

COMMONWEALTH OF MASSACHUSETTS  
TRIAL COURT  
SUPERIOR COURT DEPARTMENT

SUFFOLK, SS

TOMMY ROYAL and BERNADETTE  
COSTA, individually and on behalf of  
similarly situated individuals,

Plaintiffs

v.

ANDREW METCALF, individually;  
ANDREW METCALF, doing business as  
JUDGMENT ACQUISITIONS  
UNLIMITED; JUDGMENT  
ACQUISITIONS UNLIMITED INC., doing  
business as JUDGMENT ACQUISITIONS  
UNLIMITED; and MICHAEL ZOLA,

Defendants.

Civil Action No.: 2384CV02302-BLS2



**AMENDED CLASS ACTION COMPLAINT**

**INTRODUCTION**

Plaintiffs Tommy Royal ("Mr. Royal") and Bernadette Costa ("Ms. Costa") (collectively, "Plaintiffs") bring this Amended Complaint on behalf of themselves and all other similarly situated individuals, to obtain redress for Defendants' filing and prosecution of debt collection lawsuits without knowledge of and ability to prove valid ownership of such debt and seeking excessive amounts of interest, in violation of several provisions of Massachusetts law.

**THE PARTIES**

1. Plaintiff Tommy Royal ("Mr. Royal") is an individual who resides in Boston, Massachusetts.

2. Plaintiff Bernadette Costa ("Ms. Costa") is an individual who resides in Medford, Massachusetts.
3. Defendant Andrew Metcalf ("Metcalf"):
  - a. Metcalf is an individual who resides in Avon, Massachusetts.
  - b. Metcalf has periodically held an active debt collection license from the Massachusetts Division of Banks ("DOB").
  - c. Metcalf is a debt collector within the meaning of 209 CMR 18.02 and M.G.L. c. 93 § 24 because his principal business purpose is debt collection, and he uses an instrumentality of interstate commerce or the mail to that end.
  - d. Metcalf is a creditor within the meaning of 940 CMR 7.03 and M.G.L. c. 93, § 49 in that he is "engaged in collecting a debt owed or alleged to be owed to [him] by a debtor."
4. Defendant Andrew Metcalf, doing business as Judgment Acquisitions Unlimited ("JAU"):
  - a. Metcalf engages in the business of debt collection under the name of Judgment Acquisitions Unlimited.
  - b. JAU is not licensed as a debt collector by the Massachusetts Division of Banks.
  - c. JAU is a debt collector within the meaning of 209 CMR 18.02 and M.G.L. c. 93 § 24 because its principal business purpose is debt collection, and it uses an instrumentality of interstate commerce or the mail to that end.
  - d. JAU is a creditor within the meaning of 940 CMR 7.03 and M.G.L. c. 93, § 49 in that it is "engaged in collecting a debt owed or alleged to be owed to it by a debtor."
5. Defendant Judgment Acquisitions Unlimited Inc., doing business as Judgment Acquisitions Unlimited ("JAU Inc."):

- a. JAU Inc. is a corporation organized under the laws of the Commonwealth of Massachusetts that maintains its principal place of business at 185 Main St., Suite 34, Avon, Massachusetts, 02322.
  - b. JAU Inc. was incorporated in 2021.
  - c. Andrew Metcalf is the President, Treasurer, Secretary, Director, and Registered Agent of JAU Inc.
  - d. JAU Inc. has never had a debt collector license from the Massachusetts Division of Banks.
  - e. JAU Inc. is a creditor within the meaning of 940 CMR 7.03 and M.G.L. c. 93, § 49 in that it is “engaged in collecting a debt owed or alleged to be owed to it by a debtor.”
  - f. JAU Inc. is a debt collector within the meaning of 209 CMR 18.02 and M.G.L. c. 93 § 24 because its principal business purpose is debt collection, and it uses an instrumentality of interstate commerce or the mails. In addition, at all relevant times it was a purchaser of debt which was in default at the time of purchase or acquisition.
6. Defendant Michael Zola (“Attorney Zola”):
- a. Attorney Zola is an attorney with a solo law practice with a principal place of business at 607 North Avenue, Door # 18, Wakefield, MA 01880.
  - b. According to his LinkedIn page, Attorney Zola has a general practice “with a focus on Consumer and Commercial Collections.” <https://www.linkedin.com/in/michael-zola-89342a46/> (last viewed on Aug. 1, 2024).
  - c. Attorney Zola is a creditor within the meaning of 940 CMR 7.03 because he is an attorney engaged in collecting a debt owed or alleged to be owed to the Metcalf Defendants by a debtor.

d. Attorney Zola is an “attorney for a creditor” within the meaning of M.G.L. c. 93, § 49 because he represents creditors in collecting debts owed or alleged to be owed them by debtors.

7. “Metcalf,” “JAU,” and “JAU, Inc.” shall hereinafter be collectively referred to as the “The Metcalf Defendants.”
8. “The Metcalf Defendants” and “Attorney Zola” shall hereinafter be collectively referred to as the “Defendants.”

### **JURISDICTION AND VENUE**

9. The Court has jurisdiction under M.G.L. c. 212, § 3 because this is a civil action for money damages and Plaintiffs have a reasonable likelihood of recovery of at least \$50,000.
10. Venue is proper in Suffolk County because Mr. Royal resides there.

### **FACTS**

#### **A. DEFENDANTS’ PRACTICES**

##### **Background**

11. The Metcalf Defendants are engaged in a high-volume debt collection practice that includes filing hundreds of collection actions in small claims sessions of Massachusetts District and Boston Municipal Courts.
12. Attorney Zola represents the Metcalf Defendants in these cases.
13. In each of these cases, Defendants allege that a defendant-debtor failed to make payments on a contractual agreement with an original creditor and that the debt was subsequently purchased by JAU.
14. Upon information and belief, the Metcalf Defendants purport to have purchased each of the debts after the original creditor charged it off.

15. A debt is "charged-off" by a creditor when it has been deemed uncollectable and, as such, is written off as a loss.
16. Charged-off debt is often sold to a debt buyer, which often sells such debt to another debt buyer.
17. In their cases, the Metcalf Defendants claim to be such debt buyers, asserting that they have acquired debts after one or more purported assignments.
18. The Metcalf Defendants attempt to collect on such debt, including filing debt collections actions in which they claim to have purchased such debt after the original creditor charged it off.

