

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

FINEMAN KREKSTEIN & HARRIS, P.C.

A Pennsylvania Professional Corporation

BY RICHARD J. PERR, ESQUIRE

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Attorneys for Defendant Capital Management Services, LP

	:	
SILVANA SERAJI, et al.,	:	CIVIL ACTION
Plaintiffs	:	
	:	
v.	:	NO. 3:09-cv-03465-FLW-DEA
	:	
CAPITAL MANAGEMENT SERVICES, LP,	:	
et al.,	:	
Defendants	:	Document Filed Electronically
	:	

**DEFENDANT CAPITAL MANAGEMENT SERVICES, LP'S
ANSWER, AFFIRMATIVE DEFENSES AND DEMAND FOR JURY**

Defendant Capital Management Services Group, LP (“Defendant”), by its undersigned counsel, answers Plaintiffs’ Complaint as follows:

FIRST DEFENSE

1. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 1 of the Complaint, and therefore denies said allegations.
2. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 2 of the Complaint, and therefore denies said allegations.
3. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 3 of the Complaint, and therefore denies said allegations.

4. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 4 of the Complaint, and therefore denies said allegations.
5. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 5 of the Complaint, and therefore denies said allegations.
6. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 6 of the Complaint, and therefore denies said allegations.
7. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 7 of the Complaint, and therefore denies said allegations.
8. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 8 of the Complaint, and therefore denies said allegations.
9. Admitted.
10. Denied.
11. Denied.
12. Admitted that this Court has subject matter jurisdiction over Plaintiffs' federal law claims. Defendant is without sufficient knowledge to form a belief as to the truth of the remaining allegations contained in paragraph 12 of the Complaint, and therefore denies said allegations.
13. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 13 of the Complaint, and therefore denies said allegations.
14. Denied.
15. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 15 of the Complaint, and therefore denies said allegations.
16. Denied.
17. Denied.
18. Denied.

19. Defendant admits to the content of the FDCPA. All other allegations contained in paragraph 19 of the Complaint are denied.
20. Defendant admits to the content of the FDCPA. All other allegations contained in paragraph 20 of the Complaint are denied.
21. Defendant admits to the content of the FDCPA. All other allegations contained in paragraph 21 of the Complaint are denied.
22. Defendant admits to the content of the FDCPA. All other allegations contained in paragraph 22 of the Complaint are denied.
23. Defendant admits to the content of the FDCPA and TDCPA. All other allegations contained in paragraph 23 of the Complaint are denied.
24. Denied.
25. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 25 of the Complaint, and therefore denies said allegations.
26. Admitted that Defendant telephoned Plaintiff Seraji on July 15, 2008. All other allegations contained in paragraph 26 of the Complaint are denied.
27. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 27 of the Complaint, and therefore denies said allegations.
28. Admitted.
29. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 29 of the Complaint, and therefore denies said allegations.
30. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 30 of the Complaint, and therefore denies said allegations.
31. Admitted that Bank of America referred Plaintiff Seraji's account to Defendant on June 6, 2008 for collection. All other allegations contained in paragraph 31 of the Complaint are denied.
32. Denied.
33. Admitted that Defendant telephoned Plaintiff Seraji on July 15, 2008 and left a message on her answering machine. Defendant is without sufficient knowledge to form a belief as

to the truth of the remaining allegations contained in paragraph 33 of the Complaint, and therefore denies said allegations.

34. Denied.
35. Admitted.
36. Denied.
37. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 37 of the Complaint, and therefore denies said allegations.
38. Admitted.
39. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 39 of the Complaint, and therefore denies said allegations.
40. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 40 of the Complaint, and therefore denies said allegations.
41. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 41 of the Complaint, and therefore denies said allegations.
42. Admitted that Chase Bank USA referred Plaintiff Yarborough's account to Defendant on August 6, 2008 for collection. All other allegations contained in paragraph 42 of the Complaint are denied.
43. Denied.
44. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 44 of the Complaint, and therefore denies said allegations.
45. Admitted.
46. Admitted that Defendant forwarded correspondence to Plaintiff Koby on July 2, 2008 regarding a Chase Bank USA account. Further admitted that the correspondence speaks for itself. All other allegations contained in paragraph 46 of the Complaint are denied.
47. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 47 of the Complaint, and therefore denies said allegations.

