

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

JARVIS GATLIN, an individual,

Plaintiff,

v.

UNIFUND CCR LLC, an Ohio  
Limited Liability Company; and  
LAZEGA & JOHANSON LLC, a  
Georgia Limited Liability Company,

Defendants.

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}  
} **Case No.:**

} **COMPLAINT FOR**  
} **VIOLATIONS OF THE FAIR**  
} **DEBT COLLECTION**  
} **PRACTICES ACT (“FDCPA”)**

} **JURY TRIAL DEMANDED**  
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}

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**COMPLAINT FOR VIOLATIONS OF THE FAIR DEBT**  
**COLLECTION PRACTICES ACT**

COMES NOW Jarvis Gatlin, Plaintiff, and states the following  
complaint for violations of the Fair Debt Collection Practices Act, against  
UNIFUND CCR LLC and LAZEGA & JOHANSON LLC:

**Introduction**

1.

Plaintiff JARVIS GATLIN, through his counsel, brings this action to  
challenge the acts of UNIFUND CCR LLC and LAZEGA & JOHANSON  
LLC regarding their collective attempts to unlawfully, maliciously, and

abusively collect a debt allegedly owed by Plaintiff, and this conduct caused Plaintiff damages.

2.

While many violations are described below with specificity, this Complaint alleges violations of the statutes cited in their entirety.

3.

Any and all violations by Defendants as alleged in this Complaint were knowing, willful, and intentional, and Defendants did not maintain procedures reasonably adapted to avoid any such violation.

### **Jurisdiction and Venue**

4.

This action arises out of Defendants' illegal and improper efforts to collect a consumer debt from the Plaintiff, and include multiple violations of the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692 et seq. (the "FDCPA"). Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331 (Federal Question), 15 U.S.C. § 1692k, and 28 U.S.C. §§ 1331 & 1337.

5.

This Court has personal jurisdiction over the Defendants for the purposes of this action because Defendants transact business in the State of Georgia, the committed acts that form the basis for this suit occurred within the State of Georgia, and Defendant LAZEGA & JOHANSON LLC is a Georgia Limited Liability Company with a principal place of business within Georgia.

6.

Venue is proper in the Northern District of Georgia pursuant to 28 U.S.C. § 1391 because many of the acts and transactions giving rise to this action as alleged in this complaint occurred in this District, Defendant's registered agents in Georgia are located within this District, and Defendant LAZEGA & JOHANSON LLC's principal place of business is within this District.

### **PARTIES**

7.

Plaintiff JARVIS GATLIN is a natural person who is a resident of Walton County, Georgia.

8.

UNIFUND CCR LLC (“UNIFUND”) is a Limited Liability Company organized under the laws of the State of Ohio and doing business in the State of Georgia, and in particular Gwinnett County.

9.

UNIFUND CCR LLC has a registered agent named CORPORATION SERVICE COMPANY located at 40 TECHNOLOGY PARKWAY SOUTHSUITE 300, NORCROSS, GA, 30092, in Gwinnett County, Georgia, and what appears to be a principal place of business at 10625 TECHWOODS CIRCLE, CINCINNATI, OH 45242.

10.

LAZEGA & JOHANSON LLC (“LAZEGA”) is a Limited Liability Company organized under the laws of the State of Georgia and does business within the State of Georgia, particularly within Gwinnett County, Georgia.

11.

LAZEGA & JOHANSON LLC has a registered agent named Jay S. Lazega who has a physical address for service at 3520 Piedmont Rd NE, Suite 415, Atlanta, GA, 30305, and a principal place of business at this same address.

12.

Defendant UNIFUND CCR LLC is in the business of debt collection.

13.

Defendant UNIFUND CCR LLC can be served through its registered agent, CORPORATION SERVICE COMPANY located at 40 TECHNOLOGY PARKWAY SOUTHSUITE 300, NORCROSS, GA, 30092, or by service on an officer or director of the company at its principal place of business located at 10625 TECHWOODS CIRCLE, CINCINNATI, OH 45242.

