

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**Case No.:** \_\_\_\_\_

Anthony Bryson Sr.,

Plaintiff,

vs.

Otto Berges; Berges Law Group, P.A.;  
Consumer Protection Counsel, P.A.; Debt  
Be Gone LLC; Gregory Fishman.,

Defendants.

\_\_\_\_\_ /

**COMPLAINT**

NOW COMES, Plaintiff Anthony Bryson Sr., by and through his attorneys, DeLadurantey Law Office, LLC, and complains of Defendants, Otto Berges; Berges Law Group, P.A.; Consumer Protection Counsel, P.A.; Debt Be Gone LLC; and Gregory Fishman and alleges to the best of his knowledge, information and belief formed after an inquiry reasonable under the circumstances, the following:

**INTRODUCTION**

**Nature of the Action**

1. This lawsuit arises from the Defendants' providing credit repair services to consumers.
2. Causes of Action herein are brought under the Credit Repair Organizations Act ("CROA"), 15 U.S.C. § 1679 *et seq.*

### **Jurisdiction and Venue**

3. Jurisdiction of this Court arises under 28 U.S.C. § 1331, because the case arises under the laws of the United States. This Court also has jurisdiction pursuant to 15 U.S.C. § 1679i(1), as it is an action to enforce liability created by the CROA within five years from the date on which the violation occurred.

4. Venue in this Court is appropriate pursuant to 28 U.S.C. § 1391(b)(2), because this is where the defendant resides.

5. Under 28 U.S.C. § 1391(c), a defendant corporation shall be deemed to reside in any judicial district in which it is subject to personal jurisdiction. The corporate defendants are Florida corporations and are subject to personal jurisdiction in Florida.

### **Parties**

6. Plaintiff Anthony Bryson Sr. (hereinafter “Mr. Bryson”) is a natural person who resides in the City of Weippe, County of Clearwater, State of Idaho.

7. Defendant Otto Berges is a natural person who owns Berges Law Group P.A. and Consumer Protection Counsel, Florida corporations with a principal place of business at 1451 W. Cypress Creek Rd., Ste 211, Ft. Lauderdale, FL 33309.

8. Defendant Otto Berges runs a “credit repair organization” as that term is defined in the Credit Repair Organizations Act, 15 U.S.C. § 1679(a)(3).

9. Defendant Berges Law Group P.A. (“Defendant Berges Law Group”) is a Florida company with a principal place of business at 1451 W. Cypress Creek Rd., Ste 211, Ft. Lauderdale, FL 33309 and a registered agent of Otto E. Berges, 1451 W. Cypress Creek Rd., Ste. 211, Ft. Lauderdale, FL 33309.

10. Defendant Berges Law Group is a “credit repair organization” as that term is defined in the Credit Repair Organizations Act, 15 U.S.C. § 1679(a)(3).

11. Defendant Consumer Protection Counsel, P.A. (“Defendant Consumer Protection Counsel”) is a Florida company with a principal place of business at 1451 W. Cypress Creek Rd., Ste 207, Ft. Lauderdale, FL 33309 and a registered agent of Otto E. Berges, 255 Evernia St. #502, West Palm Beach, FL 33401.

12. Defendant Consumer Protection Counsel is a “credit repair organization” as that term is defined in the Credit Repair Organizations Act, 15 U.S.C. § 1679(a)(3).

13. Defendant Gregory Fishman is a natural person who owns Debt Be Gone LLC, a Florida corporation with a principal place of business at 900 E. Atlantic Ave., Suite 7, Delray Beach, FL 33483.

14. Defendant Gregory Fishman runs a “credit repair organization” as that term is defined in the Credit Repair Organizations Act, 15 U.S.C. § 1679(a)(3).

15. Defendant Debt Be Gone LLC (“Defendant Debt Be Gone”) is a Florida corporation with a principal place of business at 900 E. Atlantic Ave., Suite 7, Delray Beach, FL 33483 and a registered agent of Peter B. Weintraub, Weintraub & Weintraub, P.A., 2700 Military Trail, Suite 355, Boca Raton, FL 33431.

16. Defendant Debt Be Gone is a “credit repair organization” as that term is defined in the Credit Repair Organizations Act, 15 U.S.C. § 1679(a)(3).

### **Factual Allegations**

17. In or around April 2014 Mr. Bryson was looking for a way to consolidate his debt and improve his credit score.

18. Defendant Debt Be Gone sent multiple emails to Mr. Bryson, and eventually he applied for their services.

19. As a result, he was emailed a contract from Defendant Consumer Protection Counsel to sign and return.

20. Services included in the contract include disputing account's accuracy, sending letters of legal representation, requesting verification from debt collectors, reviewing responses received, requesting the credit reporting agencies to reinvestigate inaccurate or derogatory information, filing complaints with regulatory agencies, litigating claims, and settling claims.