**Defendants Sue on Debts They Cannot Prove The Metcalf Defendants Own**

19. Under Massachusetts law, it is a debt buyer's burden in a collection action to prove that it has a valid chain of assignments of the particular debt in question. *See, e.g., Norfolk Fin. Corp. v. Mazard*, 2009 Mass. App. Div. 255, 258–59 (2009).
20. Upon information and belief, at the time Defendants file debt collection actions, both the Metcalf Defendants and Attorney Zola lack the knowledge and/or evidence sufficient to establish the Metcalf Defendants' valid ownership of the purported debt attempting to be collected.
21. Not only do Defendants lack knowledge and/or evidence sufficient to establish valid ownership at time of filing, they also lack the ability and/or intention to obtain the necessary evidence to subsequently prove such valid assignment after filing.
22. Instead, Defendants file their debt collection actions with no ability or intention to prove their cases; but rather, to obtain default judgments or to mislead consumers into settling claims or entering into agreements for judgment.
23. Class members are harmed by Defendants' conduct because they might not have ever incurred the debt that they are being sued for; or, even if they did incur a debt with the original creditor,

another entity that does actually own the debt might seek to collect on it, subjecting the consumer to double payments to two debt collectors for the same debt.

**Defendants Misrepresent the Amounts of the Claims & Seek Double Recovery**

24. Each of the Defendants' statements of small claims has an amount listed as "principal" and another amount listed as "interest."
25. However, upon information and belief, what Defendants list as "principal" represents the balance allegedly owed at the time the debts were charged-off, inclusive of interest owed on the debt up to that date.
26. Upon information and belief, what the Defendants label as "interest" is their calculation of contractual, prejudgment interest from after the date of the charge-off to the date of filing.
27. Generally, creditors only include one amount in the statement of small claim; the balance allegedly owed at the time of the charge-off of a debt.
28. The Defendants' inclusion of both an amount labeled "principal" and an amount labeled "interest" is misleading, unfair, and deceptive because it indicates that the former represents actual charges made on the credit card and the latter represents the interest that has accrued on those outstanding charges when in fact, the latter represents prejudgment interest on the debt.
29. In addition, the Defendants' demand for what amounts to prejudgment interest is expressly prohibited by Massachusetts Uniform Small Claims Rule 2(a).
30. Massachusetts Uniform Small Claims Rule 2(a) prohibits parties from including prejudgment interest in the amount sought as damages in a small claims complaint. ("The plaintiff shall state specifically any amounts sought for damages...*exclusive of any prejudgment interest* being sought from the court pursuant to M.G.L. c. 231, §§ 6B or 6C.") (emphasis added)).

31. Because of this rule, a plaintiff in a small claims case can only generally request prejudgment interest. They are barred from specifying an amount they are seeking or including prejudgment interest in the total amount they are seeking.
32. Moreover, not only is what Defendants have labeled as interest in their statements of small claim prohibited from being included at the prejudgment stage, it was miscalculated and inflated by the Defendants.
33. Per the Uniform Small Claims Rules, any prejudgment interest is added to the amount of damages by the clerk of the court after judgment enters. Such interest is “calculated at the contract rate, if established, or at the rate of twelve per cent per annum from the date of the breach or demand. If the date of the breach or demand is not established, interest shall be added by the clerk of the court, at such contractual rate, or at the rate of twelve per cent per annum from the date of the commencement of the action...” M.G.L. c. 231, § 6C.
34. In these cases, Defendants do not allege, let alone establish, the date of the breach or demand. Thus, any prejudgment interest would have been calculated by the court’s clerk from the date of commencement of the action pursuant to M.G.L. c. 231, § 6C.
35. However, the “interest” amounts in Defendants’ statements of small claims were miscalculated from the date of charge-off.
36. Moreover, when the Defendants obtain judgments in their cases, whether by agreement, default, or after trial, they request, and normally receive, prejudgment interest on the amount sued for, pursuant to M.G.L. c. 231, § 6C, thus unlawfully seeking and receiving interest on the prejudgment interest they have wrongfully included in their statements of small claims.

37. Not only does this mean that Defendants are deceiving the Court into awarding excessive interest, but this practice results in the Defendants attempting to collect and collecting inaccurate amounts and amounts not owed.

**B. NAMED PLAINTIFFS**

**Tommy Royal**

38. Mr. Royal is 65 years old, and he is retired. Prior to his retirement, he worked for over twenty-five years at Gillette as a stock clerk.
39. His only income comes from a small pension and social security retirement.
40. Around September 2022, Mr. Royal began to receive phone calls from the Metcalf Defendants, holding themselves out as "Judgment Acquisitions Unlimited," a company he had never heard of before, and telling him that he owed the company over a thousand dollars.
41. Over the next few weeks, Mr. Royal saw the same number appear on his phone every day.
42. In late September, he picked up.
43. A female representative for the Metcalf Defendants told him that he owed Judgment Acquisitions Unlimited around \$1,300 from a debt with Genesis Credit.
44. Mr. Royal could not remember if he had ever had a debt with Genesis Credit, and this was the first time the Metcalf Defendants communicated with him.
45. Mr. Royal was skeptical that he owed so much and told her so.
46. The woman responded that they could make a deal and he could settle the Metcalf Defendants' claim for \$800.
47. Under the agreement, he would pay \$50 dollars initially, then pay \$750 when he received his next retirement check.



