

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

CHRISTOPHER STOLLER

Plaintiff,

vs.

**THOMAS FUMO, President, RELIABLE
MANAGEMENT REALTY, LTD.,
KOVITZ SHIFRIN NESBIT, MICHAEL
J. SHIFRIN, Principal, ROBERT P.
NESBIT, Principal, NICHOLAS
MITCHELL, Principal, DIANE J.
SILVERBERG, Principal, ALLEN
KOVITZ, Principal, RONALD J.
KAPUSTKA, Principal, WENDY
DURBIN, Unknown Contractors,
Lawyers, Law Firms, Building Developers,
Realtors and John Does 1-10,**

Defendants.

**Case No: 1-19-cv-02546
Violations of the Fair Debt
Collection Act (FDCPA)
JURY DEMAND
Judge Edmond E. Chang
Magistrate Judge Jeffrey
Cummings**

**COMPLAINT FOR RELIEF PURSUANT TO THE FAIR DEBT
COLLECTION PRACTICES ACT**

COMES NOW, Plaintiff Christopher Stoller, 70, a disabled senior citizen, a protected person under the Americans for Disability Act (ADA) complaining of the Defendants, THOMAS FUMO, President, RELIABLE MANAGEMENT REALTY, LTD., KOVITZ SHIFRIN NESBIT, MICHAEL J. SHIFRIN, Principal, ROBERT P. NESBIT, Principal, NICHOLAS MITCHELL, Principal, DIANE J. SILVERBERG, Principal, ALLEN KOVITZ, Principal, RONALD J. KAPUSTKA, Principal, WENDY DURBIN, Law Firms, lawyers and John Does 1-10.

NATURE OF THE ACTION

Plaintiff brings this action for damages for Defendants' violations of the Fair Debt Collection Practices Act, 15 U.S.C. §1692, et seq. ("FDCPA") and Defendants' violations of the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS §505/2 ("ICFA"). Conspiracy, aiding and abetting, deceptive trade practices, Billing Fraud, Intentional Infliction of Emotional Harm.

JURISDICTION AND VENUE

This action arises under and is brought pursuant to the FDCPA. Subject matter jurisdiction is conferred upon this Court by 15 U.S.C. §1692 (FDCPA) and 28 U.S.C. §§1331, 1337, as this action arises under the laws of the United States and supplemental jurisdiction exists for the state law claim pursuant to 11 U.S.C. §1367.

Venue is proper in this Court pursuant to 28 U.S.C. §1391 as Defendants conduct business in the Northern District of Illinois and all of the events or omissions giving rise to the claims occurred within the Northern District of Illinois.

PARTIES

PLAINTIFF

Christopher Stoller, 70, ("Stoller") a disabled senior citizen, a protected person as designated by the Americans for Disability Act (ADA) and designated by Social Security as a disabled person, and is a resident of Cook County, Illinois. Stoller resides in the Northern District of Illinois and is a "consumer" as defined by the FDCPA, 15 U.S.C. §1692a (3).

DEFENDANTS

Donald Fumo, (“Fumo”) is a “debt collector” as defined by the FDCPA, 15 U.S.C. §1692a (6) because it regularly uses the mails and/or the telephone to collect, or attempt to collect, delinquent consumer accounts. Fumo represents himself as Manager/Owner of Reliable Management, LTD., individually and in his official capacity, upon information and belief is President of Reliable Management, LTD., and was in charge of all of the officers, agents, servants and employees under his control. Donald Fumo involved, conspired, and colluded with his attorney(s) defendants, Debt collectors, MICHAEL J. SHIFRIN, Principal, ROBERT P. NESBIT, Principal, NICHOLAS MITCHELL, Principal, DIANE J. SILVERBERG, Principal, ALLEN KOVITZ, Principal, RONALD J. KAPUSTKA, Principal, WENDY DURBIN and had knowledge of the relevant facts of the Plaintiff’s controversy and they acted with malice, fraud, gross negligence, oppressiveness, which was not a mistake of fact or law, honest error or judgments, over zealalousness, mere negligence or other human failing. Fumo’s liability under the Doctrine of Respondent Superior and under the Pinkerton Theory of Liability¹ and the inequitable conduct of the agent. Agent’s inequitable acts² may be imputed to the principle whether or not the principle knew of the agent’s misconduct.

