

FILED
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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

U.S. DISTRICT COURT
EASTERN DISTRICT
OF NEW YORK

AMERICAN POSTAL WORKERS UNION,
AFL-CIO

and

ROSEBUD E. GRANT

Plaintiffs,

v.

UNITED STATES POSTAL SERVICE

and

GARY M. LAURANT

Defendants.

COMPLAINT

CV 12 - 1586

Case No.

GARAUFIS, J.

LEVY, M.J.

NATURE OF ACTION

1. This is an action by American Postal Workers Union, AFL-CIO ("Union" or "APWU") for breach of a collective bargaining agreement against the United States Postal Service ("Postal Service"), for violations of the Debt Collection Act, and for a declaratory judgment and injunction and other relief; and by Rosebud E. Grant ("Grant") for damages against Gary Laurant ("Laurant"), an official of the United States Postal Service in his individual capacity for violations of the Due Process clause of the Fifth Amendment to the United States Constitution, namely, deprivation of property without due process of law. *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971). The action against Laurant is not subject to the

Westfall Act, which, under 28 U. S. C. § 2679(b)(2)(a), excludes from its provisions an action “which is brought for a violation of the Constitution of the United States.”

JURISDICTION AND VENUE

2. This Court has jurisdiction over the action and the parties under 28 U.S.C. §§ 1331, 1339, 2201 and 2202, and 39 U.S.C. § 1208(a). This Court has jurisdiction to review the Postal Service’s compliance with the Debt Collection Act under the federal common law right to judicial review of agency action.

3. Venue is proper under 28 U.S.C. § 1391(b)(2), because a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, in the Eastern District of New York.

PARTIES

4. Plaintiff APWU is a labor organization recognized by the Postal Service as the exclusive representative of postal employees in a number of job classifications, including postal clerks. Plaintiff APWU and the Postal Service have been parties to a series of nationwide collective bargaining agreements (“National Agreements”) since 1971 to the present.

5. Plaintiff Grant is an annuitant formerly employed as a postal clerk by the Postal Service in Brooklyn, New York.

6. Defendant Postal Service is an independent establishment of the executive branch of the Government of the United States established in accordance with 39 U.S.C § 201.

7. Defendant Laurant is a manager in the Disbursement Section of the Postal Service’s Accounting Service Center in Eagan, Minnesota. Laurant committed and continues to commit acts without the State of New York causing injury to the person or property of the

Plaintiff Grant within the State of New York, and regularly did and continues to do business in the State of New York and engaged and continues to engage in a persistent course of conduct in the State of New York, and derived and continues to derive substantial revenue in the State of New York for and as an agent of the Postal Service. Some of Laurant's contacts with New York are detailed below, and Laurant, either directly or through Postal Service employees at his direction and subject to his control, communicated with Grant in Brooklyn, New York, approximately thirty-one (31) times about Grant's alleged indebtedness to the Postal Service.

STATEMENT OF FACTS

8. Grant was employed by the Postal Service from in or about January 1971 until she retired on or about May 30, 2009. The annuities of retired postal employees are administered by the U.S. Office of Personnel Management (OPM).

9. Since in or about June 1995 until she retired, Grant was a postal clerk and occupied the position of Self Service Postal Center ("SSPC") Technician.

10. Among the duties of postal clerks in the SSPC Technician classification are stocking self-service vending machines with stamps and similar items and removing cash from them from time to time. Under postal regulations, SSPC Technicians are required to account for the cash and stock entrusted to them and to follow certain procedures in doing so.

11. On or about April 21, 2009, the Postal Service issued a document entitled "Discrepancy Report – Financial Responsibility" stating that Grant was responsible for a discrepancy of \$75,535.68.

12. On or about April 21, 2009, the Postal Service issued Grant a "Letter of Demand for Indebtedness for Employee Accountable Credit Shortage" ("Letter of Demand"), stating in

part the Postal Service's "intention to collect from you the sum of \$75,535.68 for a shortage found in your accountable credit." The Letter of Demand alleged that the Postal Service discovered the shortage as a result of a count performed on March 19, 2009.