48. On or around early October 2022, Mr. Royal received a letter from the Metcalf Defendants dated September 30, 2022. See Exhibit A, attached as a true and accurate copy of an October 22, 2022, letter from the Metcalf Defendants to Mr. Royal.
49. This letter, signed by Andrew Metcalf personally, stated that Mr. Royal owed the Metcalf Defendants \$1,316.89.
50. The letter broke down this amount into \$794.18 due in “principal,” \$472.71 due in “interest” as of September 30, 2022, and costs of \$50.00.
51. However, on information and belief, the \$794.18 the Metcalf Defendants called the “principal” was in fact the balance allegedly owed at the time the original creditor charged-off the debt, inclusive of interest.
52. In addition, the \$472.71 that the Metcalf Defendants claimed Mr. Royal owed in interest was interest that the Metcalf Defendants calculated after the original creditor charged-off the debt.
53. The letter also repeated the settlement offer that the Metcalf Defendants’ representative had made on the phone.
54. The Metcalf Defendants’ letter offered to settle if Mr. Royal paid \$800 dollars—more than the full amount of the debt at charge-off.
55. Mr. Royal did not think he owed as much as the Metcalf Defendants said he did on any debt, but he was scared of being taken to court and worried that an unpaid debt could send him to prison.
56. The letter’s ominous language warned that “[a]ll actions including Capias service (civil arrest)” were “suspended temporarily pending payment.”
57. Mr. Royal decided that settlement for \$800 instead of what the Metcalf Defendants claimed was a total balance of nearly \$1,300 was his best option because he was scared that he would be picked up off the street and taken to prison because of the debt.

58. He also lives retirement paycheck to retirement paycheck, and it would have affected his ability to pay bills for another month if he had had to make further payments.
59. Shortly after receiving the letter, on October 3, 2022, he sent the Metcalf Defendants a money order via Western Union for fifty dollars. See Exhibit B, attached as a true and accurate copy of the December 21, 2022, Western Union Receipt.
60. According to Western Union, the Metcalf Defendants cashed the money order on December 21, 2022.
61. Mr. Royal was shocked when, a few days after sending the money order, he received a statement of small claim in the mail from the Dorchester Division of the Boston Municipal Court. See Exhibit C, attached as a true and accurate copy of the Statement of Small Claim, Docket no. 2207SC001340.
62. Attorney Zola, representing the Metcalf Defendants, filed a lawsuit against Mr. Royal on October 4, 2022.
63. The docket number for the action was 2207SC001340.
64. In the statement of small claim, consistent with the September 30, 2022 letter, the Defendants alleged that Mr. Royal owed what it called principal and interest as follows:
- [Principal: \$794.18 Interest: \$469.24 Cost/Fees \$0.00:]-[Payments:\$0.00 ] =\$1,263.42**
65. However, upon information and belief, the \$794.18 that the Defendants labeled "principal" was the balance allegedly owed at the time the original creditor charged-off the debt, inclusive of interest.
66. In addition, the \$472.71 that the Defendants claimed Mr. Royal owed was prejudgment interest from after the charge-off of Mr. Royal's debt.

67. The inclusion of the \$469.24 in the demand was unfair and deceptive because Small Claims Rule 2(a) expressly prohibits the inclusion of prejudgment interest in the amount demanded by Plaintiff.
68. Even if the amounts could be included in the statement of small claims, upon information and belief, they were miscalculated from the date of charge-off in violation of M.G.L. c. 231, § 6C.
69. On March 2, 2023, Mr. Royal appeared in small claims court.
70. There, the assistant clerk-magistrate awarded judgment in Mr. Royal's favor because no one appeared for the Metcalf Defendants.
71. During the six months between the Metcalf Defendants' initial contact with Mr. Royal and his ultimate favorable judgment, Mr. Royal experienced anxiety and stress.
72. He was also upset by the rude, dismissive way the Metcalf Defendants had treated him—a feeling that only intensified when he learned that the Metcalf Defendants' settlement amount was based on erroneous numbers.
73. Following the commencement of the instant action, JAU Inc. moved to compel arbitration and submitted what it purported was a chain of assignments of Mr. Royal's Genesis account to it.
74. However, in denying JAU Inc.'s motion to compel arbitration, the Court found that JAU had "not established a valid chain of assignment" of his alleged account to it and highlighted JAU Inc.'s lack of account level documentation in its purported bills of sale.

**Bernadette Costa**

75. Bernadette Costa works as a night nurse at a care home for ALS patients in Chelsea. She is currently on medical leave.
76. She also cares for her mother, who suffers from Alzheimer's, and provides financial support for her children.

77. During the summer of 2021, Ms. Costa received a call from Andrew Metcalf.
78. He told her she owed a debt of approximately \$3,500 to the Metcalf Defendants based on a Genesis Credit account which could only be used at Aspen Dental.
79. Ms. Costa had not heard from Genesis Credit in years, and this was the first she was hearing from the Metcalf Defendants.
80. Metcalf was polite at first, but his tone soon turned aggressive.
81. When Ms. Costa said she thought she could work overtime and settle the debt by January, he said something along the lines of, "You don't tell me when you're going to pay it." If she did not pay soon, he said he would sue her and garnish her wages and assets.
82. Around October 28, 2021, Ms. Costa received a statement of small claim from Somerville District Court, alleging that she owed JAU a total of \$5,831.74, plus court costs of \$150. See Exhibit D, attached as a true and accurate copy of the Statement of Small Claims for Docket No. 2110SC000889
83. On or about that date, the Defendants had filed a court case against Ms. Costa with docket number 2110SC000889.
84. Attorney Zola signed a verification of address form which was filed with the Court.
85. The statement of small claim, which was signed by Attorney Zola, broke the amount owed down into principal and interest as follows:
- Principal: \$3,632.40 + Interest: \$2,199.34 - Payments: \$0.00 = Balance: \$5,831.74**
86. The "principal" represented the balance allegedly owed at the time the original creditor charged-off the debt, inclusive of interest.
87. The "interest" represented post-charge-off, prejudgment interest.

88. The inclusion of prejudgment interest in the amount demanded by the Defendants was misleading and deceptive because it is expressly prohibited by Small Claims Rule 2(a).
89. Even if the interest was allowed on the statement of small claim, it was miscalculated from the date of charge-off in violation of M.G.L. c. 231, § 6C.
90. Ms. Costa attended her court date in September 2021. She thought the amount the Defendants were asking for seemed higher than what it should be—and she noticed that it had gone up around \$2,000 since her initial conversation with Metcalf.
91. She feared that if she did not settle things then and there, the amount would only get higher.
92. Because of the inaccurate amounts allegedly owed and her fear that the amount would only get higher, she told the assistant clerk-magistrate that she would go ahead and agree to the amount to resolve the case.
93. The assistant clerk-magistrate accordingly entered judgment in the Metcalf Defendants' favor, ordering her to pay \$5,831.74, plus \$754.38 in prejudgment interest for a total of \$6,586.11. He also ordered her to pay post-judgment interest.
94. The total amount included improper interest on interest, as despite the fact that the Metcalf Defendants had improperly included prejudgment interest in the claim, they also sought and received prejudgment interest as part of the judgment.
95. Before the court case, Ms. Costa had been saving up money for a down payment to buy a house, but after the court judgment, Ms. Costa took most of those savings and paid them to the Metcalf Defendants.
96. To satisfy the judgment, Ms. Costa paid the Metcalf Defendants \$3,932.00, more than the amount of the debt at charge-off, devastating her savings and setting back her efforts to buy a home for years.