¹Under the Pinkerton Theory of Liability, a defendant may be found guilty of a substantive offence committed by a co-conspirator if the offence was committed in furtherance of the conspiracy at the time the defendant was a member of the conspiracy; this is true even if the defendant neither participated in nor had knowledge of the substantive offense. A principal seeking specific performance may be bound by an agent’s inequitable conduct. *E.g.*, *Handelman v. Arquilla*, 95 N.E. 2d 910, 913 (Ill. 1951) (rejecting specific performance based on agent’s material misrepresentation); *Alexander v. Hughes*, 472 P.2d 818, 819-20 (Or. 1970) (affirming the denial of specific performance when the agent misled the opposing party about the nature of the document signed). The restatement and the cited cases are consistent with the duties of both agents and principals owed to the third parties in the context of the sale of real property. See *Lombardo v. Albu*, 199 Ariz. 97, 100-01, §§13-15, 14 P.3d 288, 291-92 (2000) (noting common law and regulatory duties). In addition, the rule that the principal is bound by his agent’s conduct is consistent with long-established principles of equity.

²It is well-settled that under the Doctrine of Respondent Superior an employer may be liable for the negligent, willful, malicious or even criminal acts of its employees when such acts are committed in the course and scope of employment and in furtherance of the business of the employer. *Mitchell v. Norman James Const. Co.*, 291 Ill. App.3d 927(1st Dist. 1999)

Reliable Management, LTD., (“Reliable”) is a “debt collector” as defined by the FDCPA, 15 U.S.C. §1692a (6) because it regularly uses the mails and/or the telephone to collect, or attempt to collect, delinquent consumer accounts. At all times relevant to the action, Reliable was a corporation in the state of Illinois with headquarters located at 711 South Blvd #10, Oak Park, Illinois 60302. Reliable is a “debt collector” as defined by the FDCPA, 15 U.S.C. §1692a (6) because it regularly uses the mails and/or the telephone to collect, or attempt to collect, delinquent consumer accounts. Reliable is liable individually, its President, Thomas Fumo, and in their official capacity, its unnamed officers, directors, agents, servants and employees under its control. Reliable Management, LTD., is a partner of Wesley Terrace Condominium Association, and is liable under the Doctrine of Respondent Superior and under the Pinkerton Theory of Liability and the inequitable conduct of the agent. Agent’s inequitable acts may be imputed to the principle whether or not the principle knew of the agent’s misconduct whether or not the principal knew of the agent’s misconduct. At times pertinent to the Complaint, Reliable Management, LTD., individually and through its agents, alter egos, subsidiaries, divisions, or parent companies, materially participated, conspired, assisted, encouraged and otherwise aided and abetted one or more of other Defendants in the unlawful, misleading and fraudulent conduct alleged herein.

Kovitz, Shifrin Nesbit, (“KSN”) a collection law firm (“Kovitz’s Law firm”) . KSN is a “debt collector” as defined by the FDCPA, 15 U.S.C. §1692a(6) because it regularly uses the mails and/or the telephone to collect, or attempt to collect, delinquent consumer accounts. KSN was a corporation in the state of Illinois with headquarters located at 55 W. Monroe Suite 2445, Chicago, Illinois 60603. KSN runs an “eviction mill”. KSN represents co-conspirator, Defendant

Donald Fumo. KSN aided and abetted³ their client Defendant Donald Fumo, to create and to send a fraudulent invoice through the mail unlawfully billing the Plaintiff, Christopher Stoller \$109,208.00 for a consumer debt that Christopher Stoller did not owe., (**Exhibit 1**) in direct violation of the FDCPA. KSN acted with malice, fraud, gross negligence, oppressiveness, unlawful retaliation which was not a result of mistake of fact or law, honest error or judgment, overzealousness, mere negligence or other human failing but that Kovitz, Shifrin & Nesbit acted with willful and wanton misconduct, fraud, conspiring with Defendant Donald Fumo to unlawfully sent a fraudulent invoice for **\$109, 208.66** to the Plaintiff through the mail.