14.

Defendant LAZEGA & JOHANSON LLC is in the business of debt collection.

15.

Defendant LAZEGA & JOHANSON LLC may be served through its Georgia registered agent, Jay S. Lazega at 3520 Piedmont Rd NE, Suite 415, Atlanta, GA, 30305. Defendant LAZEGA & JOHANSON LLC may also be served through an officer or director of the corporation, or one of its attorneys, at 3520 Piedmont Rd NE, Suite 415, Atlanta, GA, 30305.

## FACTUAL BACKGROUND

16.

Plaintiff JARVIS GATLIN is a consumer within the meaning of the FDCPA, 15 U.S.C. § 1692a(3), as he is a natural person who Defendants alleged was obligated to pay an alleged debt.

17.

Defendants have attempted to collect an alleged debt that is a “debt” within the meaning of the FDCPA, 15 U.S.C. § 1692a(5), as the subject of the transactions composing the alleged debt were for primarily personal, family, or household purposes.

18.

Defendants used instruments of interstate commerce in order to attempt to collect the alleged debt from Plaintiff, including the use of the United States Mail.

19.

Defendant UNIFUND through its legal representatives at LAZEGA, filed a lawsuit against Plaintiff JARVIS GATLIN in Gwinnett County Magistrate Court on April 1, 2015.

20.

The lawsuit brought by Defendant UNIFUND against Plaintiff became UNIFUND CCR LLC V. JARVIS GATLIN, Case No. 15M09018, Gwinnett County Magistrate Court.

21.

The Statement of Claim filed by Defendant LAZEGA on behalf of Defendant UNIFUND is a sworn and verified Statement of Claim.

22.

The Statement of Claim filed by Defendant LAZEGA on behalf of Defendant UNIFUND stated a claim for both principal and interest.

23.

The Statement of Claim filed by Defendant LAZEGA on behalf of Defendant UNIFUND states a principal amount that is different than the principal amount identified in the documents attached to the Statement of Claim.

24.

The Statement of Claim filed by Defendant LAZEGA on behalf of Defendant UNIFUND states an interest amount to which Defendant UNIFUND has no legal right to collect.

25.

The alleged account upon which the Statement of Claim filed by Defendant LAZEGA on behalf of Defendant UNIFUND is based is, and was at the time the lawsuit was filed, beyond the statute of limitations for this type of claim.

26.

Plaintiff does not live in Gwinnett County, Georgia, and was never served with the lawsuit from Defendant UNIFUND in Gwinnett County, Georgia.

27.

On August 12, 2015, the Gwinnett County Magistrate Court entered an order extending the time to perfect service of process and dismissal if service is not perfected, granting Defendant LAZEGA and Defendant UNIFUND 45 days to perfect service of process on Plaintiff GATLIN. (**Exhibit 1** ORDER EXTENDING TIME TO PERFECT SERVICE AND & DISMISSAL IF SERVICE IS NOT PERFECTED.)

28.

The Gwinnett Magistrate Court's Order stated that failure to serve within 45 days would result in the magistrate court case being dismissed instantler.



29.

Defendants did not serve Plaintiff with the statement of claim within the 45 day period allowed by the Gwinnett Magistrate Court.

30.

The Gwinnett County Clerk of Court entered the case as dismissed on its records as a result of Defendants' failure to serve Plaintiff within the 45 day period allowed by the order.

31.

Defendants ignored the plain language of the court's order and proceeded to have the lawsuit served upon Plaintiff despite the case being dismissed.

32.

Plaintiff was given a copy of the Gwinnett County Magistrate Court lawsuit on December 1, 2015 by a sheriff's deputy in Walton County, Georgia, although it was not clear whether this was a Walton County Sheriff's Deputy or a Gwinnett County Sheriff's Deputy.

33.

This attempt to serve Plaintiff by Defendants occurred 111 days after the Order extending time was issued, not 45 days—a total of 66 days past the time period for which the court allowed for service prior to dismissal.