97. After the Metcalf Defendants contacted her, Ms. Costa felt depressed, anxious, and had difficulty sleeping.
98. Metcalf's demeaning treatment made her feel like she was worthless for not being able to pay her debts.
99. In its motion to compel arbitration in this case, JAU Inc. submitted what it purported was a chain of assignments of Ms. Costa's Genesis account to it.
100. However, in denying JAU Inc.'s motion to compel arbitration, the Court found that JAU Inc. failed to provide an adequate chain of assignments for Ms. Costa's account because it lacked account level documentation, as it did for Mr. Royal's account; failed to provide an assignment from the original creditor to any other entity; and the chain of assignments began with an assignment that pre-dated the origination of Ms. Costa's account.

### **C. CLASS ALLEGATIONS**

101. Plaintiffs Mr. Royal and Ms. Costa bring this action against Defendants on behalf of themselves and all others similarly situated (collectively "the Class" as defined below) to recover for the harm caused by the practices of Defendants.
102. The Class is defined as all persons who were sued by Metcalf d/b/a JAU or JAU Inc. d/b/a JAU in a small claims session of Massachusetts District and Boston Municipal Courts between January 2020 and the present ("Class Period") on a debt that was allegedly purchased by one of the Metcalf Defendants.
103. Subclass A contains all members of the Class who the Metcalf Defendants alleged in their respective statements of small claim owed separate amounts labeled "principal" and "interest;" and who the Metcalf Defendants alleged in their respective statements of small claims owed both a balance allegedly owed at the time the original creditor charged-off the debt,

inclusive of interest labeled "principal," and post-charge off, prejudgment interest on the debt labeled "interest."

104. Subclass B contains all members of the Class who were named as a defendant in a small claims action in which Attorney Zola represented one or more of the Metcalf Defendants.
105. Throughout the Class Period, as outlined above, the Defendants violated the law with regard to the Class and Subclass members by:
  - a. seeking and obtaining judgments against class members, despite Defendants' inability to prove that they were owed any amount;
  - b. mislabeling amounts allegedly owed as "principal" and "interest" when the former included pre-charge-off interest; including specific prejudgment interest amounts on the statement of small claim; and miscalculating that prejudgment interest;
  - c. filing collection actions against class members with no intention and ability to prove their case, but rather to obtain default judgments or mislead class members into accepting settlements.
106. Throughout the Class Period, as outlined above, the Defendants injured Class members, including by:
  - a. exposing Class members to the risk that they make payments for money not owed;
  - b. causing Class members to make payments for sums not owed;
  - c. misleading Class members into settling their small claims cases for an amount higher than they could have negotiated for had Defendants made accurate representations of amounts owed and/or their ownership of the debt;
  - d. exposing Class members to the risk of making payments to the incorrect entity and/or having already caused such payment.

107. The Class, as defined above, is identifiable and unambiguous based on objective information and criteria.
108. The following persons shall be excluded from the Class: (a) any persons who have released Defendants for the claims asserted, and (b) all persons who make a timely election to be excluded from the proposed Class.
109. Mr. Royal and Ms. Costa are members of the Class.
110. All of the criteria for class certification under Mass. R. Civ. P. 23 are satisfied:
- a. The Class is so numerous that joinder of all members is impracticable. Within the relevant time periods, the Metcalf Defendants filed hundreds, if not thousands, of collection actions in Massachusetts Courts. Upon information and belief, during the relevant time periods, Attorney Zola represented the Metcalf Defendants in over 100 of these actions.
  - b. There are questions of law and fact common to the Class that predominate over any questions affecting only individual members of the Class. These common questions include but are not limited to:
    - i. whether Defendants are "creditors" within the meaning of 940 CMR 7.03 and/or M.G.L. c. 93, § 49;
    - ii. whether Defendants are "debt collectors" within the meaning of 209 CMR 18.02 and/or M.G.L. c. 93 § 24;
    - iii. whether Defendants sought to collect amounts from Class members that they did not owe;
    - iv. whether the Metcalf Defendants have proof of ownership of the debts Defendants they file suit to collect;



- v. whether Defendants' actions violated M.G.L. c. 93, § 49, Attorney General Regulations, M.G.L. c. 93 § 24A and/or M.G.L. c. 93A;
  - vi. whether the Metcalf Defendants' actions violated the DOB Regulations; and
  - vii. whether Class members are entitled to recover damages (and other appropriate relief) due to Defendants' violations of their rights.
- c. All of these issues are based on the same facts and legal theories for the Class.
  - d. Plaintiffs' claims are typical of the Class members' claims in that they were sued by Defendants in Massachusetts District and Boston Municipal Courts without Defendants having in their possession adequate proof of ownership of the debt. Plaintiffs' claims are typical of the Subclass members' claims in that they were sued for amounts more than they owed and wherein Defendants misrepresented the character of the claim in the Small Claims filings; and in that the Metcalf Defendants were represented by Attorney Zola in the actions against them.
  - e. Plaintiffs will fairly and adequately represent the Class members' interests. All claims are based on the same fact pattern and legal theories and Plaintiffs' interests are consistent with the interests of the Class and Subclasses. Moreover, Plaintiffs have retained counsel experienced in consumer protection law and consumer class actions.
111. The prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications with respect to individual members of the Class, which would establish incompatible standards of conduct for Defendants.
112. A class action is superior for the fair and efficient adjudication of the claims. Class members are generally unsophisticated individuals who are unaware of the protections provided

by M.G.L. c. 93A, and whose damages are not substantial enough to make individual litigation cost-effective. Therefore, most Class members' rights will not be vindicated in the absence of a class action. In addition, prosecution of separate actions by individual class members would create the risk of inconsistent or varying adjudications resulting in the establishment of inconsistent or varying standards for the parties and would not be in the interest of judicial economy. Finally, there are no unusual or difficult case management issues inherent in this litigation.