13. The Letter of Demand asserted that under Article 28 of the National Agreement between the Union and the Postal Service, Grant was "financially liable for the proper care and handling of US Postal Service funds." The Letter of Demand also informed Grant: "Pursuant to the Employee and Labor Relations Manual [ELM] Section 460 and Article 28 of the National Agreement, collection will be postponed until adjudicated through the applicable appeals process." The Letter of Demand also informed Grant of her right to file a grievance under the National Agreement and stated: "If a grievance is not timely filed, advanced to the next step of the grievance procedure within the prescribed time limits, is settled between the USPS and the union under which you remain liable for all or a portion of the debt, or an arbitrator rules that the grievance is not arbitrable, a Notice of Involuntary Administrative Salary Offset will be issued."

14. The Postal Service's Employee and Labor Relations Manual ("ELM") is incorporated into the National Agreement by Article 19 of the National Agreement.

15. On or about May 7, 2009, the Brooklyn Local of the APWU ("Brooklyn Local APWU"), initiated a timely grievance at Step 1, contending that Grant was not responsible for the alleged shortage. The Brooklyn Local APWU timely appealed the grievance at each step after the Postal Service denied the grievance, and the APWU appealed the grievance to arbitration on October 26, 2009. The grievance is currently awaiting a hearing.

16. Article 28 of the National Agreement states in part:

Section 4. Collection Procedure

A. If a grievance is initiated and advanced through the grievance-arbitration procedure or a petition has been filed pursuant to the Debt Collection Act, regardless of the amount and type of debt, collection of the debt will be delayed until disposition of the grievance and/or petition has (have) been had, either through settlement or exhaustion of contractual and/or administrative remedies.

B. No more than 15 percent of an employee's disposable pay or 20 percent of the employee's biweekly gross pay whichever is lower, may be deducted each pay period to satisfy a postal debt, unless the parties agree, in writing, to a different amount.

17. The ELM states at 462.41:

Stay of Collection of Debt

Whenever a grievance concerning any letter of demand has been initiated in time, in accordance with Article 15 of the applicable collective bargaining agreement, and/or a petition for a hearing has been filed in time, in accordance with 462.22, regardless of the type and amount of the debt, the Postal Service will stay the collection of the debt until after the disposition of the grievance and/or the petition, through settlement or exhaustion of the contractual and/or administrative remedies.

18. On or about June 1, 2009, following Grant's retirement on or about May 31, 2009, OPM issued Grant a notice of her retirement benefits stating in part that her monthly retirement benefit was \$3,139.00, minus the government's claim of \$1,248.69. OPM's statement to Grant of the government's alleged claim was based on information supplied to OPM by Laurant or Postal Service employees acting at his direction and subject to his control.

19. Notwithstanding the fact that there was an active grievance over the Letter of Demand issued to Grant, Laurant or disbursement officials acting at Laurant's direction and subject to his control, caused the Postal Service to deduct \$8,427.02, which the Postal Service owed to Grant for earned unused annual leave, from Grant's final paycheck, reducing the debt

she allegedly owed to \$67,108.66.

20. On or about October 13, 2009, OPM issued Grant a “Special Notice” stating in part: “We Have Withheld Part of Your Initial Payment for the Reasons Checked Below: We have collected a debt you owe a Federal agency. We have deducted the amount claimed by the agency from your annuity. If you have a question about the debt, you should contact the agency shown on the attached copy of the debt claim. The deduction for the debt is shown on your annuity statement.” The amount of the debt allegedly owed by Grant to the Postal Service was calculated based on information supplied to OPM by Laurant or Postal Service employees acting at his direction and subject to his control, and OPM began to deduct the amount claimed by the Postal Service at the request of Laurant or Postal Service employees acting at his direction and subject to his control.

21. On or about November 2, 2009, David H. Rudy, the Postal Service’s Manager, Human Resources, Triboro District (“Rudy”), sent a letter to OPM’s Civil Service Retirement System in Boyers, PA 16017, referencing Grant and stating: “Please suspend the collection of the postal related debt for the above referenced retiree. While employed with the Postal Service, Ms. Grant filed a grievance as per the Collective Bargaining Agreement (CBA) contesting the debt. Even though she is no longer employed, the CBA with the American Postal Workers Union allows for former employees to have their cases adjudicated by an Impartial Arbitrator.” The letter continued: “Should the status of this debt change, I will notify your office.” The letter invited OPM to contact him if there were any questions.