Ronald J. Kapustra, (“Kapustra”) Managing Partner of the law firm of Kovitz, Shifrin Nesbit, which does business in Cook County, with an office at 33 N. Dearborn, #1910, Chicago, Illinois 60602. Defendant Kapustra is a “debt collector” as defined by the FDCPA, 15 U.S.C. §1692a(6) because he regularly uses the mails and/or the telephone to collect, or attempt to collect, delinquent consumer accounts. Kapustra being sued in his individually capacity and in his official capacity and at all times mentioned herein, advises/consults and is charged with being a co-conspirator, conspiring with the Defendants, aiding and abetting the Defendant Fumo to send a fraudulent invoice to the Plaintiff Christopher Stoller in direct violation of (FDCPA. Ronald Kapustra is also in clear violation of ARDC Rule 5.1, 3.3(a) and 8.4(c) and (d). Ronald Kapustra acted with malice, fraud, gross negligence, oppressiveness, abuse of process, which was not the result of mistake of fact, law, or honest error or judgment. Overzealousness, mere negligence or other human failing but that Ronald Kapustra acted with willful and wanton misconduct.

³ *Thornwood v. Jenner & Block*, 344 N.E.2d 15 (Ill. App. 2003)

Michael J. Shifrin, Principal Partner of the law firm of Kovitz, Shifrin Nesbit, which does business in Cook County, with an office at 33 N. Dearborn, #1910, Chicago, Illinois 60602. Defendant Shifrin is KSN is a “debt collector” as defined by the FDCPA, 15 U.S.C. §1692a(6) because it regularly uses the mails and/or the telephone to collect, or attempt to collect, delinquent consumer accounts. Shifrin is being sued in his individually capacity and in his official capacity and at all times mentioned herein, advises/consults and is charged with being a co-conspirator, conspiring with the Defendants, aiding and abetting the Defendants to unlawfully invoice Christopher Stoller. Michael J. Shifrin is also in clear violation of ARDC Rule 5.1, 3.3(a) and 8.4(c) and (d). Michael J. Shifrin acted with malice, fraud, gross negligence, oppressiveness, abuse of process, which was not the result of mistake of fact, law, or honest error or judgment. Overzealousness, mere negligence or other human failing but that Michael J. Shifrin acted with willful and wanton misconduct.

Nicholas Mitchell, (“Mitchell”) Partner of the law firm of Kovitz, Shifrin Nesbit, which does business in Cook County, with an office at 55 W. Monroe, Suite 2445, Chicago, Illinois 60603. Defendant Mitchell is a “debt collector” as defined by the FDCPA, 15 U.S.C. §1692a(6) because he regularly uses the mails and/or the telephone to collect, or attempt to collect, delinquent consumer accounts. Mitchell is being sued in his individually capacity and in his official capacity and at all times mentioned herein, advises/consults and is charged with being a co-conspirator, conspiring with the Defendants, to send the Plaintiff a unlawful invoice in direct violation of the (FDCPA), Aiding and abetting the Defendants to violate the (FDCPA) Nicholas Mitchell is liable under the Doctrine of Respondent Superior, the Pinkerton Theory of Liability and under the liability theory that principle/agent, and partnership liability. Nicholas Mitchell is also in clear violation of ARDC Rule 5.1, 3.3(a) and 8.4(c) and (d). Nicholas Mitchell acted with malice, fraud, gross negligence, oppressiveness, abuse of process, which was not the result of

mistake of fact, law, or honest error or judgment. Overzealousness, mere negligence or other human failing but that Nicholas Mitchell acted with willful and wanton misconduct.

Robert P. Nesbit, Partner of the law firm of Kovitz, Shifrin Nesbit, which does business in Cook County, with an office at 33 N. Dearborn, #1910, Chicago, Illinois 60602. Defendant Nesbit is a “debt collector” as defined by the FDCPA, 15 U.S.C. §1692a(6) because he regularly uses the mails and/or the telephone to collect, or attempt to collect, delinquent consumer accounts. Nesbit is being sued in his individually capacity and in his official capacity and at all times mentioned herein, advises/consults and is charged with being a co-conspirator, conspiring with the Defendants, aiding and abetting the Defendants to send out a fraudulent invoice to the plaintiff for \$109,208.66 in direct violation of the (FDCPA). Robert P. Nesbit is also in clear violation of ARDC Rule 5.1, 3.3(a) and 8.4(c) and (d). Robert P. Nesbit acted with malice, fraud, gross negligence, oppressiveness, abuse of process, which was not the result of mistake of fact, law, or honest error or judgment. Overzealousness, mere negligence or other human failing but that Robert P. Nesbit acted with willful and wanton misconduct.