**D. NOTICE**

113. On May 25, 2023 and July 1, 2024, Plaintiffs—through counsel—sent two demands for relief to Defendants via certified mail, return receipt requested. The two letters collectively reasonably described the acts and practices complained of and injuries suffered.

114. Defendants received Plaintiffs' demands and, while Defendants provided written responses to both, they failed to make a reasonable written tender of settlement to the class within 30 days—or within any extension given—of either.

115. Defendants' failure to provide a reasonable tender of settlement was in bad faith because they had knowledge or reason to know that their conduct violated M.G.L. c. 93A, § 2.

**CLAIMS FOR RELIEF**

**CAUSE OF ACTION I:  
SEEKING TO COLLECT & COLLECTING ON DEBTS  
WITHOUT PROOF OF OWNERSHIP  
(On Behalf of the Class Against The Metcalf Defendants)**

116. Plaintiffs and the Class repeat and reallege all preceding allegations as if fully set forth herein.

117. Plaintiffs and the Class are “debtors” within the meaning of 940 CMR 7.03 and “consumers” within the meaning of 209 CMR 18.02, because they were alleged to be personally liable for a consumer debt.
118. The Metcalf Defendants are “creditors” as defined by M.G.L. c. 93, § 49, and 940 CMR 7.03.
119. The Metcalf Defendants are “debt collectors” within the meaning of 209 CMR 18.02, as their principal purpose is debt collection, and they use an instrumentality of interstate commerce or the mails; and because they buy or acquire debt that is in default at the time of purchase or acquisition and seeks to collect debt directly.
120. At all times relevant to this complaint, the Metcalf Defendants were engaged in “trade or commerce” in Massachusetts within the scope of M.G.L. c. 93A, § 1.
121. Plaintiffs and members of the Class are natural persons present and residing in Massachusetts who have purportedly incurred a debt primarily for personal, family, or household purposes.
122. The Metcalf Defendants filed collection actions against Plaintiffs and Class members in Small Claims Court without having in possession, and without intending to obtain and/or having the ability to obtain, documentation of their valid ownership of the accounts giving rise to the collection actions.
123. By so doing, the Metcalf Defendants violated the Massachusetts Fair Debt Collection Practices Act, Attorney General regulations on debt collection, Division of Banks regulations, and the Massachusetts Consumer Protection Act, including the following:
- a. M.G.L. c. 93, § 49, by collecting or attempting to collect such debt in an unfair, deceptive or unreasonable manner;

- b. 940 CMR 7.07(2), by using knowingly false or misleading representations in any communication as to the character, extent or amount of a debt;
- c. 940 CMR 7.07(8), by using false, deceptive, or misleading representations, communications, or means in connection with the collection of any debt;
- d. 209 CMR 18.18(2), by falsely representing the character, amount, or legal status of debts;
- e. 209 CMR 18.18(5), by threatening to take any action that cannot legally be taken or that is not intended to be taken;
- f. 209 CMR 18.18(10), by using false representations or deceptive means to collect or attempt to collect debts;
- g. M.G.L. c. 93A, § 2, by violating the above-listed laws and regulations, thus constituting per se violations of the statute; and
- h. M.G.L. c. 93A, § 2, by engaging in unfair and deceptive acts.

124. The Metcalf Defendants' violations of M.G.L. c. 93A § 2 were knowing and willful in nature.

125. As a direct and proximate result of the Metcalf Defendants' violations of the aforesaid laws and regulations, Plaintiffs and the Class have suffered injuries including but not limited to payments made to Defendants that were not rightfully owed or supported; entry of default judgment against them; impact to their credit; exposure to the risk that they would either pay amounts not actually owed, accept disadvantageous settlements of their small claims cases, or face unsupported default judgments. The Plaintiffs have also suffered emotional distress.

**CAUSE OF ACTION II: MISREPRESENTATION OF AMOUNTS OWED**  
(On Behalf of Subclass A Against the Metcalf Defendants)

126. Plaintiffs and Subclass A repeat and reallege all preceding allegations as if fully set forth herein.
127. Plaintiffs and Subclass A are “debtors” within the meaning of 940 CMR 7.03 and “consumers” within the meaning of 209 CMR 18.02, because they were alleged to be personally liable for a consumer debt.
128. The Metcalf Defendants are “creditors” as defined by M.G.L. c. 93, § 49, and 940 CMR 7.03.
129. The Metcalf Defendants are “debt collectors” within the meaning of 209 CMR 18.02, as their principal purpose is debt collection, and they use an instrumentality of interstate commerce or the mails; and because they buy or acquire debt that is in default at the time of purchase or acquisition and seeks to collect debt directly.
130. At all times relevant to this complaint, the Metcalf Defendants were engaged in “trade or commerce” in Massachusetts within the scope of M.G.L. c. 93A, § 1.
131. Plaintiffs and members of Subclass A are natural persons present and residing in Massachusetts who have purportedly incurred a debt primarily for personal, family, or household purposes.
132. As outlined above, the Metcalf Defendants collected or attempted to collect the purported debts of Plaintiffs and members of Subclass A by (a) providing misleading labels of both “principal” and “interest” on the statements of small claims, (b) miscalculating the amount of interest; and (c) attempting to collect and collecting prejudgment amounts that they were not entitled to collect.

133. By so doing, the Metcalf Defendants violated the Massachusetts Fair Debt Collection Practices Act, Attorney General regulations on debt collection, Division of Banks regulations, and the Massachusetts Consumer Protection Act, including the following:
- a. M.G.L. c. 93, § 49, by collecting or attempting to collect such debt in an unfair, deceptive or unreasonable manner;
  - b. 940 CMR 7.07(2), by using knowingly false or misleading representations in any communication as to the character, extent or amount of a debt;
  - c. 940 CMR 7.07(8), by using false, deceptive, or misleading representations, communications, or means in connection with the collection of any debt;
  - d. 940 CMR 7.07(16) by attempting to collect and/or collecting any amount (including interest, fees, charges or expenses incidental to the principal obligation) unless such amount is expressly authorized by the agreement creating the debt or permitted by law;
  - e. 209 CMR 18.18(2), by falsely representing the character, amount, or legal status of debts;
  - f. 209 CMR 18.18(5), by threatening to take any action that cannot legally be taken or that is not intended to be taken;
  - g. 209 CMR 18.18(10), by using false representations or deceptive means to collect or attempt to collect debts;
  - h. 209 CMR 18.19(1), by attempting to collect and/or collecting 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;

- i. M.G.L. c. 93A, § 2, by violating the above-listed laws and regulations, thus constituting per se violations of the statute; and
- j. M.G.L. c. 93A, § 2, by engaging in unfair and deceptive acts.

