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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Curtis G. Glawe

Plaintiff

v.

Carpenter, Hazelwood, Delgado,&
Bolen PLC & Javier Delgado, Mark
Holmgren, Mark K. Sahl, & Gregory A.
Stein, Individually

Defendants

Case No.CV-18-01282-PHX-JAS-

BPV

**PLAINTIFF'S AFFIRMATIVE
STATEMENT OF FACTS IN
OBJECTION TO AND
OPPOSITION TO DEFENDANTS'
MOTION FOR SUMMARY
JUDGMENT**

(HON. JAMES A. SOTO)

Plaintiff, Curtis Glawe (Herinafter Plaintiff or Glawe) submits his
Affirmative Statement Of Facts In Opposition to Defendants' Motion For
Summary Judgment pursuant to F.R.Civ.P. 56 1(a).

1. Defendants first communication with Plaintiff, Glawe, was the
Complaint served on Plaintiff signed March 15, 2012, (Defendants EX. 2.)

1 the Complaint was in violation of the FDCPA because it stated Glawes owed
2 (2,925.08) while at the same time the 6/2/2015 Resident Transaction Report
3 (Plaintiffs EX. 1.) included improper charges; 10 cc&r violations fees, on,
4 4/13/2010, 5/4/2010, 3/3/2011, 3/24/2011, 4/21/2011, 5/17/2011, 6/27/2011,
5 8/11/2011, 8/11/2011, and 8/30/2011, 8 late fee assessments and other
6 charges that the court ruled on (Defendants EX. 5) that those fees could not
7 be collected. CC&R violation fees are charges the association assesses if
8 they see a weed in your yard, a vehicle improperly parked, or a trash can that
9 is visible to them.
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14 Despite these FDCPA violations the Plaintiff settled the 2012 case, paying
15 some of the improper fees, in addition to hiring a lawyer.
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17 2. Defendants sent Plaintiff a **Debt Verification** letter (Plaintiff's EX. 2.)
18 dated July 22, 2013. That letter included FDCPA violations as did the
19 Resident Transaction Report supposing to match up with it. The first
20 violation on the letter was the misrepresenting amount due of \$1185.04. That
21 amount included improper charges that were later denied by the Superior
22 Court. That amount included all of the first Resident Transaction Report
23 improper charges plus 6 additional late fee charges, 4/16/2012, 7/15/2012,
24 10/15/2012, 1/15/2013, 4/15/2013, and 7/15/2013, an improper demand fee
25 2/15/2013, a lien prep fee 4/25/2013, a delinquency admin fee 5/30/2013.
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1 All were improper charges as ruled by the Superior Court (Defendants EX.
2 5.). In addition the Resident Transaction Report sent violated the FDCPA in
3 numerous additional ways. Sending report without proper notices that
4 charges were continuing to accrue, not timely and properly invoicing, etc.
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7 3. Defendants sent Plaintiff an email (3/8/2016 SOF page 177)
8 demanding \$4234.34. The Resident Transaction Report (Plaintiff's EX. 16.)
9 showed the amount due was \$3,006.34 which was misleading and improper
10 amount due and a violation of FDCPA. The Report again showed all of the
11 improper charges included on the previous reports, late fees, demand fees,
12 etc., plus an additional late fee charge that was denied by the court
13 (Defendants EX. 5). In addition the e-mail verified Plaintiff's claim that the
14 initial welcome letter Plaintiff was supposed to receive in 2009 got sent to
15 the Mohave address another violation of the FDCPA that will be explained
16 in court.
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21 4. Defendants then filed on 3/8/2016 Affidavit of Manager, IN Support of
22 Separate Statement Of Facts In Support of Motion For Summary Judgment,
23 AFF Affidavitt Part 1 of 1 ID 7249515 of Superior Court Index, On page 3
24 paragraph 8, Manager, under penalty of perjury stated "Upon receipt of a
25 written "Change Of Address Form, the association will modify its default
26 rule and mail written correspondence pertaining to a property located within
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1 the association to an offsite location designated by the property owner.”
2
3 Despite Plaintiff providing the association with the “Change Of Address
4 Form” (Plaintiff’s EX. 3), on August 10, 2013