Allen Kovitz, is a “debt collector” as defined by the FDCPA, 15 U.S.C. §1692a(6) because he regularly uses the mails and/or the telephone to collect, or attempt to collect, delinquent consumer accounts. Allen Kovitz is a Partner of the law firm of Kovitz, Shifrin Nesbit, which does business in Cook County, with an office at 55 W. Monroe Suite 2445, Chicago, Illinois 60603. Defendant Kovitz is being sued in his individually capacity and in his official capacity and at all times mentioned herein, advises/consults and is charged with being a co-conspirator, conspiring with the Defendants, aiding and abetting the Defendant Donald Fumo to unlawfully mail to the Plaintiff a fraudulent invoice for \$109,208.66 (**Exhibit 1**) in direct violation of FDCPA Allen Kovitz is liable under the Doctrine of Respondent Superior, the Pinkerton Theory of Liability and under the liability theory that principle/agent, and partnership

liability. Allen Kovitz is also in clear violation of ARDC Rule 5.1, 3.3(a) and 8.4(c) and (d). Allen Kovitz acted with malice, fraud, gross negligence, oppressiveness, abuse of process, which was not the result of mistake of fact, law, or honest error or judgment. Overzealousness, mere negligence or other human failing but that Allen Kovitz acted with willful and wanton misconduct.

Wendy Durbin, (“Durbin”) Associate of the law firm of Kovitz, Shifrin Nesbit, which does business in Cook County, with an office at 55 W. Monroe, #2445, Chicago, Illinois 60603. Defendant Durbin is a “debt collector” as defined by the FDCPA, 15 U.S.C. §1692a(6) because she regularly uses the mails and/or the telephone to collect, or attempt to collect, delinquent consumer accounts, being sued in his individually capacity and in her official capacity and at all times mentioned herein, advises/consults and is charged with being a co-conspirator, conspiring with the Defendants, aiding and abetting the Defendants in a billing fraud scheme, a fraudulent invoice for \$109,208.66. (**Exhibit 1**). Wendy Durbin is liable under the Doctrine of Respondent Superior, the Pinkerton Theory of Liability and under the liability theory that principle/agent, and partnership liability. Wendy Durbin is also in clear violation of ARDC Rule 5.1, 3.3(a) and 8.4(c) and (d). Wendy Durbin acted with malice, fraud, gross negligence, oppressiveness, abuse of process, which was not the result of mistake of fact, law, or honest error or judgment. Overzealousness, mere negligence or other human failing but that Wendy Durbin acted with willful and wanton misconduct.

This action is also brought against Does 1-10, which may include Defendants’ Debt Collectors ie lawyers, predecessors, partners, associates, agents, employees, affiliates and subsidiaries, process servers, contractors, developers, law firms, and realtors which hereafter are also included in the term “defendants.” Plaintiffs are ignorant of the true names and capacities of defendants sued herein and Does 1-10 inclusive, and therefore sues these defendants by such

fictional name. Plaintiffs will add their names to this Complaint to allege their true names and capacities when ascertained.

FACTUAL BACKGROUND

GENERAL FACTS

1. On or about October 28, 2015, the Plaintiff Christopher Stoller contacted the Oak Park Regional Center in order to obtain a list of available apartments in the Oak Park area.

2. Plaintiff Stoller was moving from a previous apartment pursuant to an agreement with the Defendant Kovitz Shifrin Nesbit.

3. Plaintiff was previously forced to sue the Kovitz Shifrin Nesbit Law Firm in the case of Christopher Stoller v. Senior Suites, Case No: 15 CD 7452, in the Northern District of Illinois. The case settled and the firm of Kovitz Shifrin Nesbit had to pay Christopher Stoller a substantial settlement. After words, one of the Kovitz Shifrin Nesbit partners told Christopher Stoller, **“We’re going to get you for this.”**

4. The settlement agreement for the Senior Suites case was drafted on October 16, 2015 and subject to the exclusive jurisdiction of Judge Kennelly (**Exhibit 5**).