134. The Metcalf Defendants' violations of M.G.L. c. 93A § 2 were knowing and willful in nature.

135. As a direct and proximate result of the Metcalf Defendants' violations of the aforesaid laws and regulations, Plaintiffs and members of Subclass have suffered injuries, including but not limited to paying excessive amounts and exposure to the risk that they would either pay more than the amount actually owed or settle their small claims cases for an amount higher than they could have negotiated for had Defendants made accurate representations of amounts owed. The Plaintiffs have also suffered emotional distress.

**CAUSE OF ACTION III: ILLEGAL COLLECTION ACTIONS  
BY CREDITOR'S COUNSEL  
(On Behalf of Subclass B Against Attorney Zola)**

136. Plaintiffs and Subclass B repeat and reallege all preceding allegations as if fully set forth herein.

137. At all times relevant to this complaint, Attorney Zola was engaged in "trade or commerce" in Massachusetts within the scope of M.G.L. c. 93A, § 1.

138. Attorney Zola is an "attorney for a creditor" within the meaning of M.G.L. c. 93A, § 49.

139. Attorney Zola is a "creditor" within the meaning of 940 CMR 7.03.

140. Plaintiffs and members of Subclass B are "debtors" within the meaning of 940 CMR 7.03, promulgated by the Attorney General pursuant to M.G.L. c. 93A, § 2, because they were alleged to be personally liable for a consumer debt.

141. Plaintiffs and members of Subclass B are natural persons present and residing in Massachusetts who have purportedly incurred a debt primarily for personal, family, or household purposes.
142. As outlined above, Attorney Zola filed and prosecuted debt collection litigation in which (a) neither he nor his client could prove nor intended to prove that the plaintiff owned the debts at issue; (b) the statements of small claims set forth misleading labels of both "principal" and "interest"; (c) the interest amounts were miscalculated and (d) the suits attempted to collect and collected prejudgment amounts that his client was not entitled to collect.
143. As outlined above, Attorney Zola violated AG regulations on debt collection, including 940 CMR 7.07(2), (8), and (16) by: (a) filing collection actions against Plaintiffs and Subclass B members in Small Claims Court without having in possession, and without intending to obtain, sufficient documentation of the Metcalf Defendants' valid ownership of the accounts giving rise to the collection actions; (b) providing misleading labels of both "principal" and "interest" on the statements of small claims; (c) miscalculating interest amounts; and (d) attempting to collect and collecting prejudgment amounts that his client was not entitled to collect.
144. By so doing, Attorney Zola violated the Massachusetts Fair Debt Collection Practices Act, Attorney General regulations on debt collection, and the Massachusetts Consumer Protection Act, including the following:
  - a. M.G.L. c. 93, § 49, by collecting or attempting to collect such debt in an unfair, deceptive or unreasonable manner;
  - b. 940 CMR 7.07(2), by using knowingly false or misleading representations in any communication as to the character, extent or amount of a debt;



- c. 940 CMR 7.07(8), by using false, deceptive, or misleading representations, communications, or means in connection with the collection of any debt;
- d. 940 CMR 7.07(16) by attempting to collect and/or collecting any amount (including interest, fees, charges or expenses incidental to the principal obligation) unless such amount is expressly authorized by the agreement creating the debt or permitted by law;
- e. M.G.L. c. 93A, § 2, by violating the above-listed laws and regulations, thus constituting per se violations of the statute; and
- f. M.G.L. c. 93A, § 2, by engaging in unfair and deceptive acts.

145. Attorney Zola's violations of M.G.L. c. 93A § 2 were knowing and willful in nature.

146. As a direct and proximate result of Attorney Zola's violations of the aforesaid laws and regulations, Plaintiffs and members of Subclass B have suffered injuries, including but not limited to payments made to Defendants that were not rightfully owed or supported; entry of default judgment against them; impact to their credit; and exposure to the risk that they would either pay amounts not actually owed, accept disadvantageous settlements of their small claims cases, or face unsupported default judgments. The Plaintiffs have also suffered emotional distress.

#### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs respectfully request that this Honorable Court grant the following relief:

1. Award Plaintiffs and the Class actual damages; statutory damages; and double or treble damages;
2. Award Plaintiffs and the Class interest, costs, and reasonable attorney's fees;

3. Award Plaintiffs and the Class the following injunctive relief:
  - a. Enjoining the collection of wrongful amounts;
  - b. Ordering Defendants to correct credit reporting on Class member accounts by requesting deletion of any tradeline related to the subject collection actions;
  - c. Dismissal with prejudice of any actions pending against class members; and
  - d. Vacating and dismissal with prejudice of any cases against class members which have been reduced to judgments;
  - e. Enjoining Defendants from collecting on any judgments or from filing future debt collection actions in Small Claims Court in any of the Metcalf Defendants' names, unless Defendants (i) evidence actual ownership of the purported debt and (ii) demonstrate that the suit accurately sets forth amounts actually owed.
4. Certify the Class and Subclasses;
5. Appoint Plaintiff's counsel as Class counsel; and
6. Award such further relief as shall be just and proper.

