS sent
19 Plaintiff a letter dated May 3, 2017.

20 47. A true and correct copy of MDS's May 3, 2017 letter to Plaintiff is attached as
21 Exhibit B.

22 48. MDS's May 3, 2017 letter was its initial communication with Plaintiff with respect
23 to the Debt.

24 49. Plaintiff did not receive any other communications from MDS within five days of
25 the May 3, 2017 letter.
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1 50. MDS's May 3, 2017 letter opened with the following: "Your Loan with Panatte
2 LLC is in default. . . . **PLEASE BE ADVISED THAT NO PARTIAL PAYMENTS WILL BE**
3 **ACCEPTED. PAYMENT IN THE AMOUNT OF \$61,662.44 MUST BE RECEIVED BY**
4 **6/2/17 TOGETHER WITH ANY ADDITIONAL PAYMENTS THAT BECOME DUE**
5 **WITHIN THE DEMAND PERIOD (i.e. 5/20/17 payment \$500.02).**" Ex. B (emphasis in
6 original).

7
8 51. The letter continued:

9 You are hereby notified that you have 30 days from receipt of this letter, to fully
10 cure the default on your loan. The default may be cured by mailing payment to or
11 on any business day during official business hours at: Land Home Financial
12 Services, PO Box 25164, Santa Ana, CA 92799, (877) 557-9042, Contact: Joe La
13 Bruna. *However, only certified funds for the total amount due including any*
14 *payments that become due during the demand period, will be accepted to cure the*
15 *default.* You may verify the amount due to cure the default with Land Home
16 Financial Services at the number above, or contact our office at the number at the
17 bottom of page [sic].

18 Failure to cure the default within 30 days from receipt of this letter may result in
19 acceleration of the sums secured by the mortgage or deed of trust, foreclosure
20 proceedings and sale of the property. **Workout options are available and you are**
21 **strongly encouraged to contact Panatte, LLC . . . or the loan servicer**
22 **immediately at the number above or in writing to the address provided to**
23 **discuss which option(s) you may qualify for.**

24 *Id.* (emphasis in original).

25 52. MDS's May 3, 2017 letter also stated:

26 You may have the right to reinstate after acceleration and the right to bring a court
27 action to assert the non-existence of default or any other defense you may have to
28 acceleration and foreclosure. Unless you dispute the validity of the debt, or any
portion thereof within thirty (30) days from the receipt of this letter, we will assume
the debt is valid. If you notify the loan servicer in writing within (30) days of receipt
of this notice that you dispute the debt or any portion thereof, the loan servicer will
provide verification of the debt or a copy of a judgment against you and verification
of such will be mailed to you.

Id.

53. The May 3, 2017 letter then closed with the following warning:

1 If the default is not cured within 30 days from receipt of this letter, Panatte LLC.,
2 at its option, may require immediate payment in full of all sums secured by the
3 mortgage or deed of trust without further demand and may foreclose the mortgage
4 or deed of trust. In any foreclosure action, Panatte LLC may be entitled to collect
all expenses of foreclosure, including, but not limited to, reasonable attorney fees,
trustee's fees and cost of title searches.

5 *Id.*

6 54. MDS's May 3, 2017 letter violates the FDCPA in multiple respects.

7 55. First, it provides improper disclosures under 15 U.S.C. § 1692g(a).

8 56. That is, the May 3, 2017 letter fails to include "a statement that, upon the
9 consumer's written request within the thirty-day period, the debt collector will provide the
10 consumer with the name and address of the original creditor, if different from the current creditor,"
11 as required by 15 U.S.C. § 1692g(a)(5).

12 57. The May 3, 2017 letter also violates 15 U.S.C. § 1692g(a)(4) by directing Plaintiff
13 to submit any dispute of the Debt to a third party—"the loan servicer" (*i.e.*, LHFS), *see* Ex. B—
14 rather than to MDS directly.
15

16 58. Additionally, the remainder of MDS's May 3, 2017 letter violated 15 U.S.C. §
17 1692g(b) by improperly overshadowing, or being inconsistent with, those disclosures under 15
18 U.S.C. § 1692g(a) that MDS did purport to provide.

