

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

Jacqueline Jones, *on behalf of herself
and others similarly situated,*

Plaintiff,

vs.

Case No.

I.Q. Data International, Inc., and
The Reliant Group, LLC,
D/b/a the Courtyards,

Defendant.

NATURE OF ACTION

1. This is a class action under the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692, *et seq.*, and the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction under 15 U.S.C. § 1692k(d), 47 U.S.C. § 227(b)(3) and 28 U.S.C. § 1331.

3. Venue is proper before this Court under 28 U.S.C. § 1391(b) as the acts and transactions giving rise to Jacqueline Jones’s action occurred in this district, as Ms. Jones resides in this district, and as I.Q. Data International, Inc. (“I.Q.”) and The Reliant Group, LLC, transact business in this district.

PARTIES

4. Ms. Jones is a natural person who at all relevant times resided in the State of New Mexico, County of Bernalillo, City of Albuquerque.

5. Ms. Jones is a “consumer” as defined by 15 U.S.C. § 1692a(3).

6. I.Q. is an entity who at all relevant times was engaged, by use of the telephone, in the business of attempting to collect a “debt” from Ms. Jones, as defined by 15 U.S.C. §1692a(5).

7. I.Q. is a “debt collector” as defined by 15 U.S.C. § 1692a(6).

8. The Reliant Group, LLC is a California limited liability company that owns and operates The Courtyards—a residential apartment complex located at 6001 Topke Pace NE, Albuquerque, NM 87109.

FACTUAL ALLEGATIONS

9. Ms. Jones is a natural person allegedly obligated, to pay a debt (“Debt”) asserted to be owed or due The Courtyards.

10. Ms. Jones’s alleged obligation, asserted to be owed or due The Courtyards, arises from a transaction in which the money, property, insurance, or services that are the subject of the transaction were incurred primarily for personal, family, or household purposes—namely, Ms. Jones’s friend’s residence at The Courtyards.

11. I.Q. uses instrumentalities of interstate commerce or the mails in a business the principal purpose of which is the collection of any debts, and/or regularly collects or attempts to collect, directly or indirectly, debts owed or due, or asserted to be owed or due another.

12. On or about December 20, 2012, Ms. Jones’s friend learned that I.Q. was responsible for a negative entry on her credit report.

13. Ms. Jones’s friend then used Ms. Jones’s cellular telephone to contact I.Q. to discuss the negative entry.

14. I.Q. subsequently placed calls to Ms. Jones's cellular telephone on the following dates and times:

- April 29, 2013 at 4:50 P.M.;
- May 31, 2013 at 4:59 P.M.;
- June 7, 2013 at 1:31 P.M.;
- June 10, 2013 at 2:49 P.M.;
- June 17, 2013 at 12:09 P.M.;
- June 21, 2013 at 2:57 P.M.;
- June 24, 2013 at 2:22 P.M.;
- June 29, 2013 at 12:44 P.M.;
- July 1, 2013 at 4:20 P.M.;
- July 5, 2013 at 4:48 P.M.;
- July 8, 2013 at 6:31 P.M.;
- July 11, 2013 at 5:30 P.M.;
- July 12, 2013 at 3:24 P.M.;
- July 23, 2013 at 2:11 P.M.;
- July 25, 2013 at 2:28 P.M.;
- July 26, 2013 at 12:50 P.M.;
- July 29, 2013 at 1:33 P.M.;
- July 31, 2013 at 4:29 P.M.

15. I.Q. placed several, if not many additional calls to Ms. Jones's cellular telephone, which are not specifically outlined in paragraph 14.

16. Upon information and good faith belief, I.Q. used an automatic telephone dialing system to place the calls outlined in paragraphs 14 and 15.

17. On several occasions that Ms. Jones answered calls outlined in paragraphs 14 and 15 she was greeted with an artificial or pre-recorded voice.

18. On several occasions that Ms. Jones answered calls outlined in paragraphs 14 and 15, and spoke to an I.Q. representative, I.Q.'s representative(s) asserted that Ms. Jones owed a debt to The Courtyards and asked Ms. Jones how she planned to satisfy the alleged obligation.

19. I.Q. placed the calls outlined in paragraphs 14 and 15 for non-emergency purposes.

20. Upon information and good faith belief, I.Q. placed the calls outlined in paragraphs 14 and 15 voluntarily.

21. Upon information and good faith belief, I.Q. placed the calls outlined in paragraphs 14 and 15 under its own free will.

22. Upon information and good faith belief, I.Q. had knowledge that it was using an automatic telephone dialing system and/or an artificial or pre-recorded voice to place the calls outlined in paragraphs 14 and 15.

23. Upon information and good faith belief, I.Q. intended to use an automatic telephone dialing system and/or an artificial or pre-recorded voice to place the calls outlined in paragraphs 14 and 15.

24. Upon information and good faith belief, I.Q. maintains business records that show all calls it placed to Ms. Jones's cellular telephone.