5. There was bad blood between Plaintiff Christopher Stoller and the partners of the law firm Kovitz Shifrin Nesbit who had vowed to get Plaintiff Christopher Stoller at some future date.

6. On October 28, 2015, Plaintiff Christopher Stoller called Owen Dowling, President of Dowling Apartments, Inc.

7. Owen Dowling’s name appeared on the list of available apartments furnished by the Oak Park Regional Center in Oak Park, Illinois.

8. The rental property known as 415 Wesley, Apartment 1, Oak Park, IL, the subject property was listed on the propriety rental information provided to Christopher Stoller from the Oak Park Regional Center. Christopher Stoller made an appointment with Mr. Owen Dowling to see the property.

9. Christopher Stoller met Owen Dowling at the subject property on October 28, 2016. Dowling made the representation that he was an agent for and represented the “Wesley Court Condominium Associations, Owen Dowling’s Apartments, Inc., and Reliable Management, Ltd.

10. Christopher Stoller later filed a Complaint against Owen Dowling and the Dowling Apartments for operating and managing apartments without a license

11. While Defendant Dowling walked Mr. Stoller through the apartment he made the representation that Mr. Stoller did not have to worry that the Wesley Court Condominium Associations will at all times during the term of his lease, maintain the premises in full compliance with applicable provisions of the Oak Park Housing Code and the Municipal Code and would make any and all needed repairs necessary to fulfill his obligation so that Mr. Stoller had nothing to worry about.

12. Plaintiffs moved into the building known as 415 Wesley, Apartment 1, Oak Park, Illinois.

13. The lease agreement (**Exhibit 2**) was executed on October 30, 2015, as between the following parties: Wesley Court Condominium Association, landlord, and Christopher Stoller, tenant.

14. On Oct 30, 2015, Stoller entered into a rental agreement with Wesley Court Condominium Association (WCCA) to rent apartment 415 Wesley Apt 1, Oak Park, Illinois 60302 through Reliable Management Realty Ltd. Donald Fumo (**Exhibit 2**).

15. The lease was fraudulently altered, the rental agreement changing the lessor to Wesley Terrace Condominium Association (WTCA). Christopher Stoller has no contractual relationship with Wesley Terrace Condominium Association.

16. In a frivolous eviction action brought by Wesley Terrace Condominium Association (WTCA) against Christopher Stoller Judge Kevin Lee sanctioned (WTCA) for altering the lease (**Exhibit 4**).

17. On or about April 9, 2019 Don Fumo, owner of Reliable Management Realty Ltd, aided and abetted by Nickolas Mitchell, from the law firm of Kovitz Shifrin Nesbit used the mails (Mail Fraud) to send Stoller an invoice (**Exhibit 1**) falsely claiming that Stoller owed \$109,208.66 to Wesley Terrace Condominium Association, notwithstanding the fact that Stoller has no contractual relationship with WTCA, have no valid rental agreement with Wesley Terrace Condominium, does not owe WTCA anything (**Exhibit 4**).

Plaintiff was harmed by the misconduct of the defendants,

COUNT I

VIOLATION OF THE FEDERAL DEBT COLLECTION PRACTICES ACT

18. Plaintiff repeats and realleges paragraphs 1 through 17 as though fully set forth herein.

19. The Collection Case was an attempt to collect a “consumer debt” as defined by the FDCPA, 15 U.S.C. §1692a(5).

20. Defendants violated 15 U.S.C. §1692 when they used the U.S. Mail to send the Plaintiff a fraudulent bill for \$109,208.66 which they knew or should have known Plaintiff did not owe \$109,208.66.

21. Defendants unlawful collection activities constitute a clear violation of the FDCPA, Plaintiff suffered damages by the Defendants unlawful collection activities. As a result

of Defendants' extreme and outrageous conduct, Stoller has suffered and will continue to suffer mental pain and anguish, severe emotional trauma, embarrassment, and humiliation.

