ase 2:10-cv-00558-RLH -PAL Document 1 Filed 04/19/10 Page 1 of 6

MITCHELL D. GLINER, ESQ. Nevada Bar #003419

2 3017 West Charleston Blvd., #95

Las Vegas, NV 89102

3 (702) 870-8700 (702) 870-0034 Fax

4 Attorney for Plaintiff

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UNITED STATES DISTRICT COURT

6 DISTRICT OF NEVADA

7

DAN A. MATTILA, )

8 )

Plaintiff, )

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(702) 87H700 15

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VS. )

) PINNACLE CREDIT SERVICES, LLC,) a foreign Limited Liability )

Company, and )

NATIONAL ACTION FINANCIAL )

SERVICES, a foreign )

corporation, )

)

Defendants. )

)

No.

JURY DEMANDED

16 COMPLAINT

17 JURISDICTION

18 1. The jurisdiction of this Court attains pursuant to the FDCPA, 15 u.s.c. § 1692k(d)*I* 28 u.s.c. § 1331, 28 u.s.c. § 1332, and the doctrine of supplemental jurisdiction. Venue lies in the

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Southern Division of the Judicial District of Nevada as Plaintiff's claims arose from acts of the Defendants perpetrated therein.

PRELIMINARY STATEMENT

2. This action is instituted in accordance with and to remedy Defendants' violations of the Federal Fair Debt Collection Practices Act, 15 U.S.C § 1692 et seq. (hereinafter "FDCPA"), and of related state law obligations brought as supplemental claims hereto.

ase 2:10-cv-00558-RLH **-PAL** Document 1 Filed 04/19/10 Page 2 of 6

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3. In 2006 Defendants initiated a campaign of abusive, unfair, unreasonable, and unlawful debt collection activity directed against Plaintiff in Las Vegas, Nevada.

4. As a result of these and other violations of law, Plaintiff seeks hereby to recover actual and statutory damages together with reasonable attorney's fees and costs.

PARTIES

5. Plaintiff, Dan A. Mattila, is a natural person who resides in Las Vegas, Nevada, and is a "consumer" as defined by 15

U.S.C. Section 1692a(3) and allegedly owes a "debt" as defined by

15 U.S.C. Section 1692a(5).

6. The Defendant, Pinnacle Credit Services, LLC, (Pinnacle) is a Limited Liability Company, the principal purpose of whose business is the collection of debts operating a debt collection agency from its principal place of business in Minneapolis, MN and regularly collections or attempts to collect debts owed or due or asserted to be owed or due another, and is a "debt collector" as defined by 15. U.S.C. Section 1692a(6).

7. The Defendant National Action Financial Services, (National) is a foreign corporation, the principal purpose of whose business is the collection of debts, operating a debt collection agency from its principal place of business is Buffalo, NY, and regularly collects or attempts to collect debts owed or due or asserted to be owed or due another, and is a "debt collector" as defined by 15 U.S.C. Section 1692a(6).

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ase 2:10-cv-00558-RLH -PAL Document 1 Filed 04/19/10 Page 3 of 6

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FACTUAL ALLEGATIONS

8. Plaintiff repeats, realleges and asserts all factual allegations contained ln the preliminary statement to this Complaint and reasserts them as incorporated in full herein.

9. The debt underlying this action was paid by Plaintiff during June, 2003.

10. The underlying account is otherwise barred by the applicable Statute of Limitations.

11. Pinnacle was previously sued in Federal Court for previously illegally attempting to collect this *account, styled Mattila v. Pinnacle Credit Services, LLC* et *al,* Case No. 2:07-cv-

01327-KJD-RJJ (2007).