25. The Reliant Group, LLC, d/b/a/ The Courtyards hired I.Q. to place the calls outlined in paragraphs 14 and 15.

26. I.Q. placed the call the calls outlined in paragraphs 14 and 15 on behalf of the The Reliant Group, LLC, d/b/a/ The Courtyards.

27. Upon information and good faith belief, I.Q., as a matter of pattern and practice, uses an automatic telephone dialing system and/or an artificial or pre-recorded voice to place calls to telephone numbers assigned to cellular telephone service providers.

CLASS ACTION ALLEGATIONS

28. Ms. Jones brings this action under Federal Rule of Civil Procedure 23(a), (b), and (c), and as a representative of the following classes (and subclass):

All persons in New Mexico (1) to whom I.Q. placed a call, (2) within one year preceding the date of this complaint, (3) and in connection with the collection of a debt, (4) through which I.Q. demanded payment from an individual not responsible for the debt.

All persons and entities throughout the United States (1) to whom I.Q. made or caused to be made calls, (2) directed to a number assigned to a cellular telephone, by (3) using an automatic telephone dialing system or an artificial or prerecorded voice, (4) within the four years preceding the date of this complaint.

All persons and entities throughout the United States (1) to whom I.Q. made or caused to be made calls, (2) on behalf of The Reliant Group, LLC, (3) directed to a number assigned to a cellular telephone, by (4) using an automatic telephone dialing system or an artificial or prerecorded voice, (5) within the four years preceding the date of this complaint.

29. The proposed classes specifically excludes the United States of America, the State of New Mexico, counsel for the parties, the presiding United States District Court Judge, the Judges of the United States Court of Appeals for the Tenth Circuit, the Justices of the United States Supreme Court, any entity in which I.Q. or The Reliant Group, LLC has or had a controlling interest, all officers and agents of I.Q. or The Reliant Group, and all persons related to within the third degree of consanguinity or affection to any of the foregoing individuals.

30. The classes are averred to be so numerous that joinder of all members is impracticable.

31. The exact number of members of the classes are unknown to Ms. Jones at this time and can be ascertained only through appropriate discovery.

32. Upon information and good faith belief, the proposed classes are ascertainable in that the names and addresses of all members of the class can be identified in business records maintained by I.Q.

33. There exists a well-defined community of interest in the questions of law and fact involved that affect the parties to be represented. Issues of law and fact common to the members of the classes predominate over any questions that may affect only individual members, in that I.Q. has acted on grounds generally applicable to the entirety of the classes. Such issues include, but are not limited to:

- a. I.Q.'s violations of the FDCPA and TCPA as alleged herein;
- b. I.Q.'s use of an automatic telephone dialing system and/or an artificial or prerecorded voice;
- c. I.Q.'s identical conduct particular to the matters at issue;
- d. Whether I.Q. acted voluntarily, under its own free will, had knowledge that it was using an automatic telephone dialing system and/or an artificial or prerecorded voice, and intended to use an automatic telephone dialing system and/or an artificial or prerecorded voice; and
- e. The availability of statutory penalties.

34. Ms. Jones's claims are typical of the claims of the members of the classes she seeks to represent.

35. Ms. Jones's and all members of the classes' claims originate from the same conduct, practice, and procedure on the part of I.Q., and Ms. Jones possesses the same interests and has suffered the same injuries as each class member. Like all proposed

members of the classes, Ms. Jones received calls on her cellular telephone from I.Q. using an automatic telephone dialing system, in violation of the FDCPA and the TCPA. Thus, if brought and prosecuted individually, the claims of each of the members of the classes would require proof of the same material and substantive facts.

36. Ms. Jones will fairly and adequately protect the interests of the members of the classes and has no interests that are contrary to or in conflict with the members of the classes.

37. Ms. Jones is willing and prepared to serve this Court and the proposed classes.

38. Ms. Jones has retained the services of counsel who are experienced and competent in consumer protection claims, as well as complex class action litigation, will adequately prosecute this action, and will assert, protect, and otherwise represent Ms. Jones and all absent members of the classes.

39. Class certification is appropriate under Federal Rules of Civil Procedure 23(b)(1)(A) and 23(b)(1)(B). The prosecution of separate actions by individual members of the proposed classes would, as a practical matter, be dispositive of the interests of other members of the classes who are not parties to the action or could substantially impair or impede their ability to protect their interests.

40. The prosecution of separate actions by individual members of the proposed classes would create a risk of inconsistent or varying adjudications with respect to individual members of the classes, which would establish incompatible standards of conduct for the parties opposing the classes. Such incompatible standards of conduct and varying adjudications, on what would necessarily be the same essential facts, proof, and legal theories, would also create and allow the existence of inconsistent and incompatible rights

within the classes.

41. Class certification is appropriate under Fed. R. Civ. P. 23(b)(2), in that I.Q. acted or refused to act on grounds generally applicable to the proposed classes, making final declaratory or injunctive relief appropriate.