19 59. That is, MDS's multiple demands for full payment of the Debt by June 2, 2017 or
20 within 30 days of receipt of the letter to avoid "acceleration of the sums secured by the mortgage
21 or deed of trust, foreclosure proceedings[,] [or] sale of the property," *see supra* ¶¶ 50-51, 53, were
22 inconsistent with, and overshadowed, Plaintiff's statutory rights to seek verification of or dispute
23 the Debt within that same 30-day period.
24

25 60. Third, MDS's May 3, 2017 letter failed to disclose that MDS is a debt collector,
26 that it was attempting to collect a debt, and that any information obtained would be used for that
27 purpose, as required by 15 U.S.C. § 1692e(11).
28

1 61. What’s more, subsequent to the filing of Plaintiff’s initial complaint in this action,
2 Panatte redoubled its collection efforts by way of a letter to Plaintiff dated October 13, 2017.

3 62. A true and correct copy of Panatte’s October 13, 2017 letter to Plaintiff is attached
4 as Exhibit C.

5 63. In its October 13, 2017 letter, Panatte advises Plaintiff that a foreclosure attorney
6 had recently sent Plaintiff a separate demand letter on Panatte’s behalf threatening foreclosure, but
7 that such letter had been issued “in error.” Ex. C.

8 64. Correspondingly, Panatte instructs Plaintiff to “disregard” that foreclosure threat.
9
10 *Id.*

11 65. Nevertheless, in the same October 13, 2017 letter, Panatte goes on to warn Plaintiff
12 that a “lien w[ould] remain on [her] home,” and thus encourages Plaintiff “to call Panatte LLC as
13 workout options are available . . . to solve [her] delinquency.” *Id.*

14 66. Nor was October 13, 2017 the first time Panatte had contacted Plaintiff, directly, to
15 attempt to collect the Debt.

16 67. On multiple occasions in 2016, Panatte wrote Plaintiff seeking payment on the
17 Debt.
18

19 68. Attached as Exhibit D is a true and correct copy of a February 20, 2016 billing
20 statement from Panatte, addressed to Plaintiff, showing a payment amount of \$914.61 due on
21 March 14, 2016.
22

23 69. Panatte’s February 20, 2016 billing statement instructs Plaintiff to remit payment
24 directly to “Pannatte, LLC” and provides the same phone number listed on Panatte’s subsequent
25 October 13, 2017 letter—(844) 736-7531. *Compare* Ex. D *with* Ex. C.
26

27 70. Panatte’s February 20, 2016 billing statement also states: “Please be advised that
28 we are a debt collector, and information you provide to us may be used for that purpose.” Ex. D.

1 71. The billing statement further instructs Plaintiff to contact Panatte’s office at (844)
2 736-7531 to obtain “a true payoff” amount. *Id.*

3 72. What’s more, Panatte also sent Plaintiff a letter dated June 4, 2016 to inform her
4 that the servicing of her Debt was being transferred to ClearSpring Loan Services, Inc.

5 73. A true and correct copy of Panatte’s June 4, 2016 letter to Plaintiff is attached as
6 Exhibit E.

7 74. Panatte’s June 4, 2016 letter advises Plaintiff that ClearSpring Loan Services, Inc.
8 will be servicing the Debt on behalf of Panatte. Ex. E.

9 75. The June 4, 2016 letter goes on to state, “If you have any questions for Panatte,
10 L.L.C. relating to your loan or the transfer of your loan’s servicing, please call our office toll-free
11 at 844-736-7531”—the same number provided in Panatte’s other correspondence to Plaintiff. *Id.*;
12
13 *see also* Exs. C, D.

14 76. Notably, Panatte’s June 4, 2016 letter also advises, “This is an attempt to collect a
15 debt. Any information obtained will be used for that purpose.” Ex. E.

16 77. Accordingly, Panatte has contacted Plaintiff on at least three separate occasions
17
18 over the past two years for the specific purpose of collecting the Debt. *See* Exs. C, D, E.

19
20 **Class Allegations**

21 78. Plaintiff brings this action under Rule 23(b)(3) on behalf of herself and others
22 similarly situated.