22. On or about November 2, 2009, James Musumici, President of the Brooklyn Local APWU (“Musumici”), faxed to Laurant a copy of Rudy’s letter to OPM, stating [sic]: “As

per the Attached Letter From Triboro District Mgr Dave Rudy no collection on this Debt should be made. If you have any Questions call Dave Rudy or me, Jim Musumici, (718) 827-0219.”

23. Rudy’s letter was unsuccessful in stopping collections from Grant’s annuity payments because OPM’s practice and policy is to accept agencies’ due process certifications without further inquiry. Rudy also told Musumici that he had a discussion with Laurant explaining that collections from Grant’s annuity payments were improper while a grievance over the Letter of Demand was pending and that Laurant was “obstinate” in his refusal to suspend collections.

24. Notwithstanding the fact that there was an active grievance over the Letter of Demand issued to Grant and even though Rudy had explained to Laurant in writing and verbally that the offset was improper, on or about August 16, 2010, Laurant issued to Grant a “Notice of Intent to Collect Delinquent Debt” in the amount of \$67,108.66.

25. Notwithstanding the fact that there was an active grievance over the Letter of Demand issued to Grant and even though Rudy had explained to Laurant in writing and verbally that the offset was improper, on or about September 9, 2010, Laurant executed an amended “Request for Recovery of Debt Due to the United States” on OPM’s Standard Form 2805 requesting that OPM withhold 50 percent of each installment of Grant’s annuity payments to collect the debt of \$67,108.66 she allegedly owed the Postal Service. Laurant also certified the following under “Due Process”: “I hereby certify that the individual identified above owes the United States a debt in the amount certified [and] that procedures in 31 CFR 901, et seq., and 5 CFR 831.1801, et seq. or 5 CFR 845 have been followed” Laurant checked the part of the form stating: “Date of demand letter giving notice required by 31 CFR 901, et seq.” entering

“06-11-09” but leaving blank the “yes” or “no” box stating: “Letter included notice of intent to offset retirement benefits.” Laurant also checked the box stating: “Debtor did not respond, but consent to collection is assumed,” entering “09-09-2010.” On September 10, 2010, an OPM official checked a box stating: “Retirement amount is available for immediate set-off. OPM will make payment to you as soon as possible.”

26. On or about September 10, 2010, OPM issued a “Schedule for Collecting Government Debt from Your Annuity” signed by the same OPM official who signed OPM’s Standard Form 2805, stating that, beginning on the payment dated October 1, 2010, OPM would collect a debt of \$67,108.66 in 54 installments of \$1,223.44 and a final installment of \$1,042.90. The document stated: “We have received confirmation from the creditor agency that you were given ‘due process’ rights. Therefore, we will begin collection as shown above.” It directed question to Laurant’s office.

27. Shortly after she received the September 10, 2010 notice from OPM, Grant called Laurant. Laurant abruptly told Grant to contact her union and ended the call.

28. Around this time Grant sought the additional assistance of Local President Musumici. Musumici called Laurant on the telephone and informed him that there was a current active grievance pending over the Letter of Demand issued to Grant and that collection of the alleged debt violated both Article 28 of the National Agreement and the Debt Collection Act.

29. Around this time Musumici also discussed Grant’s situation with Linda Evans, the financial manager of the Postal Service’s Triboro District (“Evans”). Evans said that she would do what she could to stop collections from Grant’s annuity payments. Thereafter she informed Musumici that her efforts had failed.

30. Around this time Musumici also discussed Grant's situation with James Lloyd, a manager of the Postal Service's Triboro District Labor Relations office ("Lloyd"). Musumici told Lloyd that he had told Laurant that collection of the alleged debt from Grant's annuity payments while a grievance was pending violated both the National Agreement and the Debt Collection Act and that Laurant dismissed his statements. Lloyd told Musumici that Laurant was in error. Musumici also spoke with David H. Rudy, the Postal Service's Manager, Human Resources, Triboro District, and related the conversation Musumici had with Laurant. Rudy likewise agreed with Musumici that Laurant was in error and said he would do what he could to stop collections from Grant's annuity payments.