5 5. Defendants sent Plaintiff a communication letter (Not Notice part 1 of
6 1 ID 7658710 filed in Index of Superior Court), dated September 9, 2013
7 Amount Due \$1435.05. It is confusing as it does not matche up with the
8 Resident Transaction Report (Plaintiff’s EX. 16). In addition paragraphs 4-5
9 are FDCPA violations. Paragraph 4 is directly in contradiction to Arizona
10 Revised Statute § 33-1807 J. (Plaintiffs EX. 4). Again the Resident
11 Transaction Report continues to show all of the previous improper charges
12 plus additional late fees and etc. denied by the Superior Court.
13

14 6. Defendants sent Plaintiff an e-mail (Plaintiff EX.) dated October 29,
15 2013 making an improper demand as to the amount due \$1141.30 that
16 included all previous improper charges.
17

18 7. Defendants sent Plaintiff an e-mail (Plaintiff EX.) dated January 20,
19 2014 that included all previous improper charges.
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21 8. Defendants filed on October 4, 2016 NOT-Notice-Part 1 of 1- ID
22 7777274 Superior Court Index that included a Resident Transaction Report
23 (Plaintiff’s EX. 16.) that again included all improper charges from 2009-
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1 10/4/2016 and a balance due of \$41,524.98 more than 400% of what the
2 Superior Court awarded the HOA and the Defendants attorney fees.
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4 Defendants also filed ASR-Affidavit in support of Attorney fees-Part 1 of
5 1-ID 7777274 Superior Court Index including Defendants Transactions
6 Transaction Listing Report showing that on 10/29/2016, page 10, attorney
7 fees request totaled \$13, 338.50 and on page 15 an additional \$22,926.00 for
8 a total request of \$36,264.50, inconsistent with the Resident Transaction
9 Report (Plaintiffs EX. 16.) and outlandishly more that the Court awarded in
10 its 11/23 /2016 019-Ruling Superior Court Index of \$9,864.25 based on
11 Reasonable attorney fees. These charges were also FDCPA violations.
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15 9. Defendants included a Resident Transaction Report in their filing on
16 10/17/2016-OBJ- Objection/Opposition- Part 1 of 1 – ID that again included
17 all improper charges since 2009 and failed to have the proper noticing,
18 FDCPA violations.
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21 10. Defendants included a Resident Transaction Report with their filing
22 on 10/24/2016 RES-Response- Part 1 of 1 – ID 7826257 containing all the
23 same continuing violations, along with a few new ones on every Resident
24 Transaction Report since 2009.
25