WHEREFORE, Plaintiff, Christopher Stoller, respectfully requests that this Honorable Court enter judgment in her favor as follows: declaring that the practices complained of herein are unlawful and violate the aforementioned statutes and regulations, awarding Plaintiff statutory and actual damages, in an amount to be determined at trial, for the underlying FDCPA violations, awarding Plaintiff costs and reasonable attorney fees as provided under 15 U.S.C. §1692, and awarding any other relief as this Honorable Court deems just and appropriate.

COUNT II
VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT
(False billing)

22. Stoller repeats and re-alleges paragraphs 1 through 21 as though fully set forth herein.

23. The Collection Case was an attempt to collect a “consumer debt” as defined by the FDCPA, 15 U.S.C. §1692a(5).

24. Defendants knowingly and willfully acted with malice, fraud, gross negligence, oppressiveness, unlawful retaliation which was not a result of mistake of fact or law, honest error or judgment, overzealousness, mere negligence or other human failing but that the defendants acted with willful and wanton misconduct, fraud, conspiring with Defendant Donald Fumo to unlawfully sent a fraudulent invoice for \$109, 208.66 to the Plaintiff through the mail.

25. Plaintiff suffered damages by the Defendants unlawful collection activities. As a result of Defendants' extreme and outrageous conduct, Stoller has suffered and will continue to suffer mental pain and anguish, severe emotional trauma, embarrassment, and humiliation. Proximate cause of injury to the Plaintiffs was foreseeable

WHEREFORE, Plaintiff, Christopher Stoller, respectfully requests that this Honorable Court enter judgment in her favor as follows: declaring that the practices complained of herein are unlawful and violate the aforementioned statutes and regulations, awarding Plaintiff statutory and actual damages, in an amount to be determined at trial, for the underlying FDCPA violations, awarding Plaintiff costs and reasonable attorney fees as provided under 15 U.S.C. §1692, and awarding any other relief as this Honorable Court deems just and appropriate.

COUNT III
VIOLATION OF ILLINOIS CONSUMER FRAUD AND DECEPTIVE BUSINESS PRACTICES ACT

26. Plaintiff restates and re-alleges paragraphs 1 through 38 as though fully set forth herein.

27. The Illinois Consumer Fraud and Deceptive Business Practices Act (ICFA) states, unfair methods of competition and unfair or deceptive acts or practices, including but not limited to the use or employment of any deception, fraud, false pretense, false promise, misrepresentation or the concealment, suppression or omission of any material fact, with intent that others rely upon the concealment, suppression or omission of such material fact in the conduct of any trade or commerce are hereby declared unlawful whether any person has in fact been misled, deceived or damaged thereby. 815 ILCS 505/2.

28. Defendants violated 815 ILCS 505/2 when it engaged in an unfair and deceptive act or practice by using fraud, deception, and misrepresentation in its efforts to collect a debt from Plaintiff.

29. Specifically, Defendant active participation in the Collection Case, with knowledge that the Plaintiff did not owe any debt to Wesley Terrace Condominium Association (WTCA), was intended only to deceive Stoller into believing that he did owe a debt to WTCA.⁴

30. Plaintiff was harmed by Defendant's unfair and deceptive practices.

31. Plaintiff suffered damages by the Defendants unlawful collection activities. As a result of Defendants' extreme and outrageous conduct, Stoller has suffered and will continue to suffer mental pain and anguish, severe emotional trauma, embarrassment, and humiliation. Stoller was harmed by Defendants' deceptive business practices. Proximate cause of injury to the Plaintiffs was foreseeable.

32. Moreover, these unfair and deceptive practices are part of a pattern and practice of behavior in which Defendants' routinely engages as part of their lucrative business model.

33. An award of punitive damages is appropriate because Defendants' conduct described above was willful and wanton, and showed a reckless disregard for the protections afforded by ICFA, and Plaintiff's rights thereunder.