12. Notwithstanding, Pinnacle has incomprehensibly assigned this account to National (Exhibit 1).

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| --- | --- | --- |
| (702) 870-8700 | 15 | 13. Pinnacle confidentially resolved the 2007 action. |
|  | 16 | 14. Notwithstanding, Pinnacle again assigned the underlying |
|  | 17 | account for collection despite explicit knowledge Plaintiff was |
|  | 18 | indeed represented by counsel in violation of FDCPA § 1692c(a)(2). |
|  | 19 | Kuhn v. Account Control Technology, Inc., 865 F. Supp. 1443, 1453 |
|  | 20 | (D. Nevada 1994). |
|  | 21 | 15. Plaintiff had a right "to *be left alone"* which Pinnacle |
|  | 22 | serially ignored. Kuhn v. Account Control Technology, Inc., 865 F. |
|  | 23 Supp. 1443, 1448 (D. Nev. 1994). |
|  | 24 16. Defendants' attempts to knowingly collect on a fully |
|  | 25 satisfied, time-barred and otherwise invalid debt was in violation |
|  | 26 of both FDCPA §§ 1692e(2)(A) and (10) and FDCPA § 1692f. Kimber v. |
|  | 27 Federal Financial Corp., 668 F. Supp. 1480, 1487-89 (M.D. Ala. |
|  | 28 1987). |

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ase 2:10-cv-00558-RLH **-PAL** Document 1 Filed 04/19/10 Page 4 of 6

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17. The foregoing acts and omissions of Defendants were undertaken by it willfully, maliciously, and intentionally, knowingly, and/or in gross or reckless disregard of the rights of Plaintiff.

18. Indeed, the foregoing acts and omissions of Defendants

were undertaken by it indiscriminately and persistently, as part of its regular and routine debt collection efforts, and without regard to or consideration of the identity or rights of Plaintiff.

19. As a proximate result of the foregoing acts and omission

of Defendants, Plaintiff has suffered actual damages and injury, including, but not limited to, stress, humiliation, mental anguish and suffering, and emotional distress, for which Plaintiff should be compensated in an amount to be proven at trial.

20. As a result of the foregoing acts and omissions of

Defendants, and in order to punish Defendant for its outrageous and malicious conduct, as well as to deter it from committing similar acts in the future as part of its debt collection efforts, Plaintiff is entitled to recover punitive damages in an amount to be proven at trial.

CAUSES OF ACTION COUNT I

21. The foregoing acts and omissions of Defendants

constitute violations of the FDCPA, including, but not limited to, Sections 1692c, 1692d, 1692e 1692f and 1692g.

22. Plaintiff is entitled to recover statutory damages, actual damages, reasonable attorney's fees, and costs.

COUNT II

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ase 2:10-cv-00558-RLH -PAL Document 1 Filed 04/19/10 Page 5 of 6

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23. The foregoing acts and omissions of Defendants constitute unreasonable debt collection practices in violation of the doctrine of Invasion of Privacy. *Kuhn v. Account Control Technology,* Inc.,

*865* F. *Supp. 1443, 1448-49 (D. Nev. 1994); Pittman v. J. J. Mac*

*Intyre* Co. *of Nevada, Inc., 969* F. *Supp. 609, 613-14 (D. of Nev.*

*1997).*

24. Plaintiff is entitled to recover actual damages as well as punitive damages in an amount to be proven at trial.

JURY DEMANDED

Plaintiff hereby demands trial by a jury on all issues so triable.

THEREFORE, Pla:tntiff prays that this Honorable Court grant the following relief:

1. Award actual damages.

2. Award punitive damages.

3. Award statutory damages of $1,000 pursuant to 15 U.S.C.

§ 1692k.

4. Award reasonable attorney fees.

5. Award costs.

6. Grant such other and further relief as it deems just and proper.

Boulevard

Las Vegas, NV 89102

Attorney for Plaintiff

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Case 2:10-cv-00558-RLH -PAL Document 1

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PO BOX 9027

WILLIAMSVILLE, NY 14231-9027

FORWARDING SERVICE REQUESTED

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Filed 04/19/10 **PTf/Af:!s**

*National Action Financial Services, Inc.*

HJ00-304-8519 1-716-565-1020

Fax 716-65o-626B

Previous Creditor: VERIZON WIRELESS

Current Creditor: PINNACLE CREDIT SERVICES

LLC

Account Number: 0011051633989900001

Balance: $419.60 '<"

