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upon this Court with respect to the supplemental state law claims of the State of New York by 28 U.S.C. § 1367.

4. Venue is proper in this district under 28 U.S.C. § 1391(b)(1), (b)(2), (b)(3), (c)(1), (c)(2), and (d), and 15 U.S.C. § 53(b).

### **PLAINTIFFS**

5. The FTC is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41-58. The FTC enforces Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or affecting commerce. The FTC also enforces the FDCPA, 15 U.S.C. §§ 1692-1692p, which prohibits abusive, deceptive, and unfair debt collection practices and imposes duties upon debt collectors.

6. The FTC is authorized to initiate federal district court proceedings, by its own attorneys, to enjoin violations of the FTC Act and the FDCPA and to secure such equitable relief as may be appropriate in each case, including rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies. 15 U.S.C. §§ 53(b) and 56(a)(2)(A), and 1692l(a).

7. The State of New York, by its Attorney General, is authorized to take action to enjoin (i) repeated and persistent fraudulent and illegal business conduct under New York Executive Law § 63(12); (ii) deceptive business practices under New York General Business Law § 349; and (iii) illegal debt collection practices under General Business Law § 602; and to obtain legal or equitable relief, including rescission or reformation of contracts, restitution, the appointment of a receiver, disgorgement of ill-gotten monies, or other relief as may be appropriate.

## DEFENDANTS

8. Defendants are third-party debt collectors that, in many instances, have purchased portfolios of allegedly past-due consumer debt and collected payments on their own behalf from consumers nationwide. Defendants are “debt collectors” as defined in Section 803(6) of the FDCPA, 15 U.S.C. § 1692a(6).

9. Defendants have attempted to collect these purported debts by contacting consumers using instrumentalities of interstate commerce, including telephone calls, electronic mail, and United States mail.

10. Defendants have regularly threatened, pressured, and harassed consumers into paying debts the consumers do not owe. Defendants have continued to collect on these fake debts even after the supposed creditor notified them that the debts were bogus. Even when Defendants have collected debts they reasonably believe are legitimate, they have done so using deception and harassment.

11. Defendant **Kelly S. Brace** is or has been the owner and an officer of Braclair Management, LLC; the CEO and owner of Credit Clear Solutions, LLC; the owner and managing member of Solidus Group, LLC; and a member of Solidus Solutions, LLC (collectively, “Corporate Defendants”). At times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, had the auth

12. Defendant Brace has operated his debt-collection enterprise through various corporate entities, including but not limited to the named Defendants listed below, and through the following recently dissolved New York limited liability companies: Delaware Asset Management, LLC; Clear Credit Services, LLC; and Delaware Solutions, LLC.

13. Defendant **Braclaire Management, LLC**, also d/b/a Clear Credit Services, also d/b/a Clear Credit Solutions, and also d/b/a Delaware Solutions,



consumers. Defendants have also disclosed consumers' purported debts to third parties, failed to identify themselves in communications to consumers, and failed to provide statutorily required disclosures.

### **Defendants' Attempts to Collect Fake Debts**

21.

Defendants' attorney, but refused to provide contact information for that attorney and then hung up. When Marsh called back, the manager told him that, if he called again, Defendants would consider it harassment and report him to law enforcement.

25. On numerous occasions, Defendants have



attempted to collect on the bogus loans and again when, sometimes years later, debt collectors harassed them for debts they did not owe.

28. Defendants purchased some of the debts purportedly owed on these fabricated loans. Even after the FTC and CFPB filed their actions and announced them publically, however, Defendants have continued to collect on those debts. Defendants also ignored statements from consumers that they had never heard of the lenders and did not owe debts on these purported payday loans. Defendants, therefore, knew or should have known that many debts on which they collected or attempted to collect that were purportedly owed to the defendants in *CWB Services* and *Moseley* were fabricated.

#### **Defendants' False Threats of Legal Action Against Consumers**

29. In numerous instances, Defendants have threatened to take legal action against consumers—including litigation and arrest—without the intention or ability to take such action. Defendants have routinely represented to consumers that such legal action is in process or will happen in the immediate future, and that the only way for a consumer to prevent legal action is to make an immediate payment.