48. Admitted.
49. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 49 of the Complaint, and therefore denies said allegations.
50. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 50 of the Complaint, and therefore denies said allegations.
51. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 51 of the Complaint, and therefore denies said allegations.
52. Admitted that Chase Bank USA referred Plaintiff Koby's account to Defendant on June 30, 2008 for collection. All other allegations contained in paragraph 52 of the Complaint are denied.
53. Admitted that Defendant telephoned Plaintiff Koby on July 15, 2008, July 23, 2008, July 24, 2008, and July 25, 2008 and left messages on his answering machine. Defendant is without sufficient knowledge to form a belief as to the truth of the remaining allegations contained in paragraph 53 of the Complaint, and therefore denies said allegations.
54. Admitted that Defendant telephoned Plaintiff Koby on October 6, 2008 and October 14, 2008 and left messages on his answering machine. Defendant is without sufficient knowledge to form a belief as to the truth of the remaining allegations contained in paragraph 54 of the Complaint, and therefore denies said allegations.
55. Denied.
56. Admitted.
57. Admitted that Defendant forwarded correspondence to Plaintiff Taylor on August 19, 2008 regarding a Washington Mutual account. Further admitted that the correspondence speaks for itself. All other allegations contained in paragraph 57 of the Complaint are denied.
58. Admitted that Defendant forwarded correspondence to Plaintiff Taylor on September 7, 2008 regarding a Chase Bank USA account. Further admitted that the correspondence speaks for itself. All other allegations contained in paragraph 58 of the Complaint are denied.
59. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 59 of the Complaint, and therefore denies said allegations.

60. Admitted.
61. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 61 of the Complaint, and therefore denies said allegations.
62. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 62 of the Complaint, and therefore denies said allegations.
63. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 63 of the Complaint, and therefore denies said allegations.
64. Admitted that Chase Bank USA referred Plaintiff Taylor's account to Defendant on September 5, 2008 for collection. Admitted that Washington Mutual referred Plaintiff Taylor's account to Defendant on August 18, 2008 for collection. All other allegations contained in paragraph 64 of the Complaint are denied.
65. Admitted that Defendant telephone Plaintiff Taylor on September 12, 2008 and left a message on his answering machine. Defendant is without sufficient knowledge to form a belief as to the truth of the remaining allegations contained in paragraph 65 of the Complaint, and therefore denies said allegations.
66. Denied.
67. Admitted.
68. Admitted that Defendant uses the telephone and United States mails to collect on accounts. All other allegations contained in paragraph 68 of the Complaint are denied.
69. Admitted that under certain circumstances, Defendant may be a "debt collector" as that term is defined in the Fair Debt Collection Practices Act. All other allegations contained in paragraph 69 of the Complaint are denied.
70. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 70 of the Complaint, and therefore denies said allegations.
71. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 71 of the Complaint, and therefore denies said allegations.
72. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 72 of the Complaint, and therefore denies said allegations.

- 73. Admitted.
- 74. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 74 of the Complaint, and therefore denies said allegations.
- 75. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 75 of the Complaint, and therefore denies said allegations.
- 76. Denied.
- 77. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 77 of the Complaint, and therefore denies said allegations.
- 78. Denied.
- 79. Denied.
- 80. Denied.
- 81. Denied.
- 82. Denied.
- 83. Denied.
- 84. Denied.
- 85. Denied.
- 86. Denied.
- 87. Denied.
- 88. Denied.
- 89. Denied.
- 90. Denied.
- 91. Denied.
- 92. Denied.

- 93. Denied.
- 94. Denied.
- 95. Denied.
- 96. Denied.
- 97. Denied.
- 98. Denied.
- 99. Denied.
- 100. Denied.
- 101. Denied.
- 102. Denied.
- 103. Denied.
- 104. Denied.
- 105. Denied.
- 106. Denied.
- 107. All allegations incorporated by reference in Paragraph 107 of the Complaint are admitted and denied in the same manner and to the same extent as said allegations are otherwise admitted and denied herein.
- 108. Denied.
- 109. All allegations incorporated by reference in Paragraph 109 of the Complaint are admitted and denied in the same manner and to the same extent as said allegations are otherwise admitted and denied herein.
- 110. Denied.
- 111. Denied.
- 112. Denied.
- 113. All other allegations contained in the Complaint which are not otherwise specifically admitted or denied herein are denied.

WHEREFORE, Defendant request that this Court dismiss Plaintiffs' Complaint at Plaintiffs' cost, and that Defendant be awarded reasonable attorney fees and costs as provided for under applicable law.

AFFIRMATIVE DEFENSES

1. Any violation of law, which is specifically denied, was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.
2. Plaintiffs failed to state a claim upon which relief can be granted.
3. Defendant acted in good faith at all times.
4. Defendant did not make any false or misleading representation to Plaintiffs or anyone else.
5. Plaintiffs did not justifiably rely upon any alleged false or misleading representation.

DEMAND FOR JURY

Defendant Capital Management Services, LP, demands a jury pursuant to Fed.R.Civ.P. 38 for all issues so triable.

FINEMAN KREKSTEIN & HARRIS, P.C.

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Attorneys for Defendant Capital Management
Services, LP

Dated: September 3, 2009

CERTIFICATE OF SERVICE

I, RICHARD J. PERR, ESQUIRE, hereby certify that on or about this date, I served a true and correct copy of the foregoing electronically, or by first class mail, postage prepaid, or telecopy on the following:

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Attorneys for Plaintiffs

/s/ Richard J. Perr

RICHARD J. PERR, ESQUIRE

Dated: _____ September 3, 2009 _____