23 79. Plaintiff seeks to represent five classes of individuals defined as:

24
25 **LHFS 1692g Class**

26 All persons (1) with a Washington or California address, (2) to whom Land
27 Home Financial Services, Inc. sent an initial written communication, (3)
28 between October 10, 2016 and October 10, 2017, (4) in connection with the
collection of a consumer debt, (5) that failed to include: (i) a statement that
unless the consumer, within thirty days after receipt of the notice, disputes
the validity of the debt, or any portion thereof, the debt will be assumed to

1 be valid by the debt collector; and/or (ii) a statement that if the consumer
2 notifies the debt collector in writing within the thirty-day period that the
3 debt, or any portion thereof, is disputed, the debt collector will obtain
4 verification of the debt or a copy of a judgment against the consumer and a
5 copy of such verification or judgment will be mailed to the consumer by the
6 debt collector; and/or (iii) a statement that, upon the consumer’s written
7 request within the thirty-day period, the debt collector will provide the
8 consumer with the name and address of the original creditor, if different
9 from the current creditor.

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MDS 1692g Class

19 All persons (1) with a Washington or California address, (2) to whom
20 Mortgage Default Services, LLC sent an initial written communication, (3)
21 between October 10, 2016 and October 10, 2017, (4) in connection with the
22 collection of a consumer debt, (5) that demanded payment on the debt
23 within 30 days of the date of the written communication, and/or (6) that
24 failed to include: (i) a statement that unless the consumer, within thirty days
25 after receipt of the notice, disputes the validity of the debt, or any portion
26 thereof, the debt will be assumed to be valid by the debt collector; and/or
27 (ii) a statement that if the consumer notifies the debt collector in writing
28 within the thirty-day period that the debt, or any portion thereof, is disputed,
the debt collector will obtain verification of the debt or a copy of a judgment
against the consumer and a copy of such verification or judgment will be
mailed to the consumer by the debt collector; and/or (iii) a statement that,
upon the consumer’s written request within the thirty-day period, the debt
collector will provide the consumer with the name and address of the
original creditor, if different from the current creditor.

Panatte 1692g Class

All persons (1) with a Washington or California address, (2) to whom
Panatte, LLC sent, or caused to be sent, an initial written communication,
(3) between October 10, 2016 and October 10, 2017, (4) in connection with
the collection of a consumer debt, (5) that demanded payment on the debt
within 30 days of the date of the written communication, and/or (6) that
failed to include: (i) a statement that unless the consumer, within thirty days
after receipt of the notice, disputes the validity of the debt, or any portion
thereof, the debt will be assumed to be valid by the debt collector; and/or
(ii) a statement that if the consumer notifies the debt collector in writing
within the thirty-day period that the debt, or any portion thereof, is disputed,
the debt collector will obtain verification of the debt or a copy of a judgment
against the consumer and a copy of such verification or judgment will be
mailed to the consumer by the debt collector; and/or (iii) a statement that,
upon the consumer’s written request within the thirty-day period, the debt
collector will provide the consumer with the name and address of the
original creditor, if different from the current creditor.

MDS 1692e Class

All persons (1) with a Washington or California address, (2) to whom Mortgage Default Services, LLC sent an initial written communication, (3) between October 10, 2016 and October 10, 2017, (4) in connection with the collection of a consumer debt, (5) that did not disclose that Mortgage Default Services, LLC is a debt collector who is attempting to collect a debt, and that any information obtained would be used for that purpose.

Panatte 1692e Class

All persons (1) with a Washington or California address, (2) to whom Panatte, LLC sent, or caused to be sent, an initial written communication, (3) between October 10, 2016 and October 10, 2017, (4) in connection with the collection of a consumer debt, (5) that did not disclose that the communication is from a debt collector who is attempting to collect a debt, and that any information obtained would be used for that purpose.

80. Excluded from the classes are Defendants, their officers and directors, members of their immediate families and their legal representatives, heirs, successors, or assigns, and any entity in which any defendant has or had controlling interests.

81. The proposed classes satisfy Rule 23(a)(1) because, upon information and belief, they are so numerous that joinder of all members is impracticable.

82. The exact number of class members is unknown to Plaintiff at this time and can only be determined through appropriate discovery.