31. Around this time Musumici contacted an official at OPM about its debt collection procedures in circumstances like those of Grant. The OPM official told Musumici that when OPM gets notice of a debt from an agency it makes no additional inquiries and proceeds with collections from annuity payments.

32. Laurant routinely ignores notification of the pendency of grievances involving letters of demand issued to postal employees who have subsequently retired and has requested OPM to collect alleged debts from the annuity checks of many retired postal employees notwithstanding the pendency of grievances over their alleged indebtedness to the Postal Service. The APWU at the National Level has asked the Postal Service's national labor relations officials to intervene to correct Laurant's unlawful practices, and the Postal Service officials reported to the APWU that they are unable to stop Laurant's practices. As recently as July 8, 2011, Postal Service headquarters-level labor relations management officials informed the APWU that they have had "no luck" convincing Laurant to change his unlawful practices.

33. In early January 2012, the Union again brought the situation to the attention of Postal Service officials, including the Postmaster General of the United States. Postal officials promised to investigate but to date have taken no action to correct the unlawful deductions from annuitants' retirement payments authorized by Laurant's false certifications to OPM on OPM Standard Form 2805.

34. Since on or about October 1, 2010, OPM has reduced by one-half the amount of each installment of Grant's annuity payments. This has caused Grant great physical and emotional distress, including depression and high blood pressure. Grant lives alone and has no husband or other relative who supports her through the financial difficulties caused by OPM's wrongful deductions from her annuity payments made at Laurant's request. Grant has exhausted her savings and been unable to pay other debts which she would have been able to pay had she received the full annuity payments to which she was entitled. Grant has had to forgo the retirement she has earned and to take on a job to be able to afford the basic necessities of life.

35. On July 15, 2011, Chief Administrative Law Judge James G. Gilbert, the Postal Service's Judicial Officer, issued an Initial Decision *In the Matter of the Petition of Dorinda Tolson*, P.S. Docket No. AO 11-10, which became final when no party appealed ("Decision"). Laurant was the Postal Service principal witness at the hearing. The Decision states on page 3:

On June 8, 2009, Gary M. Laurant, Supervisor of the [Postal Service's] Accounting Service Center, executed Office of Personnel Management (OPM) Form 2805 seeking to collect by administrative offset from Petitioner's retirement annuity the debt that was the subject of the April 29, 2009, Invoice....

36. The Postal Service's Judicial Officer also found (Decision at page 11):

I also conclude that [Laurant's] certification to OPM that it had complied with the due process requirements of the FCCS was false. The certification on

Form 2805 is not *pro forma*. It requires that Respondent ensure that the former employee has been properly informed of his or her rights. As discussed herein, Respondent's Accounting Service Center failed to satisfy Respondent's legal obligations prior to certification to OPM that it had complied with federal law. Such an unmistakably false certification cannot withstand judicial scrutiny. Based on the foregoing, I find that Respondent denied Petitioner the due process to which she was entitled under Section 10 of the Debt Collection Act and its implementing regulations.

37. The Postal Service has taken no actions to remedy the violations of the Debt Collection Act found by its Judicial Officer in the Decision.

CAUSES OF ACTION

VIOLATIONS OF CONSTITUTIONAL RIGHTS (Grant v. Laurant)

38. By causing OPM to deduct an alleged debt from Grant's annuity payments and by certifying to OPM that the Postal Service has provided Grant with due process, with knowledge that a grievance over the alleged shortage has remained unadjudicated, Laurant has deprived Grant of her right under the Fifth Amendment to the United States Constitution not to be deprived of her property without due process of law.

39. Grant has no alternative remedy to redress the violations of her constitutional rights.

40. Grant's and the Union's efforts on her behalf to correct the violations of her constitutional rights or to deter Laurant from constitutional violations have been ineffective.