34.

Defendant LAZEGA, on behalf of Defendant UNIFUND, continued to file invalid and improper legal documents with the Gwinnett County Magistrate Court after the underlying state magistrate court case was dismissed.

35.

Defendant LAZEGA, on behalf of Defendant UNIFUND, filed a motion dated December 22, 2015, to transfer the non-existent case from Gwinnett County to Walton County, despite the case being dismissed by the Gwinnett County Magistrate Court.

36.

Enclosed with the improper and invalid motion to transfer filed by Defendant LAZEGA on behalf of Defendant UNIFUND a proposed order for the transfer was also enclosed.

37.

Defendant LAZEGA, on behalf of Defendant UNIFUND, sent a copy of the improper and invalid motion to transfer and order transferring the case to Plaintiff through the United States Mail, and evidenced this mailing through a certificate of service.

38.

Plaintiff, viewing these invalid and improper filings by Defendants as valid legal documents to which responses were needed, retained the services of legal counsel to review this matter.

39.

Plaintiff incurred costs associated with obtaining legal counsel to investigate and respond to the state court magistrate action.

40.

Plaintiff suffered anxiety and stress related to the invalid and improper service of process, as well as the improper and invalid legal filings made by Defendants.

#### RESPONDEAT SUPERIOR

41.

The acts and omissions of Defendants' employees who acted as agents for Defendants as described herein, were committed within the time and space limits of their agency relationship with their respective principals, Defendants.

42.

The acts and omissions by Defendants' employees who acted as agents for Defendants were incidental to, or of the same general nature as the responsibilities these agents were authorized to perform by Defendants in collecting consumer debts.

43.

By committing these acts and omissions against Plaintiff, Defendants' employees and agents were motivated to benefit their respective principals, Defendants.

44.

Defendants are therefore liable to Plaintiff through the doctrine of respondeat superior for the intentional and negligent acts, errors, and omissions done in violation of state and federal law by their respective employees.

### **FIRST CAUSE OF ACTION**

#### **(Violations of the FDCPA by ALL DEFENDANTS)**

45.

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

46.

Based on information and belief, Defendants UNIFUND CCR LLC and LAZEGA & JOHANSON LLC have violated the Fair Debt Collection Practices Act (“FDCPA”).

*Defendants FDCPA Violations For Prosecuting A Lawsuit  
Against A Consumer After the Statute of Limitations Expires*

47.

Defendants filed a lawsuit after the applicable statute of limitations had expired on the underlying alleged debt.

48.

Defendants either knew, or should have known, that the statute of limitations on the underlying alleged debt had already expired, and either knowingly or intentionally filed a lawsuit on an alleged debt beyond the statute of limitations, or failed to have meaningful attorney involvement in the review of the matter file prior to the filing of the lawsuit.

49.

Prosecuting a time-barred claim is a violation of the FDCPA’s prohibition against making false and misleading claims as to the legal status of a debt. Fair Debt Collection Practices Act, 15 U.S.C. § 1692e.

50.

Prosecuting a time-barred claim is also a violation of the FDCPA's prohibition against using unfair and unconscionable means to collect a debt. Fair Debt Collection Practices Act, 15 U.S.C. § 1962f.

51.

Defendants' actions have caused Plaintiff to have to retain legal counsel to investigate and respond to Defendants improperly filed claims, have caused Plaintiff anxiety and stress, and have resulted in actual and direct harm to Plaintiff in an amount to be shown with more particularity at a later date.

52.

Defendants are liable to Plaintiff for statutory damages of up to the maximum of \$1,000, plus actual damages in an amount to be shown with more particularity at a later date, plus reasonable court costs and attorneys' fees in accordance with the FDCPA, 15 U.S.C. § 1692k(a)(2)-(3).

*Defendants FDCPA Violations Resulting From  
Improper & Invalid Actions After State Magistrate Court Case Dismissal*

53.