83. The proposed classes are ascertainable in that, upon information and belief, the names and addresses of all members of the proposed classes can be identified in business records maintained by Defendants.

84. The proposed classes satisfy Rules 23(a)(2) and (3) because Plaintiff's claims are typical of the claims of the members of the classes. To be sure, Plaintiff's claims and those of the members of the classes originate from the same standardized debt collection letters utilized by Defendants, and Plaintiff possesses the same interests and has suffered the same injuries as each member of the proposed classes.

1 85. Plaintiff satisfies Rule 23(a)(4) because she will fairly and adequately protect the
2 interests of the members of the classes and has retained counsel experienced and competent in
3 class action litigation.

4 86. Plaintiff has no interests that are contrary to or in conflict with the members of the
5 classes that she seeks to represent.

6 87. A class action is superior to all other available methods for the fair and efficient
7 adjudication of this controversy, since, upon information and belief, joinder of all members is
8 impracticable.

9 88. Furthermore, as the damages suffered by individual members of the classes may be
10 relatively small, the expense and burden of individual litigation make it impracticable for the
11 members of the classes to individually redress the wrongs done to them.

12 89. There will be no difficulty in the management of this action as a class action.

13 90. Issues of law and fact common to the members of the classes predominate over any
14 questions that may affect only individual members, in that Defendants have acted on grounds
15 generally applicable to the classes.

16 91. Among the issues of law and fact common to the classes:

- 17
- 18 a. Defendants' violations of the FDCPA as alleged herein;
 - 19 b. Defendants' failure to properly provide in their initial debt collection letters the
20 disclosures required by 15 U.S.C. §§ 1692g and 1692e(11);
 - 21 c. the existence of Defendants' identical conduct particular to the matters at issue;
 - 22 d. the availability of statutory penalties; and
 - 23 e. the availability of attorneys' fees and costs.
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Count I
Violation of 15 U.S.C. § 1692g(a)(3)
Against LHFS and Panatte

92. Plaintiff repeats and re-alleges each and every factual allegation contained in paragraphs 1 through 91.

93. The FDCPA at 15 U.S.C. § 1692g provides:

(a) Within five days after the initial communication with a consumer in connection with the collection of any debt, a debt collector shall, unless the following information is contained in the initial communication or the consumer has paid the debt, send the consumer a written notice containing –

* * * *

(3) a statement that unless the consumer, within thirty days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector;

* * * *

94. LHFS’s April 18, 2017 communication was its initial communication to Plaintiff.

95. The April 18, 2017 communication was sent in connection with an attempt to collect the Debt from Plaintiff.

96. At the time LHFS acquired the Debt for collection, it was, upon information and belief, considered to be in default.

97. The April 18, 2017 communication did not contain the proper disclosures required by 15 U.S.C. § 1692g(a)(3), nor did LFHS or Panatte provide such disclosures within five days thereafter.

98. Specifically, the April 18, 2017 communication failed to notify Plaintiff that unless she disputed the Debt within 30 days of receipt of the letter, LHFS and Panatte would assume the debt to be valid. *See* Ex. A.

99. And Panatte, by virtue of its status as a “debt collector” under the FDCPA, is liable for the conduct of LHFS—the debt collector it retained to collect on its behalf. *See, e.g., Fox v.*

1 *Citicorp Credit Servs., Inc.*, 15 F.3d 1507 (9th Cir. 1994) (debt collection company could be held
2 liable for the conduct of its attorney where both were considered debt collectors under the
3 FDCPA); *Freeman v. ABC Legal Servs. Inc.*, 827 F. Supp. 2d 1065, 1076 (N.D. Cal. 2011) (“The
4 rationale behind vicarious liability in this context is that if an entity is a debt collector and hence
5 subject to the FDCPA, it should bear the burden of monitoring the activities of those it enlists to
6 collect debts on its behalf.”).

8 100. As a result, LHFS and Panatte violated 15 U.S.C. § 1692g(a)(3).

9 101. The harm suffered by Plaintiff is particularized in that the violative initial debt
10 collection letter at issue was sent to her personally, regarded her personal alleged debt, and failed
11 to give her statutorily-mandated disclosures to which she was entitled.