26 11. Defendants e-mailed Plaintiff Resident Transaction Reports on
27 6/7/2018, 9/17/2018, 10/15/2018, 11/14/2018, (Plaintiff's EX. 16.). All of
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1 the Reports were communications that contained the same improper charges
2 from 2009-2018, 34 late fee charges, 12 cc&r violation fee charges, other
3 violations in excess if \$1,000.00 and more than 66% of attorney fee charges
4 that were found to be improper charges and denied collection to the HOA
5 and Defendants.
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7
8 June 7, 2018 4:35 email. The e-mail did not include required information
9 such as the debt was continuing to accrue and falsely and unscrupulously
10 misrepresented the correct balance due on every entry from 2012 to 2018
11 by improperly overstating the amount Glawe had to pay to settle the case,
12 and the final balance does not even match up with what the court awarded
13 the HOA. Glawe had to wait years for the court to say that he only owed
14 \$17, 528.55 of the \$69,457.70 that the HOA and their attorneys' claimed!
15
16 (Defendants 2017 Exhibit in Index and Summary).
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20 12. The court can most easily follow many of the allegations just by
21 using the Resident Transaction Report (Plaintiff's EX. 1) and comparing those
22 entries to the claims made by the Plaintiff, Glawe. It makes it easy to see how
23 this is a continuing pattern of conduct, one entry almost identical to another
24 and how it would mislead the least sophisticated consumer. There has been at
25 least 33 violations of the FDCPA just on the 11/14/2018 Plaintiff's EX. 1.
26
27 Resident Transaction Report since the filing of Complaint on April 26, 2018.
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1 At least 6 violations of sending the report to plaintiff without providing the
2 required notice that the amount of the debt may be increasing, *Avila v*
3 *Riexinger & Associates LLC*, 817 F.3d 72 (2nd Cir. 2016). At least 10 entries
4 misrepresenting the amount actually owed (Balance Due), 14 violations of
5 falsely misrepresenting the actual balance owed, 3 late fee (6/7/2018,
6 10/15/2018, 11/14/2018), attorney fees not awarded by any court. In addition
7 there are 185 continuing violations that are similar if not identical in nature,
8 on the Resident Transaction Report, provided to Plaintiff, Glawe as of
9 10/15/2018. Additionally there are multiple violations for unfair, harassing,
10 abuse of power, oppressing, vindictive violations and emotional and physical
11 distress.
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13 13. There has been at least 43 FDCPA violations on the 11/14/2018
14 Resident Transaction Report (Plaintiff's EX. 1.) from 4/26/2017 to
15 5/21/2018 during the one-year statute-of limitations period ending with the
16 filing of the Complaint April 26, 2018. At least 2 violations of sending the
17 Resident Transaction Report to Plaintiff without providing the required notice
18 that the amount of debt may be increasing, *Avila v Riexinger & Associates*
19 *LLC*, 817 F.3d 72 (2nd Cir. 2016), at least 23 entries on the Resident
20 Transaction Report (Plaintiffs EX. 1.) that falsely misrepresent the actual
21 balance owed (all entries from 6/7/2017 to 4/15/2017), at least 12 FDCPA
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1 violations that the entries are for late fees, (7/15/2017, 10/15/2017, 1/16/2018,
2 4/15/2018) cc&r violations (9/29/2017) and attorney fees that were never
3 allowed by any court. At least 4 failures to "Timely and properly Invoice". At
4 least one failure to furnish statement within 10 days, 1 failure to notify of
5 assessment charge change (Plaintiffs EX. 13 dated 6/7/2018. The actual
6 change in assessments occurred January 1 2018.) In addition there are at least
7 168 (all entries from 8/3/2012 to 4/12/2018) violations of FDCPA which are
8 continuing similar if not identical entries that mislead and are false regarding
9 the balance due amount on the Resident Transaction Reports as of 5/9/2018.
10 (Plaintiff's EX. 1.) Additionally there are multiple violations for unfair,
11 harassing, abuse of power, oppressing, vindictive violations and emotional &
12 physical distress, and more than 200 violations outside of the Statute of
13 Limitations.

14 14. Carpenter, Hazelwood, Delgado, & Bolen PLC and Attorneys' Javier
15 B Delgado, Mark Holmgren, Mark M Sahl, and Gregory A. Stein have
16 violated FDCPA by making false representations to Plaintiff and also the
17 Superior Court of Maricopa County (Defendants Index and Summary By Date
18 ¶ 24. & Second Amended Complaint filed 3/2/2016, Page 5. lines 15-23 and
19 Plaintiff's EX. 1.). The violation's include but are not limited to lying to
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1 Plaintiff and the court in order to keep Plaintiff from getting the jury trial
2 Plaintiff demanded in the State Court. (Plaintiff's EX. 15.)
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4 15. Defendants misrepresented the HOA by acting as the HOA
5 (Plaintiff's EX. 15.) and encouraging the HOA to act as a shield for them
6 because HOA is not subject to FDCPA and Defendants at all times negotiated
7 in place of the HOA and demanded Plaintiff not have any contact with the
8 association regarding the debt, and that contact be exclusively with
9 Defendants from 2011-2018.
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12 16. Defendants violated the Fair Credit Billing Act (FCBA) for unfair
13 billing practices, "mailing a bill to the wrong address," and would violate the
14 FDCPA requirement to deal openly, fairly, and honestly in the conduct of
15 collection agency business from 2011-2018. (Plaintiff's EX.)
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17