30. For example, in numerous voicemails to consumers who allegedly owe a debt, Defendants have claimed that they are planning to serve process on the consumer within 48 hours at the consumer's home or place of employment. Other voicemails have told consumers that Defendants will file a claim "immediately" unless consumers contact them. In addition, in phone conversations and in voicemails, Defendants have told consumers that they have already filed a claim against them. Defendants have also frequently told consumers that they will sue consumers for "check fraud" unless the consumers pay.



35. In numerous such instances, Defendants either: (1) already possessed contact information for the consumer, including the consumer's place of abode, telephone number, or place of employment; (2) disclosed the consumer's purported debt to the third party; or (3) represented to the third party that Defendants will commence legal action—including arrest—against the putative debtor if the debt is not paid.

**Defendants' Failure to Disclose Identity**

36. In numerous instances, Defendants have communicated with consumers by phone without meaningfully disclosing Defendants' identity. For example, in numerous voicemail messages, Defendants have represented that a consumer will be sued and have provided a phone number the consumer may call for more information, but have not disclosed the name of their company or the fact that they are debt collectors. In some of these voicemails, Defendants have described themselves as process servers who were planning to deliver papers to consumers at their homes or places of employment.

**Defendants' Failure to Provide Statutorily Required  
Notices and Disclosures to Consumers**

37. Defendants have failed to provide consumers with statutorily required disclosures, including disclosures identifying themselves as debt collectors and stating that the communication is an attempt to collect a debt and any information provided by the consumer will be used for that purpose.

38. In numerous instances, Defendants also have failed to provide consumers with a statutorily required notice, either orally in their initial communication with the consumer or in writing within five days of the initial oral communication, setting forth the following: 1) the amount of the alleged debt; 2) the name of the creditor to whom the purported debt is owed; 3) a

statement that unless the consumer disputes th

44. Therefore, Defendants' representations as set forth in Paragraph 42 of this

- e. Defendants could not have had, or did not intend to have, the consumer arrested, imprisoned, or criminally prosecuted.

47. Therefore, Defendants' representations as set forth in Paragraph 45 of this Complaint are false or misleading and constitute deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

#### **VIOLATIONS OF THE FDCPA**

48. In 1977, Congress passed the FDCPA, 15 U.S.C. §§ 1692-1692p, which became effective on March 20, 1978, and has been in force since that date. Under Section 814 of the FDCPA, 15 U.S.C. § 1692l, a violation of the FDCPA is deemed an unfair or deceptive act or practice in violation of the FTC Act. Further, the FTC is authorized to use all of its functions and powers under the FTC Act to enforce compliance with the FDCPA.

49. Throughout this Complaint, the term "consumer," as defined in Section 803(3) of the FDCPA, 15 U.S.C. § 1692a(3), means "any natural person obligated or allegedly obligated to pay any debt."

50. Throughout this Complaint, the term "debt," as defined in Section 803(5) of the FDCPA, 15 U.S.C. § 1692a(5), means "any amount of money owing by any person to any other person]

**Count III by Plaintiff FTC  
Unlawful Communications with Third Parties**

52. In numerous instances, in connection with the collection of debts, Defendants have communicated with persons other than the consumer, the consumer's attorney, a consumer reporting agency if otherwise permitted by law, the creditor, the attorney of the creditor, the attorney of the debt collector, the consumer's spouse, parent (if the consumer is a minor), guardian, executor, or administrator for purposes other than acquiring location information about the consumer, without having obtained directly the prior consent of the consumer or the express permission of a court of competent jurisdiction, and when not reasonably necessary to effectuate a post judgment judicial remedy, in violation of Section 805(b) of the FDCPA, 15 U.S.C. § 1692c(b).

**Count IV by Plaintiff FTC  
Calls Without Meaningful Disclosure of Identity**

53. In numerous instances, in connection with the collection of debts, Defendants have engaged in conduct the natural consequence of which is to harass, oppress, or abuse a person by placing telephone calls without meaningful disclosure of the caller's identity, in violation of Section 806(6) of the FDCPA, 15 U.S.C. § 1692d(6).