12 102. Likewise, LHFS and Panatte’s actions created a concrete harm in that they
13 constituted a debt collection practice that Congress prohibited because such practice is likely to
14 mislead consumers, causing them to misunderstand their rights and to not vindicate the protections
15 afforded them by federal law.

16 103. In addition, LHFS and Panatte’s actions invaded a specific private right created by
17 Congress, and the invasion of said right creates the risk of real harm.

18 104. The fact that LHFS and Panatte failed to disclose that they would presume
19 Plaintiff’s Debt to be valid unless she disputed the Debt within 30 days of receipt of the April 18,
20 2017 letter created a material risk of harm that Plaintiff would not avail herself of her statutory
21 rights to verify the Debt under the FDCPA.
22
23
24

25 **Count II**
26 **Violation of 15 U.S.C. § 1692g(a)(4)**
27 **Against All Defendants**

28 105. Plaintiff repeats and re-alleges each and every factual allegation contained in
paragraphs 1 through 91.

1 106. The FDCPA at 15 U.S.C. § 1692g provides:

2 (a) Within five days after the initial communication with a consumer in connection
3 with the collection of any debt, a debt collector shall, unless the following
4 information is contained in the initial communication or the consumer has paid the
5 debt, send the consumer a written notice containing –

6 * * * *

7 (4) a statement that if the consumer notifies the debt collector in writing within
8 the thirty-day period that the debt, or any portion thereof, is disputed, the debt
9 collector will obtain verification of the debt or a copy of a judgment against the
10 consumer and a copy of such verification or judgment will be mailed to the
11 consumer by the debt collector;

12 * * * *

13 107. LHFS’s April 18, 2017 communication was its initial communication to Plaintiff,
14 and likewise for MDS’s May 3, 2017 communication to Plaintiff.

15 108. The April 18, 2017 and May 3, 2017 communications were sent in connection with
16 an attempt to collect the Debt from Plaintiff.

17 109. At the time LHFS and MDS acquired the Debt for collection, it was, upon
18 information and belief, considered to be in default.

19 110. The April 18, 2017 and May 3, 2017 communications did not contain the proper
20 disclosures required by 15 U.S.C. § 1692g(a)(4), nor did Defendants provide such disclosures
21 within five days thereafter.

22 111. Specifically, LHFS’s April 18, 2017 communication failed to include any
23 disclosure that if Plaintiff provided written notice that the Debt, or any portion thereof, is disputed,
24 LHFS would obtain verification of the Debt or a copy of a judgment against Plaintiff, and a copy
25 of such verification or judgment would be mailed to her by LHFS. *See Ex. A*

26 112. MDS’s May 3, 2017 communication states: “If you notify *the loan servicer* in
27 writing within (30) days of receipt of this notice that you dispute the debt or any portion thereof,
28

1 the *loan servicer* will provide verification of the debt or a copy of a judgment against you and
2 verification of such will be mailed to you.” Ex. B (emphasis added).

3 113. But “the loan servicer” is LHFS, not MDS, and under the FDCPA, the consumer
4 must direct his or her dispute of the debt to the instant debt collector (*i.e.*, MDS), not a third party
5 (*i.e.*, LHFS).

6 114. And Panatte, by virtue of its status as a “debt collector” under the FDCPA, is liable
7 for the conduct of LHFS and MDS—the debt collectors it retained to collect on its behalf.

8 115. As a result, Defendants violated 15 U.S.C. § 1692g(a)(4).

9 116. The harm suffered by Plaintiff is particularized in that the violative initial debt
10 collection letters at issue were sent to her personally, regarded her personal alleged debt, and failed
11 to give her statutorily-mandated disclosures to which she was entitled.
12

13 117. Likewise, Defendants’ actions created a concrete harm in that they constituted a
14 debt collection practice that Congress prohibited because such practice is likely to mislead
15 consumers, causing them to misunderstand their rights and to not vindicate the protections afforded
16 them by federal law.
17

18 118. In addition, Defendants’ actions invaded a specific private right created by
19 Congress, and the invasion of said right creates the risk of real harm.
20

21 119. The fact that Defendants either failed to disclose entirely Plaintiff’s rights under the
22 FDCPA to dispute the Debt and obtain verification from them (*see* Ex. A), or incorrectly directed
23 Plaintiff to dispute the Debt with the loan servicer rather than with Defendants themselves—the
24 only entities who owed Plaintiff any such verification duty under the FDCPA (*see* Ex. B)—created
25 a material risk of harm that Plaintiff would not avail herself of her statutory verification rights
26 under the FDCPA.
27
28

Count III
Violation of 15 U.S.C. § 1692g(a)(5)
Against All Defendants

1
2
3 120. Plaintiff repeats and re-alleges each and every factual allegation contained in
4 paragraphs 1 through 91.