21. Included in the contract is a provision in the Scope of Legal Representation section, "Attorney shall then remit to the three major credit reporting agencies indicating that the Client desires that the credit reporting agencies reinvestigate any inaccurate or derogatory information contained in the Client's consumer credit report."

22. Asking for a reinvestigation of an item of information on a credit report is the essence of a credit report dispute.

23. If a derogatory item is removed from a person's credit report, this will increase the person's credit score.

24. Disputing information is a common way to increase one's credit score.

25. Mr. Bryson was promised that his credit score would move from "poor" to "good" and that disputed accounts would be removed from his credit report.

26. When the Honorable Judge Griesbach, Chief Judge of the Eastern District of Wisconsin, reviewed Defendant Consumer Protection's contract in August 2014, he found that "[t]hese 'legal services' are exclusively backward looking and at least impliedly directed at improving Plaintiff's 'credit record, credit history, or credit rating.'" 15 U.S.C. §

1679a(3)(A)(I).” *Bennett v. Berges, et al.*, No. 14-cv-509 (E.D. Wis. Aug. 27, 2014) (order granting in part and denying in part motion to dismiss).

27. In the case in Wisconsin, Judge Griesbach found that when Otto Berges, Berges Law Group, Consumer Protection Counsel “used an instrumentality of interstate commerce to sell services that were directed at repairing Plaintiff’s credit in return for money, they fall within the definition of a credit repair organization and credit services organization.” *Id.*

28. Along with the contract, the email to Mr. Bryson contained an agreement with RAM (related to ACH withdrawals), power of attorney, an affidavit (which appears to be a document they would use to dispute debts), and a sheet containing alleged compliance questions

29. Per the terms of the contract, Mr. Bryson was to pay an initial payment of \$199.00 “that shall be deemed earned upon receipt.”

30. Mr. Bryson was then to pay “a NON-REFUNDABLE fee of \$1,982. The fee [was to] be paid in monthly installments as a convenience to the Client. [The] monthly payment for month one [was to] be 165.00 followed by 165.00 per month for a period of 12 remaining months.”

31. Twelve payments of \$165 does not equal \$1,982, but rather it equals \$1,980.

32. Mr. Bryson is unsure how the non-refundable fee in the contract was actually calculated.

33. Per the terms of the contract, after the initial twelve payments, Mr. Bryson was to pay an account maintenance fee of \$50.

34. The contract does not give an indication of what services are to be provided in return for the \$50 monthly account maintenance

35. After returning the contract, the Defendants withdrew \$165.00 per month.

36. The monthly fee is automatically deducted from Mr. Bryson's checking account through an electronic funds transfer each month regardless if any services are performed by the Defendants for the consumer that month.

37. These monthly fees are collected by the Defendants before they have fully performed any alleged credit repair services.

38. The contract does not state a guarantee of performance, does not state an estimate by which the performance will be complete (only the amount of time for which he will pay), does not state an estimate of the length of time necessary to perform the service, does not state the credit repair organizations' principal business address, and does not state the statutory language regarding the consumer's right to cancel the contract.

39. The data that the Defendants asked for from Mr. Bryson and received does not even give the Defendants enough data to attempt to perform its duties and obligations under the terms of the contract.

40. When Mr. Bryson would email regarding his account, he would receive replies from Defendant Gregory Fishman.

41. Upon information and belief, Mr. Bryson believes that all of the defendants are working in concerted effort under the direction of Defendant Otto Berges and Defendant Gregory Fishman.

**Count 1 – Violations of the Credit Repair Organizations Act (15 U.S.C. §1679)**

42. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

43. The Credit Repair Organizations Act took effect on April 1, 1997, and has since that date remained in full force and effect.

44. The Credit Repair Organizations Act defines a “credit repair organization” as:

[A]ny person who uses any instrumentality of interstate commerce or the mails to sell, provide, or perform (or represent that such person can or will sell, provide, or perform) any service, in return for the payment of money or other valuable consideration, for the express or implied purpose of . . . improving any consumer’s credit record, credit history, or credit rating [.]

15 U.S.C. § 1679a(3).

45. The purposes of the Credit Repair Organizations Act, according to Congress, are:

- (1) to ensure that prospective buyers of the services of credit repair organizations are provided with the information necessary to make an informed decision regarding the purchase of such services; and
- (2) to protect the public from unfair or deceptive advertising and business practices by credit repair organizations.