Dated: September 6, 2024

Respectfully submitted,

Plaintiffs

By their attorneys,

/s/ Alexa Rosenbloom

Alexa Rosenbloom, BBO #679108

Roger Bertling, BBO # 560246

Legal Services Center of Harvard Law School

(617) 384-0742

arosenbloom@law.harvard.edu

rbertlin@law.harvard.edu

/s/ Jennifer Wagner

# EXHIBIT A



JUDGMENT  
ACQUISITIONS UNLIMITED  
www.judgmentacquisitions.com



Original Creditor:	Genesis Credit
Originator:	Aspen Dental
Original Acct #	[REDACTED]
Current Creditor:	Judgment Acquisitions Unlimited
Principal:	\$794.18
Interest:	\$472.71 as of 9/30/2022
Payments:	(\$0.00)
Costs:	\$50.00 Fees: \$0.00
<b>TOTAL:</b>	<b>\$1,316.89</b>

NMLS ID# 1289659  
9/30/2022

Scan Code to Chat with Us



Payment ID #:  
1060401009050913

Dear Tommy,

Please accept this offer of settlement in the amount of \$800.00. This amount will pay the account in full. Once payment in full is received, we will send a notice of satisfaction to the court. You will receive a copy for your records also. If it has been reported to your credit report by us, we will report to the credit bureau(s) that the case is fully satisfied. They will record the case as settled on the credit reports. JAU or the court has no control on when the recording will take place. That is the reason we send you a copy of the notice of satisfaction.

All actions including Capias service (civil arrest) wage attachments, bank account attachments, property liens, automobile seizure, watercraft liens, airplane liens, and business receivership have been suspended temporarily pending payment received in a timely fashion.

**TERMS**

The payment plan will consist of 2 payments for total of \$800.00.  
First payment will be \$50 followed by final payment of \$750.00.  
Frequency of the payment will be MONTHLY starting 1<sup>st</sup> of Oct 2022.

Please be advised that if you are paying less than the full balance, the payments must be made on time, or the arrangement is null and void, and the full balance will become due including interest and all costs involved in the collection of the account.

We do accept all major credit cards, PayPal, and both personal and business checks via telephone for fastest payment.

If this is acceptable and agreeable terms, please sign the attached agreement and send with first payment.

This communication is from a Debt Collector and is an attempt to collect a debt. Any information obtained will be used for that purpose.

Andrew C. Metcalf

\_\_\_\_\_  
Tommy Royal

\_\_\_\_\_  
Date

# EXHIBIT B

MONEY ORDER RECEIPT - NON NEGOTIABLE

10/3/22

JAV

LOAD THIS DIRECTION, THIS SIDE UP

LOAD THIS DIRECTION, THIS SIDE UP

AGT 132873 LOC 000018 DT 100322 \$50.00 50DOLLARS AND NO CENTS

BEFORE YOU CASH THIS MONEY ORDER CHECK IF YOU WANT TO RECEIVE WITH ALL BANKING SERVICES, BE AWARE YOU MUST PROVIDE  
INFORMATION TO THE BANK AND THE BANK. For your convenience, it is recommended that you make a photocopy of the MONEY ORDER  
before cashing it in the window.  
PURCHASE AGREEMENT: You the purchaser agree that Western Union Financial Services, INC. (WUFS) need not give prompt  
attention to, or return it back to either WUFS Money Order #100322 or 100322 in the face of the Money Order at the time of  
purchase, and you agree to hold or that it is issued under WUFS's control, and you agree to hold or that it is issued under WUFS's control, and you agree to hold or that it is issued under WUFS's control. For complete  
terms, see 1-800-988-3800.

\* 19435012495 \*



# EXHIBIT C

<b>STATEMENT OF SMALL CLAIM AND NOTICE</b>	DOCKET NO. (For Court Use Only) <b>2207SC1340</b>	<b>Trial Court of Massachusetts Small Claims Session</b>
<p><b>NOTICE TO PLAINTIFF:</b> You may file your small claim only in the court for the area where either the plaintiff or the defendant lives or has a place of business or employment. A small claim against a landlord arising from the rental of an apartment may also be brought where the apartment is located. You may find it easier to enforce a decision in your favor if you bring your small claim where the defendant lives or works, but you are not required to do so.</p>		
<p>COURT DIVISION WHERE THE PLAINTIFF IS FILING THIS CLAIM (Select Only One Court):  <b>BMC: Dorchester BMC</b>                  District:                  Housing:</p>		
<b>PLAINTIFF INFORMATION:</b> The person filing the claim is the plaintiff.	<b>PLAINTIFF'S ATTORNEY (if any)</b>	
Pltf. Name: <b>Judgment Acquisitions Unlimited</b> Address: <b>PO Box 153</b> City/State/Zip: <b>Avon Ma 02322</b> Phone No.: <b>508-857-4410</b>	Atty. Name: <b>Michael A. Zola</b> Address: <b>607 North Ave</b> City/State/Zip: <b>WAKEFIELD, MA 01880</b> Phone No.: <b>(781) 245-0500</b> BBO NO: <b>665701</b>	
<p><b>DEFENDANT(S) INFORMATION:</b> The person or corporation being sued is the defendant. If you are suing a company which is not a corporation, you should name the owner(s) doing business as the named company as the defendant; the names of the owner(s) can be obtained from the City or Town Clerk where the company's offices are located. If you are suing a company which is a corporation, you must have the exact legal name. You can find this information from the Corporate Records Division of the Secretary of State's Office, One Ashburton Place, Room 1712, Boston, MA 02108.</p>		
Def. #1 Name: <b>Tommy Royal</b> Address: <b>8 Tilesboro St</b> City/State/Zip: <b>Dorchester MA 02122</b> Phone No.: <b>617-276-5544</b>	Def. #2 Name: Address: City/State/Zip: Phone No.:	
<p><b>PLAINTIFF'S CLAIM:</b> Fill in below the amount you are suing for and briefly explain your claim. State your claim clearly so the defendant can understand why he or she is being sued. Give the date of the event that is the basis of your claim. Fill in as "costs" the amount of the filing fee. The Plaintiff claims that the Defendant(s) <b>OWE \$1,263.42</b> plus <b>\$50.00</b> court costs for the following reasons:</p> <p>On 9/12/2019 Defendant entered into a consumer credit agreement with Genesis Credit only to be used in Aspen Dental                  The Defendant received Aspen Dental services but failed to make payments as agreed.                  The Plaintiff, Judgment Acquisitions Unlimited is now the owner of said debt.                  The Original Account number ends in <b>1886</b>.                  The last payment was made to the original creditor on 10/4/2019, in the amount of \$60.00.</p> <p>[Principal: \$794.18 Interest: \$469.24 Cost/Fees \$0.00]-[Payments:\$0.00 ]=\$1,263.42</p>		
SIGNATURE OF PLAINTIFF: X <i>Michael A. Zola</i>		DATE: 9/22/2022
<p><b>MEDIATION:</b> Mediation of this claim may be available if both parties agree to discuss the matter with a mediator, who will assist the parties in trying to resolve the dispute on mutually agreed to terms. The plaintiff must notify the court if he or she desires mediation; the defendant may consent to mediation on the trial date. The plaintiff is willing to attempt to settle this claim through mediation:    <input type="checkbox"/> YES    <input type="checkbox"/> NO</p>		
<p><b>MILITARY AFFIDAVIT:</b> The plaintiff states under the pains and penalties of perjury that the:</p> <p><input checked="" type="checkbox"/> above defendant(s) is (are) not serving in the military and at present live(s) or works at the above address.</p> <p><input type="checkbox"/> above defendant(s) is (are) serving in the military.      <input type="checkbox"/> I am unsure if the above defendant(s) is (are) in the military.</p>		
SIGNATURE OF PLAINTIFF: X <i>Michael A. Zola</i>		DATE: 9/22/2022
<p><b>INSTRUCTIONS TO PLAINTIFF:</b> "By E-Filing this form, which includes the military affidavit, you certify that the above information is true and accurate. By completing this form, together with a payment of the filing fee, the form will be sent to the court electronically. If you do not know where to file your Small Claims case visit: <a href="http://www.mass.gov/courthouse-locator">www.mass.gov/courthouse-locator</a>. If a claim arises out of plaintiff's trade or commerce, or for assigned debt, you may be required to complete and file a "Verification of Defendant's Address" form."</p>		