Defendants served upon Plaintiff a copy of an already dismissed lawsuit, causing papers masquerading as legal process to be delivered to Plaintiff. FDCPA, 15 U.S.C. § 1692e; § 1692e(13).

54.

Defendants service of null legal papers on Plaintiff masquerading as legal process was the threat to take legal action which could not be taken. FDCPA, 15 U.S.C. § 1692e; § 1692e(5).

55.

Defendants subsequent sending, through the United States Mail, a null and improper motion to transfer constitutes a threat to take legal action which cannot be taken. FDCPA, 15 U.S.C. § 1692e; § 1692e(5).

56.

At all times, Defendants knew or should have known that the case was dismissed by the state magistrate court, and if they did not know it was because Defendants failed to engage in meaningful attorney review of the file prior to engaging in improper and invalid actions.

57.

Defendants' actions are in violation of the FDCPA's prohibition against making false and misleading claims. Fair Debt Collection Practices Act, 15 U.S.C. § 1692e.

58.

Defendants' actions are in violation of the FDCPA's prohibition against using unfair and unconscionable means to collect a debt. Fair Debt Collection Practices Act, 15 U.S.C. § 1962f.

59.

Defendants' actions have caused Plaintiff to have to retain legal counsel to investigate and respond to Defendants improperly filed claims, have caused Plaintiff anxiety and stress, and have resulted in actual and direct harm to Plaintiff in an amount to be shown with more particularity at a later date.

60.

Defendants are liable to Plaintiff for statutory damages of up to the maximum of \$1,000, plus actual damages in an amount to be shown with more particularity at a later date, plus reasonable court costs and attorneys' fees in accordance with the FDCPA, 15 U.S.C. § 1692k(a)(2)-(3).



*Defendants FDCPA Violations Resulting From  
Filing A Verified Statement of Claim Containing False Statements*

61.

Defendant LAZEGA filed a verified Statement of Claim in Gwinnett County Magistrate Court on behalf of Defendant UNIFUND which contained material and false statements.

62.

Defendants false Statement of Claim sought an amount in principal which is contradicted by Defendants owned documents attached to the Statement of Claim.

63.

Defendants false Statement of Claim sought an amount in interest to which it has no right to collect under any contract or other legal remedy.

64.

Defendants' actions are in violation of the FDCPA's prohibition against making false and misleading claims. Fair Debt Collection Practices Act, 15 U.S.C. § 1692e.

65.

Defendants' actions are in violation of the FDCPA's prohibition against using unfair and unconscionable means to collect a debt. Fair Debt Collection Practices Act, 15 U.S.C. § 1962f.

66.

Defendants' actions have caused Plaintiff to have to retain legal counsel to investigate and respond to Defendants improperly filed claims, have caused Plaintiff anxiety and stress, and have resulted in actual and direct harm to Plaintiff in an amount to be shown with more particularity at a later date.

67.

Defendants are liable to Plaintiff for statutory damages of up to the maximum of \$1,000, plus actual damages in an amount to be shown with more particularity at a later date, plus reasonable court costs and attorneys' fees in accordance with the FDCPA, 15 U.S.C. § 1692k(a)(2)-(3).

**JURY DEMAND**

68.

Plaintiff demands a trial by jury.

**WHEREFORE**, Plaintiff prays that this Court:

- (1) Find Defendants jointly and severally liable for violations of the Fair Debt Collection Practices Act directly contacting a consumer represented by an attorney.
- (2) Award Plaintiff the full \$1,000 statutory damages for Defendants' FDCPA violations;
- (3) Award Plaintiff actual damages in an amount to be shown with more particularity at a later date;
- (4) Award Plaintiffs reasonable attorney's fees in accordance with the FDCPA 15 U.S.C. § 1692k(a)(2)-(3);
- (5) Award Plaintiff the reasonable costs of this action;
- (6) Award Plaintiff other expenses of litigation;
- (7) Grant Plaintiff such other and additional relief as the Court deems just and equitable.

Respectfully submitted this 29th day of January, 2016.

/s/ John William Nelson  
John William Nelson  
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