**Count V by Plaintiff FTC  
False, Deceptive, or Misleading Representations to Consumers**

54. In numerous instances, in connection with the collection of debts, Defendants have, directly or indirectly, expressly or by implication, used false, deceptive, or misleading representations or means, in violation of Section 807 of the FDCPA, 15 U.S.C. § 1692e, including, but not limited to:

- a. falsely representing or implying that the debt collector is vouched for, bonded by, or affiliated with a State, in violation of Section 807(1) of the FDCPA, 15 U.S.C. § 1692e(1);
- b. falsely representing the character, am



collector, in violation of Section 807(11) of the FDCPA, 15 U.S.C. § 1692e(11).

**Count VI by Plaintiff FTC  
Failure to Provide Statutorily Required Notice**

55. In numerous instances, in connection with the collection of debts, Defendants have failed to provide consumers, either in the initial communication or a written notice sent within five days after the initial communication, with information about the debt and the right to dispute the debt, in violation of Section 809(a) of the FDCPA, 15 U.S.C. § 1692g(a).

**VIOLATIONS OF NEW YORK STATE LAW**

**Count VII by Plaintiff State of New York  
Repeated Fraudulent or Illegal Acts**

56. New York Executive Law § 63(12) empowers the Attorney General to seek restitution and injunctive relief when any person or business entity has engaged in repeated fraudulent or illegal acts or otherwise demonstrates persistent fraud or illegality in the carrying on, conducting, or transaction of business.

57. Defendants have engaged in repeated fraudulent or illegal acts or otherwise demonstrated persistent fraud or illegality in the carrying on, conducting, or transaction of their debt collection business for purposes of Executive Law § 63(12).

**Count VIII by Plaintiff State of New York  
Deceptive Acts or Practices**

58. New York General Business Law § 349 provides that “[d]eceptive acts or practices in the conduct of any business [...] in this state are hereby declared unlawful.”

59. In numerous instances, Defendants have violated New York General Business Law § 349 by engaging in deceptive acts or practices in connection with conducting their debt collection business.

**Count IX by Plaintiff State of New York  
Violation of New York State Debt Collection Law**

60. New York General Business Law § 601 sets forth a list of prohibited debt collection practices, including:

- a. simulating in any manner a law enforcement officer, or a representative of any governmental agency of the state of New York or any of its political subdivisions (N.Y. Gen. Bus. Law § 601(1));
- b. disclosing or threatening to disclose information affecting the debtor's reputation for credit worthiness with knowledge or reason to know that the information is false ((N.Y. Gen. Bus. Law § 601(3);
- c. disclosing or threatening to disclose information concerning the existence of a debt known to be disputed by the debtor without disclosing that fact (N.Y. Gen. Bus. Law § 601(5));
- d. threatening any action which the debt collector in the usual course of its business does not in fact take (N.Y. Gen. Bus. Law § 601(7)); and
- e. claiming, or attempting or threatening to enforce a right with knowledge or reason to know that the right does not exist (N.Y. Gen. Bus. Law § 601(8)).

61. In numerous instances, Defendants have violated New York General Business Law § 601 by engaging in prohibited debt collection practices under that statute.

**Count X by Plaintiffs FTC and State of New York  
Unjust Enrichment of Relief Defendant**

62. Relief Defendant Joelle J. Leclaire has received, directly or indirectly, funds and other assets from Defendants that are traceable to funds obtained from consumers through Defendants' deceptive, abusive, and unlawful acts and practices described herein.

63. Relief Defendant Joelle J. Leclaire is not a bona fide purchaser with legal and equitable title to funds or other assets obtained from consumers through Defendants' deceptive, abusive, and unlawful acts and practices described herein. Relief Defendant will be unjustly enriched if she is not required to disgorge the funds or the value of the benefit she received as a result of Defendants' deceptive, abusive, and unlawful acts and practices. Relief Defendant holds funds and assets in constructive trust for the benefit of consumers harmed by Defendants.

**CONSUMER INJURY**

64.





F. Award Plaintiffs the costs of bringing this action, as well as such other and additional relief as the Court may determine to be just and proper.

Respectfully submitted,

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Dated: \_\_\_\_\_

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