42. Class certification is appropriate under Fed. R. Civ. P. 23(b)(3), in that the questions of law and fact that are common to members of the proposed classes predominate over any questions affecting only individual members.

43. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy. As the damages suffered by individual members of the proposed classes may be relatively small, the expense and burden of individual litigation make it impracticable for the members of the class to individually redress the wrongs done to them, as the costs of pursuit would far exceed what any one plaintiff or class member has at stake. As a result, very little litigation has been commenced over the controversy alleged in this complaint, and individual members are unlikely to have an interest in prosecuting and controlling separate individual actions. Furthermore, the concentration of litigation of these claims in one forum will achieve efficiency and promote judicial economy.

44. There will be no difficulty in the management of this action as a class action.

45. Absent a class action, I.Q.'s violations of the law will be allowed to proceed without a full, fair, judicially supervised remedy.

COUNT I
VIOLATION OF 15 U.S.C. § 1692d
I.Q.

46. Ms. Jones repeats and re-alleges each and every factual allegation above.

47. I.Q. violated 15 U.S.C. § 1692d by engaging in conduct the natural consequence of which is to harass, oppress, or abuse, in connection with the collection of a debt.

COUNT II
VIOLATION OF 15 U.S.C. § 1692e(2)(a)
I.Q.

48. Ms. Jones repeats and re-alleges each and every factual allegation above.

49. I.Q. violated 15 U.S.C. § 1692e(2)(a) by falsely representing the character, amount, or legal status of a debt, in connection with the collection of a debt.

COUNT III
VIOLATION OF 15 U.S.C. § 1692e(10)
I.Q.

50. Ms. Jones repeats and re-alleges each and every factual allegation above.

51. I.Q. violated 15 U.S.C. § 1692e(2)(a) by using a false representations of deceptive means, in connection with the collection of a debt.

COUNT IV
VIOLATION OF 47 U.S.C. § 227(b)(1)(a)(iii)
I.Q.

52. Plaintiff repeats and re-alleges each and every factual allegation above.

53. I.Q. violated 47 U.S.C. § 227(b)(1)(A)(iii) by using an automatic telephone dialing system and/or an artificial or pre-recorded voice to place non-emergency calls to Ms. Jones's cellular telephone.

COUNT V
VIOLATION OF 47 U.S.C. § 227(b)(1)(a)(iii)
THE RELIANT GROUP, LLC

54. Plaintiff repeats and re-alleges each and every factual allegation above.

55. I.Q. violated 47 U.S.C. § 227(b)(1)(A)(iii) by using an automatic telephone dialing system and/or an artificial or pre-recorded voice to place non-emergency calls to Ms. Jones's cellular telephone.

56. I.Q. placed the subject calls on behalf of The Reliant Group, LLC.

57. The Reliant Group, LLC is accordingly liable for I.Q.'s violations of the TCPA.

TRIAL BY JURY

58. Ms. Jones is entitled to, and hereby demands, a trial by jury.

WHEREFORE, Ms. Jones prays for relief and judgment, as follows:

- a) Determining that this action is a proper class action, and designating Ms. Jones as class representative under Federal Rule of Civil Procedure 23;
- b) Adjudging that I.Q. violated 15 U.S.C. § 1692d; 15 U.S.C. § 1692e(2)(a), and 15 U.S.C. § 1692e(10);
- c) Adjudging that I.Q. violated 47 U.S.C. § 227(b)(1)(a)(iii);
- d) Adjudging that The Reliant Group, LLC is liable for I.Q.'s violations of 47 U.S.C. § 227(b)(1)(a)(iii);
- e) Enjoining I.Q. from continuing its violative behavior;
- f) Awarding Ms. Jones and the members of the classes statutory damages under 15 U.S.C. § 1692k;

- g) Awarding Ms. Jones and the members of the attorneys' fees and costs under 15 U.S.C. § 1692k;
- h) Awarding Ms. Jones and the members of the classes statutory damages under 47 U.S.C. § 227(b)(3)(B);
- i) Awarding Ms. Jones and members of the classes treble damages under 47 U.S.C. § 227(b)(3);
- j) Awarding Ms. Jones and the members of the classed any pre-judgment and post-judgment interest as may be allowed under the law; and
- k) Awarding such other and further relief as the Court may deem just and proper.

Respectfully Submitted,

/s/Anita M. Kelley
Anita M. Kelley
Law Office of Anita M. Kelley
913-A Fifth Street NW
Albuquerque NM 87102
(505) 750-0265

Aaron D. Radbil (*pro hac vice application to follow*)
Greenwald Davidson PLLC
5550 Glades Rd, Ste. 500
Boca Raton, FL 33431
Phone: (561) 826-5477
Fax: (561) 961-5684
aradbil@mgjdlaw.com
Attorney for Plaintiff