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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

CRYSTAL HOLGUIN,  
  
Plaintiff,  
  
v.  
  
CREDIT CONTROL, LLC,  
  
Defendant.

Case No: 2:23-cv-03711-SVW-E

**AGREED UPON  
JURY INSTRUCTIONS**

Trial Date: October 17, 2023

Action Filed: May 15, 2023

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**PROPOSED JOINT SUBSTANTIVE JURY INSTRUCTIONS**

**2. BURDEN OF PROOF  
PREPONDERANCE OF THE EVIDENCE**

When a party has the burden of proving any claim or affirmative defense by a preponderance of the evidence, it means you must be persuaded by the evidence that the claim or affirmative defense is more probably true than not true.

You should base your decision on all of the evidence, regardless of which party presented it.

**4. FDCPA  
DEFINITION OF A DEBT**

The term “debt” means any obligation or alleged obligation of a consumer to pay money arising out of a transaction primarily for personal, family, or household purposes. An obligation to pay money is a “debt” whether or not a court judgment has been entered on the obligation.

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**5. FDCPA**  
**DEFINITION OF A DEBT COLLECTOR**

A “debt collector” is defined by the FDCPA as “any person who uses any instrumentality of interstate commerce or the mails in any business the principal purpose of which is the collection of any debt, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due to another.”

**7. FDCPA**  
**DEFINITION OF A CONSUMER**

A “consumer” is defined by the FDCPA as “any natural person obligated or allegedly obligated to pay any debt.” (15 USC § 1692a [3].)

**8. FDCPA**  
**LEAST SOPHISTICIATED DEBTOR STANDARD**

In determining whether the Defendant violated the FDCPA you are to apply the “least sophisticated consumer” standard. Claims should be viewed from the perspective of a consumer whose circumstances make him relatively more susceptible to harassment, oppression or abuse. This law was not made for the protection of experts, but for the public--that vast multitude which includes the ignorant, the unthinking and the credulous, and the fact that a false or misleading statement may be obviously false or misleading to those who are trained and experienced does not change its character, nor take away its power to deceive others less experienced. Thus, in reaching your determination of whether Defendant’s communications are false or deceptive you must view them through the eyes of the “least sophisticated consumer.”

**10. FDCPA  
INTENT IRRELEVANT**

Plaintiff does not have to prove that Defendant intended to violate the FDCPA. She must only prove that Defendant did violate the FDCPA.



**11. FDCPA  
VIOLATION OF SECTION 1692e**

A debt collector may not use any false, deceptive, or misleading representation or means in connection with the attempted collection of any debt.

Under this law, a debt collector may not make any false representations of the character, amount, or legal status of any debt.

A collection letter that attempts to collect a debt not owed violates the law.

A collection letter that attempts to collect an inflated amount violates the law.

A collection letter that attempts to collect a debt on behalf of an entity that does not have the right to collect that debt violates the law.

Plaintiff must prove by a preponderance of the evidence that the statements in the collection letter were false. Plaintiff does not have to prove she, herself, was misled, and does not have to prove Defendant knew the statements were false. In reaching your determination of whether Defendant's communications were false or deceptive you must view them through the eyes of the "least sophisticated debtor."

**12. FDCPA**  
**VIOLATION OF SECTION 1692d**

It is a violation of the FDCPA for any debt collector to engage in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt.

Conduct is harassing, oppressive, or abusive if the natural consequences of the conduct would make a person whose circumstances make him or her more susceptible to harassment, oppression, or abuse feel harassed, oppressed, or abused.

**13. FDCPA**  
**VIOLATION OF SECTION 1692f**

A debt collector may not use unfair or unconscionable means to collect or attempt to collect any debt.

An attempt to collect any amount (including any interest, fee, charge, or expense incidental to the principal obligation), unless such amount is expressly authorized by the agreement creating the debt or permitted by law, violates this section.

**15. ROSENTHAL ACT  
DEFINITION OF A DEBT COLLECTOR**

The Rosenthal Act applies to the actions of “debt collectors.” The term “debt collector” means any person who, in the ordinary course of business, regularly, on behalf of himself or herself or others, engages in debt collection.

**17. ROSENTHAL ACT**  
**DEFINITION OF A CONSUMER DEBT**

The term “debt” means money, property, or the equivalent which is due or owing, or alleged to be due or owing from a natural person to another person.

A “person” to which the debt is allegedly owed means a natural person, partnership, corporation, or limited liability company.

The term “consumer debt” means money, property, or the equivalent due or owing, or alleged to be due or owing from a natural person by reason of a consumer credit transaction.

A “consumer credit transaction” means a transaction between a natural person and another person in which property, services, or money is acquired from such other person primarily for personal, family, or household purposes.

**18. ROSENTHAL ACT  
INTENT IRRELEVANT**

Plaintiff does not have to prove that Defendant intended to violate the FDCPA. She must only prove that Defendant did violate the FDCPA.

**19. ROSENTHAL ACT  
VIOLATION OF SECTION 1788.13(k)**

A Debt collector may not make a false representation in a collection letter that a consumer debt has been, is about to be, or will be sold, assigned, or referred to a debt collector for collections.

**20. ROSENTHAL ACT  
FDCPA**

The Rosenthal Act provides that every debt collector collecting or attempting to collect a consumer debt shall comply with the FDCPA. If you find that Defendant violated the FDCPA, then you must find that the Defendant also violated the Rosenthal Act.



**21. DAMAGES  
PROOF**

It is the duty of the Court to instruct you about the measure of damages. By instructing you on damages, the Court does not mean to suggest for which party your verdict should be rendered.

If you find for the Plaintiff on the FDCPA claim, you must determine the Plaintiff's damages. The Plaintiff has the burden of proving damages by a preponderance of the evidence.

Damages mean the amount of money that will reasonably and fairly compensate the Plaintiff for any injury you find was caused by the Defendant. The Plaintiff does not have to prove the exact amount of damages that will provide reasonable compensation for the harm.

The amount of damages must include an award for all harm that was caused by Defendant even if the particular harm could not have been anticipated.

It is for you to determine what damages, if any, have been proved.

Your award must be based upon evidence and not upon speculation, guesswork, or conjecture.

**23. DAMAGES**  
**FDCPA STATUTORY DAMAGES**

In addition to actual damages, and regardless of whether actual damages are awarded, you may award statutory damages to each person for violations of the FDCPA in an amount not to exceed \$1,000. In determining the amount of statutory damages to be awarded, you shall consider among other relevant factors, the frequency and persistence of noncompliance by the debt collector, the nature of such noncompliance, and the extent to which noncompliance was intentional.

**24. DAMAGES**  
**ROSENTHAL ACT STATUTORY DAMAGES**

In addition to actual damages, and regardless of whether actual damages are awarded, the jury may award statutory damages in an amount not to exceed \$1,000.00 for each person affected by the violation of the Rosenthal Act.

In determining the amount of statutory damages to be awarded, whether \$100.00 or up to and including \$1,000.00, the Rosenthal Act provides that the jury shall consider among other relevant factors, the frequency and persistence of noncompliance by the debt collector, the nature of such noncompliance, and the extent to which noncompliance was intentional.

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1 Dated: October 10, 2023

2 Respectfully submitted,

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