18 17. Defendants violated the Arizona FDCPA under A.R.S. § 32-1051
19 paragraphs 2 through 7 and § 32-1055, subsection C and Subsection D ,
20 paragraphs 1, 2, 3, and 5., and require compliance by, "Attorneys at Law",
21 which Defendants qualify as. Defendants have failed to uphold § 32-1051
22 paragraphs 3, 4, and 5. The Defendants have failed to and continue to fail to,
23 "Deal openly, fairly and honestly in the conduct of the collection agency
24 business" (§ 32-1051(3),"by continuing to perpetuate a lie to plaintiff and the
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1 court that gave them an unfair advantage and changed the outcome of the
2 Breach of Contract lawsuit from 2011-2018. (Plaintiff's EX.)

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4 18. Arizona Statute A.R.S. § 32-1051(4) states: Except for attorneys
5 licensed to practice law, **that are not in violation of 32-1051 or 32-1055,**
6 cannot attempt to collect any collection fee, attorney's fee, court costs or
7 expenses unless the fees, charges or expenses **are justly due, and legally**
8 **chargeable** against the debtor, **or have been judicially determined. Glawes**
9 **fees and costs were judicially determined to not be collectable.** Nor shall
10 any licensee engage in any **unfair or misleading practices** or resort to **any**
11 **oppressive, vindictive or illegal methods of collection.** Defendants have
12 violated the FDCPA in every one of these ways. (Plaintiffs EX.)

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14 19. Defendants violated and continue to violate the FDCPA law by
15 sending Plaintiff documents that request amounts that debtor is not legally
16 obligated to pay and misrepresenting attorney fees, collection fees, demand
17 fees, cc&r violations, etc. as accruing fees if not paid. (Plaintiffs EX. 1.

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19 20. Defendants actions and violations of FDCPA have been and are
20 intended to cause Plaintiff, Glawe extreme emotional and financial distress
21 and has in fact caused him extreme emotional & financial distress from 2011-
22 2018. Plaintiffs emotional distress includes actual damages, extreme physical
23 distress, embarrassment, humiliation, fear, suicidal thoughts, extreme anxiety,
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1 and other extreme and emotional and physical difficulties from 2011-2018.
2 Loss of sleep, digestive difficulties, hospitalization, heart issues, anxiety, etc.
3 (Plaintiffs Supp. Discovery Response ¶ 30, 31)
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5 21. Defendants have harassed Plaintiff in ways that are active and ways
6 that are passive degrees of harassment, the passive being indifference and
7 intentional indifference from 2011-2018. Active using abusive and unfair debt
8 collection practices, passive being unfair practices by not being reasonable
9 and sending Plaintiff quarterly invoices as they do other members, etc.)
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12 22. All acts and/or failures to act violated facets of the FDCPA, were
13 duly performed by and/or attributable to Defendants', individually or acting
14 by and through their agents and employees. Said acts and/or failures to act
15 were within the scope of any agency or employment or were ratified by
16 Defendants.
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19 23. In violation of the FDCPA, Defendants were and are demanding that
20 in order to stop collection, Plaintiff pay fees and costs he did not and does not
21 owe. (Plaintiff's EX. 1.)
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24 24. Defendants are in violation of FDCPA when they bring up the
25 SurePay issue. In Defendants Appellees Answering Brief filed in the Court Of
26 Appeals, State of Arizona, Division One signed 6/19/2017, Defendants
27 admitted page 36, lines 15-16 "The parties reached an agreed upon settlement
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1 and monetary payoff, which the Glawes satisfied several months later in July
2 2012. (Defendants EX)