5 121. The FDCPA at 15 U.S.C. § 1692g provides:

6
7 (a) Within five days after the initial communication with a consumer in connection
8 with the collection of any debt, a debt collector shall, unless the following
9 information is contained in the initial communication or the consumer has paid the
10 debt, send the consumer a written notice containing –

* * * *

11 (5) a statement that, upon the consumer’s written request within the thirty-day
12 period, the debt collector will provide the consumer with the name and address
13 of the original creditor, if different from the current creditor.

14 122. LHFS’s April 18, 2017 communication was its initial communication to Plaintiff,
15 and likewise for MDS’s May 3, 2017 communication to Plaintiff.

16 123. The April 18, 2017 and May 3, 2017 communications were sent in connection with
17 an attempt to collect the Debt from Plaintiff.

18 124. At the time LHFS and MDS acquired the Debt for collection, it was, upon
19 information and belief, considered to be in default.

20 125. The April 18, 2017 and May 3, 2017 communications did not contain the proper
21 disclosures required by 15 U.S.C. § 1692g(a)(5), nor did Defendants provide such disclosures
22 within five days thereafter.

23
24 126. Specifically, the April 18, 2017 and May 3, 2017 communications failed to notify
25 Plaintiff that upon her written request within the thirty-day period, the debt collector will provide
26 the consumer with the name and address of the original creditor, if different from the current
27 creditor. *See* Exs. A, B.
28

1 127. And Panatte, by virtue of its status as a “debt collector” under the FDCPA, is liable
2 for the conduct of LHFS and MDS—the debt collectors it retained to collect on its behalf.

3 128. As a result, Defendants violated 15 U.S.C. § 1692g(a)(5).

4 129. The harm suffered by Plaintiff is particularized in that the violative initial debt
5 collection letters at issue were sent to her personally, regarded her personal alleged debt, and failed
6 to give her statutorily-mandated disclosures to which she was entitled.
7

8 130. Likewise, Defendants’ actions created a concrete harm in that they constituted a
9 debt collection practice that Congress prohibited because such practice is likely to mislead
10 consumers, causing them to misunderstand their rights and to not vindicate the protections afforded
11 them by federal law.

12 131. In addition, Defendants’ actions invaded a specific private right created by
13 Congress, and the invasion of said right creates the risk of real harm.
14

15 132. The fact that Defendants failed to disclose that they would provide the name and
16 address of Plaintiff’s original creditor, if different from the current creditor, created a material risk
17 of harm that Plaintiff would not avail herself of her statutory rights to that information under the
18 FDCPA.
19

20 **Count IV**
21 **Violation of 15 U.S.C. § 1692g(b)**
22 **Against MDS and Panatte**

23 133. Plaintiff repeats and re-alleges each and every factual allegation contained in
24 paragraphs 1 through 91.

25 134. The FDCPA at 15 U.S.C. § 1692g(b) provides:

26 If the consumer notifies the debt collector in writing within the thirty-day period
27 described in subsection (a) that the debt, or any portion thereof, is disputed, or that
28 the consumer requests the name and address of the original creditor, the debt
collector shall cease collection of the debt, or any disputed portion thereof, until the
debt collector obtains verification of the debt or a copy of a judgment, or the name
and address of the original creditor, and a copy of such verification or judgment, or

1 name and address of the original creditor, is mailed to the consumer by the debt
2 collector. Collection activities and communications that do not otherwise violate
3 this subchapter may continue during the 30-day period referred to in subsection (a)
4 unless the consumer has notified the debt collector in writing that the debt, or any
5 portion of the debt, is disputed or that the consumer requests the name and address
6 of the original creditor. Any collection activities and communication during the 30-
7 day period may not overshadow or be inconsistent with the disclosure of the
8 consumer's right to dispute the debt or request the name and address of the original
9 creditor.

10 135. MDS's May 3, 2017 communication was its initial communication to Plaintiff.

11 136. The May 3, 2017 communication was sent in connection with an attempt to collect
12 the Debt from Plaintiff.

13 137. At the time MDS acquired the Debt for collection, it was, upon information and
14 belief, considered to be in default.

15 138. The manner in which MDS conveyed, or attempted to convey, the validation notice
16 required by 15 U.S.C. § 1692g was ineffective and overshadowed and contradicted the statutory
17 notice.

18 139. Specifically, MDS's multiple demands for full payment of the Debt by June 2, 2017
19 or, within 30 days of receipt of the letter, to avoid "acceleration of the sums secured by the
20 mortgage or deed of trust, foreclosure proceedings[,] [or] sale of the property," *see supra* ¶¶ 50-
21 51, 53, were inconsistent with, and overshadowed, Plaintiff's statutory rights to seek verification
22 of or dispute the Debt within that same 30-day period.

23 140. These statements conveyed to the least-sophisticated consumer that the only way
24 to avoid a lawsuit was to make full payment within 30 days, when, in reality, the consumer could
25 dispute all or a portion of the debt during that 30-day validation window.

26 141. The effect of the May 3, 2017 communication was to cause the least-sophisticated
27 consumer to waive, or believe the consumer did not have, the rights afforded under 15 U.S.C. §
28 1692g.

1 142. In addition, MDS’s May 3, 2017 communication overshadowed and rendered
2 ineffective the disclosures required by 15 U.S.C. § 1692g.

3 143. The language that MDS included in its May 3, 2017 communication to Plaintiff
4 contradicts statutorily-mandated disclosures that MDS was required to provide to Plaintiff.

5 144. In the alternative, MDS, through its communication, failed to explain an apparent,
6 though not actual contradiction that its letter creates regarding statutorily-mandated disclosures
7 that MDS was required to provide to Plaintiff.

8 145. MDS designed its May 3, 2017 letter to Plaintiff to evade the spirit of the FDCPA,
9 and to lead Plaintiff to disregard her statutory rights under the FDCPA.
10

11 146. And Panatte, by virtue of its status as a “debt collector” under the FDCPA, is liable
12 for the conduct of MDS—the debt collector it retained to collect on its behalf.

13 147. As a result, MDS and Panatte violated 15 U.S.C. § 1692g(b).

14 148. The harm suffered by Plaintiff is particularized in that the violative initial debt
15 collection letter at issue was sent to her personally, regarded her personal alleged debt, and failed
16 to give her statutorily-mandated disclosures to which she was entitled.
17

18 149. Likewise, MDS and Panatte’s actions created a concrete harm in that they
19 constituted a debt collection practice that Congress prohibited because such practice is likely to
20 mislead consumers, causing them to misunderstand their rights and to not vindicate the protections
21 afforded them by federal law.
22

23 150. In addition, MDS and Panatte’s actions invaded a specific private right created by
24 Congress, and the invasion of said right creates the risk of real harm.
25

26 151. The fact that MDS and Panatte repeatedly demanded payment within 30 days of
27 receipt of the May 3, 2017 letter created a material risk of harm that Plaintiff would not avail
28

1 herself of her statutory verification rights under the FDCPA for fear of risking further action by
2 MDS or Panatte, or both, absent payment.

3 **Count V**
4 **Violation of 15 U.S.C. § 1692e(11)**
5 **Against MDS and Panatte**

6 152. Plaintiff repeats and re-alleges each and every factual allegation contained in
7 paragraphs 1 through 91.

8 153. The FDCPA at 15 U.S.C. § 1692e(11) provides:

9 A debt collector may not use any false, deceptive, or misleading representation or
10 means in connection with the collection of any debt. Without limiting the general
11 application of the foregoing, the following conduct is a violation of this section:

12 * * * *

13 (11) The failure to disclose in the initial written communication with the consumer
14 and, in addition, if the initial communication with the consumer is oral, in that initial
15 oral communication, that the debt collector is attempting to collect a debt and that
16 any information obtained will be used for that purpose, and the failure to disclose
17 in subsequent communications that the communication is from a debt collector,
18 except that this paragraph shall not apply to a formal pleading made in connection
19 with a legal action.

20 154. MDS’s May 3, 2017 communication was its initial communication to Plaintiff.

21 155. The May 3, 2017 communication was sent in connection with an attempt to collect
22 the Debt from Plaintiff.

23 156. At the time MDS acquired the Debt for collection, it was, upon information and
24 belief, considered to be in default.

25 157. By failing to disclose in its May 3, 2017 letter that MDS is a debt collector who
26 was attempting to collect a debt, and that any information obtained would be used for that purpose,
27 MDS violated 15 U.S.C. § 1692e(11). *See Moritz v. Daniel N. Gordon, P.C.*, 895 F. Supp. 2d 1097,
28 1106 (W.D. Wash. 2012).

1 158. And Panatte, by virtue of its status as a “debt collector” under the FDCPA, is liable
2 for the conduct of MDS—the debt collector it retained to collect on its behalf.

3 159. The harm suffered by Plaintiff is particularized in that the violative initial debt
4 collection letter at issue was sent to her personally, regarded her personal alleged debt, and used
5 false, deceptive, and misleading means to attempt to collect the Debt.

6 160. Likewise, MDS and Panatte’s actions created a concrete harm in that they
7 constituted a debt collection practice that Congress prohibited because such practice is likely to
8 mislead consumers.

9 161. In addition, MDS and Panatte’s actions invaded a specific private right created by
10 Congress, and the invasion of said right creates the risk of real harm.

11 162. The fact that MDS and Panatte failed to disclose who they are, the purpose of their
12 May 3, 2017 letter, and the fact that any information obtained would be used for that purpose,
13 created a material risk of harm that Plaintiff would not appreciate that she was dealing with debt
14 collectors, or the ramifications of her sharing of information regarding the Debt.
15
16
17

18 **Trial by Jury**

19 163. Plaintiff requests a trial by jury.

20 WHEREFORE, Plaintiff prays for relief and judgment as follows:

- 21 a) Determining that this action is a proper class action under Rule 23 of the Federal
22 Rules of Civil Procedure;
23
24 b) Certifying Plaintiff as the class representative;
25
26 c) Appointing Plaintiff’s counsel as class counsel;
27
28 d) Adjudging that Defendants violated 15 U.S.C. §§ 1692g(a)(3), 1692g(a)(4),
1692g(a)(5), 1692g(b), and 1692e(11);
e) Awarding Plaintiff and members of the proposed classes statutory damages;

- f) Awarding members of the proposed classes actual damages, as necessary;
- g) Awarding Plaintiff and members of the proposed classes reasonable attorneys’ fees, costs, and expenses incurred in this action;
- h) Awarding Plaintiff and members of the proposed classes any pre-judgment and post-judgment interest as may be allowed under the law;
- i) Awarding other and further relief as this Court may deem just and proper.

Respectfully submitted,

s/ Matthew J. Cunanan
 Matthew J. Cunanan, WSBA#42530
 Drew Davis, WSBA#47297
 Christopher Wieting, WSBA#48207
 Milena Vill, WSBA#51231
 DC LAW GROUP NW LLC
 221 1st Ave W #320
 Seattle, WA 98119
 Telephone: (206) 494-0400
 Facsimile: (855) 494-0400
 matthew@dclglawyers.com

s/ Jesse S. Johnson
 Jesse S. Johnson (*pro hac vice*)
 Greenwald Davidson Radbil PLLC
 5550 Glades Road, Suite 500
 Boca Raton, Florida 33431
 Telephone: (561) 826-5477
 Facsimile: (561) 961-5684
 jjohnson@gdrllawfirm.com

CERTIFICATE OF SERVICE

I hereby certify that on December 29, 2017, I filed the foregoing with the Clerk of Court using the Court’s CM/ECF system, which will provide electronic notice to all counsel of record.

s/ Jesse S. Johnson
 Jesse S. Johnson