15 .S.C. § 1679(b).

46. The Credit Repair Organizations Act prohibits credit repair organizations from making “any statement, or counsel or advise any consumer to make any statement, which is untrue or misleading . . . to . . . any consumer reporting agency.” 15 U.S.C. § 1679b(a)(1)(A).

47. CROA has been interpreted broadly by many courts.

48. The contract with the Defendants state that the Defendants will dispute any “derogatory” items, with no distinction as to whether the derogatory information is correct or incorrect.

49. The Credit Repair Organizations Act prohibits credit repair organizations from charging or receiving any money or other valuable consideration for the performance of any service which the credit repair organization has agreed to perform before such service is fully performed. 15 U.S.C. § 1679b(b).

50. Defendants have charged Mr. Bryson money for the performance of credit repair services that Defendants have agreed before such services were fully performed.

51. The Credit Repair Organizations Act requires a written contract which meets the following requirements:

No contract referred to in subsection (a) of this section meets the requirements of this subsection unless such contract includes (in writing)—

(1) the terms and conditions of payment, including the total amount of all payments to be made by the consumer to the credit repair organization or to any other person;

(2) a full and detailed description of the services to be performed by the credit repair organization for the consumer, including—

(A) all guarantees of performance; and

(B) an estimate of—

(i) the date by which the performance of the services (to be performed by the credit repair organization or any other person) will be complete; or

(ii) the length of the period necessary to perform such services;

(3) the credit repair organization's name and principal business address; and

(4) a conspicuous statement in bold face type, in immediate proximity to the space reserved for the consumer's signature on the contract, which reads as follows: "You may cancel this contract without penalty or obligation at any time before midnight of the 3rd business day after the date on which you signed the contract. See the attached notice of cancellation form for an explanation of this right."

15 U.S.C. § 1979d(b).

52. The terms of the contract signed by Mr. Bryson do not contain a guarantee of performance, as required by 15 U.S.C. § 1679d(b)(2)(A).

53. The terms of the contract signed by Mr. Bryson do not give an estimate of the date by which performance of the service will be complete or the length of the period necessary to perform such services, as required by 15 U.S.C. § 1679d(b)(2)(B).

54. The contract given to Mr. Bryson does not give the credit repair organization's principal business address, as required by 15 U.S.C. § 1679d(b)(3).

55. The contract given to Mr. Bryson does not contain the cancellation provision, as required by 15 U.S.C. § 1679d(b)(4).



56. The contract given to Mr. Bryson did not contain an accompanied cancelation form, in duplicate, as required by 15 U.S.C. § 1679e(b).

57. Mr. Bryson was not given a fully executed contract, signed by the Defendants' agent, as required by 15 U.S.C. § 1679e(c)(1).

58. As a result of the Defendants' illegal conduct, Mr. Bryson has suffered emotional distress and mental anguish.

59. As a result of the Defendants' illegal conduct, Mr. Bryson has stopped making payments on his other bills in reliance on the guidance and guarantees of the Defendants.

60. As a result of the non-payment of his other bills, Mr. Bryson has been negatively impacted.

61. As a result of the Defendants' violation of the CROA, Mr. Bryson is entitled to actual damages pursuant to 15 U.S.C. §1679g(a)(1)(B) in the amount that Mr. Bryson paid on the contract; punitive damages pursuant to 15 U.S.C. §1679g(a)(2)(A) and 15 U.S.C. §1679g(b); and, reasonable attorney's fees and costs pursuant to 15 U.S.C. §1679g(a)(3).

### **Trial by Jury**

62. Plaintiff is entitled to, and hereby respectfully demands a trial by jury on all issues so triable.

### **PRAYER FOR RELIEF**

WHEREFORE, Mr. Bryson prays that judgment be entered against the Defendants for:

- A. Actual damages in an amount to be determined at trial pursuant to 15 U.S.C. § 1679g(a)(1);
- B. Punitive damages in an amount to be determined at trial pursuant to 15 U.S.C. § 1679g(a)(2)(A)
- C. Costs and reasonable attorneys' fees pursuant to 15 U.S.C. § 1679g(a)(3);

Dated this 7<sup>th</sup> day of October, 2014.

s/ Chad Thomas Van Horn

Chad Thomas Van Horn

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*Pro hac vice* motion pending

Attorneys for Anthony Bryson Sr.

**VERIFICATION OF COMPLAINT AND CERTIFICATION**

Plaintiff Anthony Bryson Sr. states the following:

1. I am a Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification, or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this civil Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified, or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

  
\_\_\_\_\_  
Anthony Bryson Sr.