

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA**

| | | |
|------------------------------------|---|---------------------------|
| JOHN FRALISH, on behalf of himself | : | CIVIL ACTION |
| and others similarly situated, | : | |
| | : | |
| Plaintiff, | : | |
| | : | |
| v. | : | NO. 3:22-CV-00176-DRL-MGG |
| | : | |
| CETERIS PORTFOLIO SERVICES, | : | |
| LLC, | : | JURY TRIAL DEMANDED |
| | : | |
| Defendant. | : | |

**DEFENDANT CETERIS PORTFOLIO SERVICES LLC’S ANSWER TO PLAINTIFF’S
COMPLAINT, AFFIRMATIVE DEFENSES AND DEMAND FOR JURY**

Defendant Ceteris Portfolio Services, LLC (“Ceteris” or “Defendant”) by and through their undersigned counsel, answer Plaintiff John Fralish’s (“Plaintiff”) Class Action Complaint (“Complaint”) and state as follows:

Nature of Action

1. Denied. The allegations in this Paragraph, if any, are denied as they call for a legal conclusion to which no response is required.
2. Denied. The allegations in this Paragraph, if any, are denied as they call for a legal conclusion to which no response is required.
3. Denied. The allegations in this Paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

Jurisdiction

4. Denied. The allegations in this Paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

5. Denied. The allegations in this Paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

6. Denied. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph, if any, and therefore denies the same. The remaining allegations in this Paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

Parties

7. Denied. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph, if any, and therefore denies the same. The remaining allegations in this Paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

8. Admitted in part; denied in part. Defendant admits that it has an office in New Jersey. Defendant further admits that in certain instances, it may be considered a “debt collector” as that term is defined by 15 U.S.C. § 1692a(6). However, Defendant lacks sufficient knowledge to admit or deny the allegation that it is a “debt collector” in the present case, and further states that this allegation calls for a legal conclusion regarding the definition of the cited statute. Therefore, Defendant denies the same for the present time and demands strict proof thereof.

9. Denied. The website cited in the Complaint speaks for itself.

10. Denied. The allegations in this Paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

11. Admitted in part; denied in part. Defendant admits that in certain instances, it may be considered a “debt collector” as that term is defined by 15 U.S.C. § 1692a(6). However, Defendant lacks sufficient knowledge to admit or deny the allegation that it is a “debt collector”

in the present case, and further states that this allegation calls for a legal conclusion regarding the definition of the cited statute. Therefore, Defendant denies the same for the present time and demands strict proof thereof. Further, the website cited in the Complaint speaks for itself.

12. Denied. The allegations in this Paragraph, if any, are denied as they call for a legal conclusion to which no response is required. Further, the website cited in the Complaint speaks for itself.

Factual Allegations

13. Denied. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph, if any, and therefore denies the same.

14. Denied. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph, if any, and therefore denies the same.

15. Denied. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph, if any, and therefore denies the same. The remaining allegations in this Paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

16. Denied. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph, if any, and therefore denies the same. The remaining allegations in this Paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

17. Denied. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph, if any, and therefore denies the same.

18. Denied. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph, if any, and therefore denies the same.

19. Denied. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph, if any, and therefore denies the same.

20. Denied. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph, if any, and therefore denies the same.

21. Denied. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph, if any, and therefore denies the same.

22. Denied. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph, if any, and therefore denies the same.

23. Denied. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph, if any, and therefore denies the same.

24. Denied. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph, if any, and therefore denies the same. The remaining allegations in this Paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

25. Denied. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph, if any, and therefore denies the same. The remaining allegations in this Paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

26. Denied. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph, if any, and therefore denies the same. The remaining allegations in this Paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

27. Denied. Defendant is without knowledge or information sufficient to form a belief

as to the truth of the allegations contained in this Paragraph, if any, and therefore denies the same. The remaining allegations in this Paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

28. Denied. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph, if any, and therefore denies the same. The remaining allegations in this Paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

29. Denied. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph, if any, and therefore denies the same. The remaining allegations in this Paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

30. Denied. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph, if any, and therefore denies the same. The remaining allegations in this Paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

31. Denied. The website cited in the Complaint speaks for itself.

32. Admitted.

33. Admitted.

34. Denied. The allegations in this Paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

35. Denied. The allegations in this Paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

36. Denied. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph, if any, and therefore denies the same.

37. Denied. The allegations in this Paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

38. Denied. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph, if any, and therefore denies the same.

39. Denied. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph, if any, and therefore denies the same. The remaining allegations in this Paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

40. Denied. The allegations in this Paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

41. Denied. The allegations in this Paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

42. Denied. The allegations in this Paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

43. Denied. The allegations in this Paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

44. Denied. The allegations in this Paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

Class Action Allegations

45. Denied. The allegations in this Paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

46. Denied. The allegations in this Paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

47. Denied. The allegations in this Paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

48. Denied. The allegations in this Paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

49. Denied. The allegations in this Paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

50. Denied. The allegations in this Paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

51. Denied. The allegations in this Paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

52. Denied. The allegations in this Paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

53. Denied. The allegations in this Paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

54. Denied. The allegations in this Paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

55. Denied. The allegations in this Paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

56. Denied. The allegations in this Paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

57. Denied. The allegations in this Paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

58. Denied. The allegations in this Paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

59. Denied. The allegations in this Paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

60. Denied. The allegations in this Paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

**Count I: Violations of 47 U.S.C. 227(b)(1)(A)(iii)
On behalf of Plaintiff and the class**

61. Defendant repeats its responses to the allegations contained in paragraphs 1 through 60 above and incorporates them as if specifically set forth at length herein.

62. Denied. The allegations in this Paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

63. Denied. The allegations in this Paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

WHEREFORE, Defendant requests that this Court dismiss Plaintiff's Complaint in its entirety with prejudice, and award Defendant its reasonable attorney's fees and costs incurred in defending this action. Defendant further request that this Court deny any other requested damages, fees, costs, other legal and equitable relief, and award such other relief as the Court deems just and equitable.

JURY DEMAND

Defendant demands a jury pursuant to Fed. R. Civ. P. 38 for all issues so triable.

AFFIRMATIVE DEFENSES

1. Plaintiff has failed to state a claim upon which relief can be granted.
2. Plaintiff's claims may be barred by the statute of limitations.
3. Any violation of law by Defendant, which is specifically denied, was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.
4. Defendant respectfully reserves the right to assert any additional affirmative defenses that may be revealed during the course of discovery and/or this litigation.

KAUFMAN DOLOWICH & VOLUCK, LLP

BY: /s/ Stefan R. Dandelles
STEFAN R. DANDELLES
135 S. LaSalle Street, Suite 2100
Chicago, Illinois 60603
P: (312) 646-6742
F: (312) 759-0402
sdandelles@kdvlaw.com
Attorneys for Defendant Ceteris Portfolio Services,
LLC

Dated: May 9, 2022

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of May, 2022, a true and correct copy of the foregoing was filed with the Clerk of the Court using the CM/ECF system which will send notice of electronic filing to all parties or in some other authorized manner for those counsel or parties who are not authorized to receive notices electronically.

/s/ Stefan R. Dandelles
Stefan R. Dandelles, Esq.

Dated: May 9, 2022

4865-4786-3837, v. 1