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PINNACLE CREDIT SERV.ICES LLC,HASPURCt-iASED·THE.ABOVEREFERENCEDACCOUNTFROM THEABOVE .. REFERENCED PREVIOUS CREDITOR. PINNACLE CREDIT SERVICES LLC-HAS.PLACED YOUR ACCOUNT WITH THIS AGENCY FORCOLLECTION. PINNACLE CREDIT SERVICESLLC HASADVISED US THAT INTEREST WILL CONTINUE

TO ACCRUE ON YOUR ACC.OUNTAS PROVIDED FOR \_IN YOUR AGBEEMENT WITH THE ORIGINAL CREDIT··GRANTOR.

AS OF THE DATE OF THIS LETTER YOU OWE $419.60. BECAUSE OF INTEREST,: LATE CHARGES, AND OTHER CHARGES THAT MAY VARY FROMDAY TO DAY, THEAMOUNTDUEON THEDAYYOUPAY MAY BE.GREATER. HENCE. IF YOU PAYTHEAMOUNTSHOWN ABOVE, AN ADJUSTMENTMAY'BE NECESSARY AFTER WE RECEIVE YOUR CHECK. IN WHICH EVENT WE WILL INFORM YOU BEFORE DEPOSITING THE CHECK FOR COLLECTION. FOR FURTHER INFORMATION, WRITETHE UNDERSIGNED OR CALL

1-800-3048519. . . . .

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WE RECOGNIZE YOU MAY HAVE EXPERIENCED DIFFiCULT CIRCUMSTANCES THAT PREVENTED YOU FROM REPAYING THIS OBLIGATION AS ORIGINALLY AGREED. PLEASE HEMIT THE ENTIRE BALANCE DUETO·OUR OFFICE USING THE RETURN ENVELOPE PROVIDED. IF YOU HAVEANY QUESTIONS OR WISH TO DISCUSS YOUR. ACCOUNT WITH ONEOF OUR REPRESENTATIVES, PLEASE CALL OUR TOLL-FREE NUMBERAT 1-800-304-8519.

NATIONAL ACTION FINANCIAL SERVICES. INC·

THIS IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION OBTAINED-WILL BE USED FOR THAT PURPOSE. THIS IS A COMMUNICATION FROMA DEBT COLLECTOR. ' .

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UNLESS YOU NOTIFY THIS OFFICE WITHIN 30 DAYS AFTERRECEIVING THIS N0TICETHATYOU DISPUTE THE VALIDITY OF THE DEBT ORANY PORTION THEREOF,'OUR OFFICE WILLAS8UME THIS DEBT IS VALID. IFYOU· NOTIFY THIS OFFICE IN WR'!TINGWITHIN 30 DAYS FROM RECEIVING THIS NOTICE THAT YOU DISPUTEiHIS DEBT OR ANY PORTION THEREOF, THIS OFFICE WILL OBTAIN VERIFICATION OF THE DEBT.OR OBTAIN A COPY OF A JUDGMENT AND MAIL YOU A COPY OF SUCH JUDGMENT OR VERIFICATION. UPON YOUR WRITTEN REQUEST WITHIN 30 DAYS AFTER RECEIVING THIS NOTICE, THIS OFFICE WILL PROVIDE YOU WITH THE NAME AND ADDRESS

O-FTHEORIGINAL CREDITOR. IF D- IFFERENT FROM T-HE CU- R· RENTC-REDI-TOR.c · ..

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NATIONAL ACTION FINANCIAL SERVICES, INC., 165 LAWRENCE BELL DRIVE, STE 100, P.O. BOX 9027, WILLIAMSVILLE, NY 14231-9027. . . .

FOR PROBLEMS RELATING TO THE HANDLING OF THIS ACCOUNT YOU MAY CONTACT OUR COMPLIANCE DEPARTMENT AT 1800-847-9106. .

**EXHIBIT 1**