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4 25. Defendants violated are violating the FDCPA because they are and
5 were the ones relying on the Resident Transaction Report (Plaintiff's EX. 1.)
6 Defendants have and are sending to Plaintiff wrong amounts as to what the
7 actual amount due is. Defendants are at least as liable for the inaccuracy of
8 those reports as "the association" from 2011-2018. (Plaintiff's EX. 1.)
9
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11 26. The Court and the jury will be able to infer from Plaintiff testimony
12 that the FDCPA violations were willful, malicious, outrageous, fraudulent,
13 oppressive and warrant punitive damages in the interest of the public.
14 (Plaintiff's filings in the case).
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18 27. Defendants violated the FDCPA and are equitably estopped from
19 using any excuse that Glawe's damage were the fault of the association
20 when Defendants stated in Their **Debt Verification** letter dated July 22, 2013
21 "All written and verbal inquiries about your delinquent account, until it is
22 satisfied, are to be made through Carpenter, Hazlewood, Delgado & Bolen
23 PLC at the above number and address. Please contact us for the current
24 balance. (Plaintiff's EX)
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28 28. Defendants continue to violate the FDCPA when in Greg

1 Stein's 6/7/2018 e-mail (Plaintiffs EX.), Stein stated "As we remain
2 the Association's attorneys, please feel free to contact me to discuss anything
3 related to the Association or your account ledger, then on October 10, 2018
4 (Plaintiff's EX.) Stein's e-mail attempts to obfuscate his duties by sending an
5 e-mail that states "In the future, you may contact AAM to obtain current
6 copies of your ledgers," and further on 11/6/2018 Mr. Stein sends an e-mail
7 (Plaintiff's EX.) stating "You have requested updated copies of you
8 association account ledgers from me over the past few months. I have
9 attempted to comply with your requests as a courtesy, but it now seems that
10 you are submitting these requests simply to inconvenience me (apart from
11 your simultaneous FDCPA lawsuit against me). From 2011-2018 Plaintiff
12 could not get an invoice or ledger from Defendants, now I am
13 inconveniencing them requesting one every month.

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20 29. Whether Defendants should be subject to punitive damages should be
21 left to the triar of fact, the jury.

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23 30. Defendants violated the FDCPA in litigation papers in the Superior
24 Court Case and the Appeals Court case when they used disparaging and
25 unnecessary language and false claims in describing Glawe and/or his actions.
26 One example The Glawes are hoping to "waive a magic wand", and Glawes
27 Seemingly Forgot this standard and Glawes' erratic manner, Glawes
28

1 unreasonable nature. (Defendants EX. Page 6 lines 10-11) Of Index and
2 Summary by Date.)
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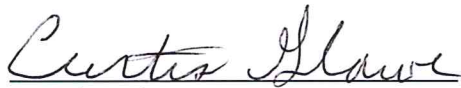
4 31. This is not an all inclusive list of FDCPA violations by Defendants
5 and Plaintiff reserves the right to add additional violations.
6

7 RESPECTFULLY SUBMITTED, this 16th day of November 2018.

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9 
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13 712-221-9178
14 cglawe@live.com
15
16

17 Plaintiff, Curtis Glawe Pro-Se, gives notice that on November 16, 2018
18 Plaintiff 's Response To Defendants Index And Summary By Date of
19 Plaintiff's Alleged FDCPA Violations was served on Defendants attorney by
20 regular mail.
21
22

23 Dated this 16 day of November, 2018

24 
25 Curtis Glawe Pro-Se
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this filing was sent on November 17, 2018 via Regular Mail to the Attorney for Defendants, Donald Wilson Jr. of Broening Oberg Woods & Wilson, Post Office Box 20527, Phoenix, Arizona 85036, and the attached document by electronic mail to Clerk of Court, using the CM/ECF System for filing the transmittal of Notice of Electronic Filing to the following CM/ECF registrants:

BROENING OBERG WOODS & WILSON, P.C.
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Copy also e-filed to:

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