BREACH OF CONTRACT (APWU v. Postal Service)

41. There is no disagreement between the Union and the Postal Service that the pendency of a grievance contesting an alleged debt requires the Postal Service and its agents, including Laurant, to suspend efforts to collect the alleged debt.

42. Because there is no disagreement between the Postal Service and the Union that

the National Agreement requires the Postal Service to stay collection while a grievance or petition contesting the alleged debt is pending, there is no necessity for the Union to exhaust the grievance procedure before bringing an action for breach of the National Agreement.

43. Because the Postal Service has been unable or unwilling to correct Laurant's unlawful practices despite the absence of a disagreement between the Postal Service and the Union that the National Agreement requires the Postal Service to stay collection while a grievance or petition contesting the alleged debt is pending, the Union's resort to the grievance procedure would be futile.

44. The Postal Service's inability or unwillingness to stop Laurant's false certifications on OPM Form 2805 that the Postal Service has provided due process to annuitants whose challenges to the alleged debts in the grievance or administrative procedure remain adjudicated is a breach of Article 28, Section 4, of the National Agreement and ELM 462.41.

45. Annuitants who retired before the effective date of the current National Agreement have no access to the grievance procedure to redress violations of the National Agreement.

VIOLATIONS OF DEBT COLLECTION ACT (APWU v. Postal Service)

46. The Debt Collection Act, 5 U.S.C. § 5514, which governs collection of debts of federal and Postal Service employees, provides at Subsection (a)(2): "The timely filing of a petition for hearing shall stay the commencement of collection proceedings."

47. By attempting to collect and collecting alleged debts of annuitants for whom grievances contesting debts are pending the Postal Service is in violation of the Debt Collection Act.

PRAYERS FOR RELIEF

WHEREFORE, Plaintiff Rosebud E. Grant asks this Court to award the following relief against Defendant Gary M. Laurant:

- (1) \$25,555.18 collected by OPM from her annuity to date, and any additional collections, with interest;
- (2) Compensatory and punitive damages according to proof;
- (3) Attorneys' fees, expenses and costs;
- (4) A preliminary and permanent injunction prohibiting Laurant from authorizing or instructing that deductions be made from Grant's annuity payments and ordering him to rescind any such authorizations or instructions; and
- (5) Such other and further relief as the Court deems just and proper.

WHEREFORE, Plaintiff American Postal Workers Union, AFL-CIO, asks this Court to award the following relief against Defendant United States Postal Service:

- (1) A declaratory judgment declaring that the Postal Service is in violation of the National Agreement and the Debt Collection Act;
- (2) A preliminary and permanent injunction ordering the Postal Service to cease and desist from attempting to collect alleged debts of annuitants when grievances contesting the alleged debts remain unadjudicated in the grievance procedure and rescinding any collection efforts against such individuals;
- (3) An order directing the Postal Service to make whole all individuals affected by these contractual violations, including compensatory, consequential and exemplary damages;
- (4) Attorneys' fees, expenses and costs; and
- (5) Such other and further relief as the Court deems just and proper.

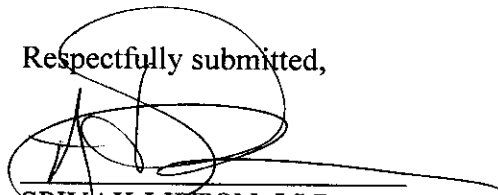
JURY DEMAND

The Plaintiffs demand a trial by jury.

Dated: April 2, 2012

Respectfully submitted,

By:



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U.S. Department of Justice

United States Attorney
Eastern District of New York

SLR:KF

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June 1, 2012

FILED
IN CLERK'S OFFICE
U S DISTRICT COURT E.D.N.Y.
★ JUN 05 2012 ★

BROOKLYN OFFICE

The Honorable Nicholas Garaufis
United States District Judge
United States District Court
225 Cadman Plaza East
Brooklyn, New York 11201

**Re: American Postal Workers Union v. United States Postal Service et. al.,
Civil Action No. CV-12-1586 (Garaufis, J.) (Levy, M.J)**

Dear Judge Garaufis:

The undersigned Assistant United States Attorney, writes on behalf of defendants United States and Gary Laurant to request a 60 day extension of time, from June 5, 2012 through August 6, 2012, to answer, move, or otherwise respond in this case. This extension of time is requested in order to permit the parties to determine whether this case can be resolved without further judicial intervention. This is defendant's first request for extension and is made with plaintiffs' consent.

Thank you for Your Honor's consideration of this matter.

Respectfully submitted,

LORETTA E. LYNCH
United States Attorney

By: Kelly Horan Florio
KELLY HORAN FLORIO
Assistant U.S. Attorney
(718) 254-6007

cc: Adrienne Saldaña, Esq.
Spivak Lipton, LLP
1700 Broadway, Floor 21
New York, New York 10019

**APPLICATION GRANTED.
So Ordered.**

s/Nicholas G. Garaufis

NICHOLAS G. GARAUFIS
United States District Judge
Dated: 6/4/12

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ JUL 31 2012 ★

BROOKLYN OFFICE

AMERICAN POSTAL WORKERS UNION,
AFL-CIO

and

ROSEBUD E. GRANT

Plaintiffs,

v.

UNITED STATES POSTAL SERVICE

and

GARY M. LAURANT

Defendants.

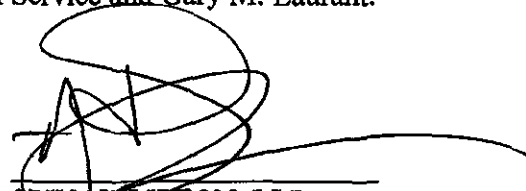
**NOTICE OF
VOLUNTARY DISMISSAL**

Case No. 12-CV-1586 (NGG) (RML)

Pursuant to Rule 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure, Plaintiffs American Postal Workers Union, AFL-CIO, and Rosebud E. Grant hereby voluntarily dismiss their action against Defendants United States Postal Service and Gary M. Laurant.

Dated: July 25, 2012
New York, NY

By:



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Adrienne Saldaña
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Local Counsel to Plaintiffs

So ordered.
s/Nicholas Garaufis
7/31/12

JS 44 (Rev. 09/11)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 2007, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

FILED
CV 12-1586

I. (a) PLAINTIFFS

American Postal Workers Union, AFL-CIO and Rosebud E. Grant

2012 APR 22 PM 2:08
DEPENDENTS

United States Postal Service and Gary M. Laurant

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

U.S. DISTRICT COURT
EASTERN DISTRICT
OF NEW YORK

County of Residence of First Listed Defendant District of Columbia

(IN U.S. PLAINTIFF CASES ONLY)

SUMMONS ISSUED

(c) Attorneys (Firm Name, Address, and Telephone Number)
Spivak Lipton LLP, 1700 Broadway, 21st Fl., New York, NY 10019
(212) 765-2100

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

GARALIFIA
Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS			
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN

- (Place an "X" in One Box Only)
- 1 Original Proceeding
 - 2 Removed from State Court
 - 3 Remanded from Appellate Court
 - 4 Reinstated or Reopened
 - 5 Transferred from another district (specify)
 - 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. Sections 1331, 1339, 2201, 2202 and 39 U.S.C. Section 1208(a)

Brief description of cause:

Violation of Due Process Clause of Fifth Amendment and Debt Collection Act and breach of contract

VII. REQUESTED IN COMPLAINT:

- CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
- DEMAND \$** _____
- CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

04/02/2012

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE NG6 MAG. JUDGE RML

12 CV 1586

CERTIFICATION OF ARBITRATION ELIGIBILITY

Local Arbitration Rule 83.10 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

I, Adrienne Saldana, counsel for Plaintiffs, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

- monetary damages sought are in excess of \$150,000, exclusive of interest and costs,
- the complaint seeks injunctive relief,
- the matter is otherwise ineligible for the following reason

DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

N/A

RELATED CASE STATEMENT (Section VIII on the Front of this Form)

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that " A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)

- 1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County? No
- 2.) If you answered "no" above:
 - a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? No
 - b) Did the events of omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? Yes

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County? _____

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

BAR ADMISSION

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.
 Yes No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?
 Yes (If yes, please explain) No

I certify the accuracy of all information provided above.

Signature: 