34. Furthermore, punitive damages are warranted to deter Defendants' from further harmful misconduct.

35. As such, Plaintiff is entitled to relief pursuant to 815 ILCS 505/10a.

WHEREFORE, Plaintiff, Christopher Stoller, respectfully requests that this Honorable Court enter judgment in her favor as follows: declaring that the practices complained of herein are unlawful and violate the aforementioned statutes and regulations, awarding Plaintiff statutory and actual damages, in an amount to be determined at trial, for the underlying FDCPA violations,

⁴Any person who suffers actual damage as a result of a violation of this Act committed by any other person may bring an action against such person. The court, in its discretion may award actual economic damages or any other relief which the court deems proper. 815 ILCS 505/10a.

awarding Plaintiff costs and reasonable attorney fees as provided under 15 U.S.C. §1692, and awarding any other relief as this Honorable Court deems just and appropriate.

**COUNT VI
MAIL FRAUD**

36. Plaintiff restates and re-alleges paragraphs 1 through 35 as though fully set forth herein.

37. Defendants including Don Fumo, Reliable Management Realty Ltd., their attorney(s) Kovitz law firm, Nickolas Mitchell et al., have engaged billing fraud, knowingly make a false record or file a false claim against Christopher Stoller for \$109,208.66. (**Exhibit 1**) having devised or intending to devise a scheme to defraud Christopher Stoller, and used the mail for the purpose of executing, or attempting to execute, their scheme or specified fraudulent acts.

38. Plaintiff suffered damages by the Defendants unlawful collection activities. As a result of Defendants' extreme and outrageous conduct, Stoller has suffered and will continue to suffer mental pain and anguish, severe emotional trauma, embarrassment, and humiliation. Stoller was harmed by Defendants' mail fraud.

39. Proximate cause of injury to the Plaintiffs was foreseeable.

WHEREFORE, Plaintiff, Christopher Stoller, respectfully requests that this Honorable Court enter judgment in her favor as follows: declaring that the practices complained of herein are unlawful and violate the aforementioned statutes and regulations, awarding Plaintiff statutory and actual damages, in an amount to be determined at trial, for the underlying FDCPA violations, awarding Plaintiff costs and reasonable attorney fees as provided under 15 U.S.C. §1692, and awarding any other relief as this Honorable Court deems just and appropriate and refer this case to the U.S. Attorney for the Northern District of Illinois to conduct a mail fraud investigation.

COUNT V
BILLING FRAUD, CONSPIRACY, WILLFUL AND WANTON CONDUCT

40. Plaintiffs adopt and restate the allegations contained in Paragraphs 1 through 39 as if the same were fully set forth herein.

41. Defendants all colluded and conspired together acting with malice, fraud, gross negligence, oppressiveness, which was not a result of mistake of fact or law, honest error or judgment, overzealousness, mere negligence or other human failing, but that the said Defendants acted with willful and wanton misconduct in the course and scope of their employment and in furtherance of their respective business, individually and collectively agreed with a meeting of the minds, based upon the advice and counsel of the Kovitz Defendants to manufacture a fraudulent invoice for \$109,208.66 and caused it to be mailed to Christopher Stoller on April 9, 2019.

42. Plaintiff suffered damages by the Defendants unlawful collection activities. As a result of Defendants' extreme and outrageous conduct, Stoller has suffered and will continue to suffer mental pain and anguish, severe emotional trauma, embarrassment, and humiliation. Stoller was harmed by Defendants.

43. Proximate cause of injury to the Plaintiffs was foreseeable.

WHEREFORE, Plaintiff, Christopher Stoller, respectfully requests that this Honorable Court enter judgment in her favor as follows: declaring that the practices complained of herein are unlawful and violate the aforementioned statutes and regulations, awarding Plaintiff statutory and actual damages, in an amount to be determined at trial, for the underlying FDCPA violations, awarding Plaintiff costs and reasonable attorney fees as provided under 15 U.S.C. §1692, and awarding any other relief as this Honorable Court deems just and appropriate and refer this case to the U.S. Attorney for the Northern District of Illinois to conduct a mail fraud investigation.

COUNT VI
AIDING AND ABETTING⁵

(As to ., KOVITZ SHIFRIN NESBIT, MICHAEL J. SHIFRIN, Principal, ROBERT P. NESBIT, Principal, NICHOLAS MITCHELL, Principal, DIANE J. SILVERBERG, Principal, ALLEN KOVITZ, