

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT
IN AND FOR MARION COUNTY, STATE OF FLORIDA
CIVIL DIVISION
(DUNNELLON)

BETTY J. CUNEO,

Plaintiff,

CASE NO.: 09-4836-CA-

-VS-

DIV.: G

CHASE BANK USA, N.A. and
PHILLIPS & COHEN ASSOCIATES, LTD.,
CORP.,

Defendants

SECOND AMENDED COMPLAINT

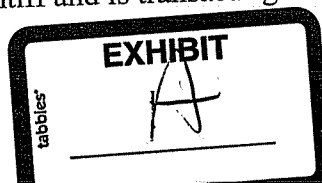
The Plaintiff, BETTY J. CUNEO, by and through the undersigned counsel, sues the Defendants, CHASE BANK USA, N.A. and PHILLIPS & COHEN ASSOCIATES, LTD., CORP., and in support thereof respectfully alleges the following:

JURISDICTION AND VENUE

1. This is an action for damages exceeding Fifteen Thousand Dollars (\$15,000.00) exclusive of attorney fees and costs.
2. Jurisdiction and venue for purposes of this action are appropriate and conferred by Florida Statutes.
3. The alleged violations described in the Complaint occurred in Marion County, Florida.

FACTS COMMON TO ALL COUNTS

4. Plaintiff is a debtor and/or alleged debtor as defined by Chapter 559.55(2), Florida Statutes.
5. Defendant, CHASE BANK USA, N.A., is a corporate entity responsible for attempting to collect a consumer debt from Plaintiff and is transacting business in the State of Florida.



6. Defendant, PHILLIPS & COHEN ASSOCIATES, LTD., CORP., is a corporate entity responsible for attempting to collect a consumer debt from Plaintiff and is transacting business in the State of Florida.

7. Defendant, CHASE BANK USA, N.A., sold, assigned and/or transferred the alleged debt of Account Number 13619839 in the approximate amount of \$987.52 to the Defendant, PHILLIPS & COHEN ASSOCIATES, LTD. and is therefore vicariously liable for the acts of PHILLIPS & COHEN ASSOCIATES, LTD in their attempts to collect this debt.

8. Defendant, CHASE BANK USA, N.A., attempted to collect a debt from the Plaintiff that they knew or should have known the Plaintiff did not owe.

9. Defendant, CHASE BANK USA, N.A., attempted to collect a debt from the Plaintiff through the Defendant, PHILLIPS & COHEN ASSOCIATES, LTD.

10. Defendants consent of and have knowledge and control of the collection activities of their agents and representatives, including supervisors, managers, affiliates, subsidiaries, divisions, employees, servants, partners, agents, vendors, assignees, transferees, collectors and/or contractors for an alleged debt of Account Number 13619839 in the approximate amount of \$987.52.

11. Beginning in 11/2008, Defendant, CHASE BANK USA, N.A., intentionally harassed and abused the Plaintiff on numerous occasions by their agents and representatives calling and sending bills to the Plaintiff, including but not limited to Christmas Eve 2008, with such frequency as can reasonably be expected to harass the Plaintiff in an attempt to intimidate and insinuate that the Plaintiff was obligated to pay her deceased husband's debt.

12. Defendants harassed and abused Plaintiff by their agents and representatives attempting to collect on a debt which was not that of the Plaintiff, but of the Plaintiff's deceased husband,

who did not leave an estate.

13. Defendants harassed and abused Plaintiff by their agents and representatives calling Plaintiff and asking her to borrow the money from someone in her family in an attempt to coerce the Plaintiff to pay her deceased husband's debt.

14. Defendants intentionally harassed and abused the Plaintiff by their agents and representatives continuously calling Plaintiff and threatening that they were going to check her bank accounts in an attempt to make the Plaintiff feel obligated to pay her deceased husband's debt.

15. Because of the stress and anxiety from the continued calls and bills sent by the Defendants in an attempt to coerce the Plaintiff to feel obligated to pay her deceased husband's debt, Plaintiff was forced to seek medical care.

16. Plaintiff's damages pursuant to Florida Statutes including § 559.77 have continued and are continuing as of the filing of this complaint.

17. All conditions precedent to the filing of this action has occurred.

COUNT I

CHASE BANK USA, N.A

(Violation of the Florida Consumer Collection Practices Act "FCCPA")

Plaintiff re-alleges paragraphs 1 through 18 above and further states:

18. At all times relevant to this action Defendant is subject to and must abide by the law of Florida, including Florida Statute § 559.72.

19. Defendant has violated Florida Statute §559.72(7) by willfully engaging in conduct which can reasonably be expected to harass the debtor.

20. Defendant has violated Florida Statute §559.72(7) by willfully engaging in conduct which can reasonably be expected to abuse the debtor

21. Defendant has violated Florida Statute §559.72(5)

22. Defendant has violated Florida Statute §559.72(6)
23. Defendant has violated Florida Statute §559.72(8)
24. Defendant has violated Florida Statute §559.72(9)
25. Defendant's actions have directly and proximately resulted in Plaintiff's prior and continuous sustaining of damages as described by Florida Statute §559.77.

WHEREFORE, Plaintiff respectfully demands a trial by jury on all issues so triable and judgment against Defendant for statutory damages, actual damages, costs, interest, attorney fees, enjoinder from further violations of these parts and any other such relief the court may deem just and proper.

COUNT II
PHILLIPS & COHEN ASSOCIATES, LTD., CORP.
(Violation of the Florida Consumer Collection Practices Act "FCCPA")

Plaintiff re-alleges paragraphs 1 through 17 above and further states:

26. At all times relevant to this action Defendant is subject to and must abide by the law of Florida, including Florida Statute § 559.72.
27. Defendant has violated Florida Statute §559.72(7) by willfully engaging in conduct which can reasonably be expected to harass the debtor.
28. Defendant has violated Florida Statute §559.72(7) by willfully engaging in conduct which can reasonably be expected to abuse the debtor
29. Defendant has violated Florida Statute §559.72(5)
30. Defendant has violated Florida Statute §559.72(6)
31. Defendant has violated Florida Statute §559.72(8)
32. Defendant has violated Florida Statute §559.72(9)
33. Defendant's actions have directly and proximately resulted in Plaintiff's prior

and continuous sustaining of damages as described by Florida Statute §559.77.

WHEREFORE, Plaintiff respectfully demands a trial by jury on all issues so triable and judgment against Defendant for statutory damages, actual damages, costs, interest, attorney fees, enjoinder from further violations of these parts and any other such relief the court may deem just and proper.

COUNT III
Punitive damages against CHASE BANK USA, N.A

34. Based upon the above state allegations and the evidence before this Court, Plaintiff is entitled to punitive damages against Defendant.

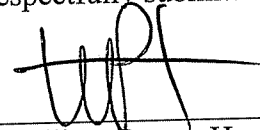
WHEREFORE, Plaintiff respectfully requests punitive damages against Defendant, Chase Bank USA, N.A.

COUNT IV
Punitive damages against Phillips & Cohen Associates, LTD., Corp.

35. Based upon the above state allegations and the evidence before this Court, Plaintiff is entitled to punitive damages against Defendant.

WHEREFORE, Plaintiff respectfully requests punitive damages against Defendant, Phillips & Cohen Associates, LTD., Corp.

Respectfully submitted,



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