BOSTON MUNICIPAL COURT  
 TRIAL COURT OF  
 COMMONWEALTH  
 DORCHESTER DIVISION  
 FILED  
 22 OCT -4 AM 7:41



# EXHIBIT D

STATEMENT OF SMALL CLAIM AND NOTICE	DOCKET NO. (For Court Use Only)	Trial Court of Massachusetts Small Claims Session
<b>NOTICE TO PLAINTIFF:</b> You may file your small claim only in the court for the area where either the plaintiff or the defendant lives or has a place of business or employment. A small claim against a landlord arising from the rental of an apartment may also be brought where the apartment is located. You may find it easier to enforce a decision in your favor if you bring your small claim where the defendant lives or works, but you are not required to do so.		
<b>COURT DIVISION WHERE THE PLAINTIFF IS FILING THIS CLAIM (Select Only One Court):</b> <b>BMC:</b> <b>District:</b> Somerville District Court <b>Housing:</b>		
<b>PLAINTIFF INFORMATION:</b> The person filing the claim is the plaintiff.	<b>PLAINTIFF'S ATTORNEY (if any)</b>	
Pttf. Name: Judgment Acquisitions Unlimited Address: P O Box 153 City/State/Zip: Avon, MA 02322 Phone No.: 508-857-4410	Atty. Name: Address: City/State/Zip: Phone No.: BBO NO:	
<b>DEFENDANT(S) INFORMATION:</b> The person or corporation being sued is the defendant. If you are suing a company which is not a corporation, you should name the owner(s) doing business as the named company as the defendant; the names of the owner(s) can be obtained from the City or Town Clerk where the company's offices are located. If you are suing a company which is a corporation, you must have the exact legal name. You can find this information from the Corporate Records Division of the Secretary of State's Office, One Ashburton Place, Room 1712, Boston, MA 02108.		
Def. #1 Name: Bernadette Costa Address: 309 Park St City/State/Zip: Medford, MA 02155 Phone No.: 774-360-7216	Def. #2 Name: Address: City/State/Zip: Phone No.:	
<b>PLAINTIFF'S CLAIM:</b> Fill in below the amount you are suing for and briefly explain your claim. State your claim clearly so the defendant can understand why he or she is being sued. Give the date of the event that is the basis of your claim. Fill in as "costs" the amount of the filing fee. The Plaintiff claims that the Defendant(s) <b>OWE \$5831.74 plus \$150.00 court costs</b> for the following reasons:  On 8/03/2018 Bernadette Costa entered into a consumer lease agreement with Genesis Credit only to be used at Aspen Dental. Bernadette Costa received Aspen Dental's services but failed to make payment as agreed. Judgment Acquisitions Unlimited is now owner of said debt. Original Account number ends in 9542. Last payment date: 10/19/2018. Last payment amount: \$150.00  Principal: \$3,632.40 + Interest: \$2,199.34 - Payments: \$0.00 = Balance: \$5,831.74  <b>SIGNATURE OF PLAINTIFF: X</b> <i>M. G. Zola</i> <b>DATE:</b> 10/28/2021		
<b>MEDIATION:</b> Mediation of this claim may be available if both parties agree to discuss the matter with a mediator, who will assist the parties in trying to resolve the dispute on mutually agreed to terms. The plaintiff must notify the court if he or she desires mediation; the defendant may consent to mediation on the trial date. The plaintiff is willing to attempt to settle this claim through mediation: <input type="checkbox"/> YES <input type="checkbox"/> NO		
<b>MILITARY AFFIDAVIT:</b> The plaintiff states under the pains and penalties of perjury that the: <input checked="" type="checkbox"/> above defendant(s) is (are) not serving in the military and at present live(s) or works at the above address. <input type="checkbox"/> above defendant(s) is (are) serving in the military. <input type="checkbox"/> I am unsure if the above defendant(s) is (are) in the military. <b>SIGNATURE OF PLAINTIFF: X</b> <i>M. G. Zola</i> <b>DATE:</b> 10/28/2021		
<b>INSTRUCTIONS TO PLAINTIFF:</b> "By E-Filing this form, which includes the military affidavit, you certify that the above information is true and accurate. By completing this form, together with a payment of the filing fee, the form will be sent to the court electronically. If you do not know where to file your Small Claims case visit: <a href="http://www.mass.gov/courthouse-locator">www.mass.gov/courthouse-locator</a> . If a claim arises out of plaintiff's trade or commerce, or for assigned debt, you may be required to complete and file a "Verification of Defendant's Address" form."		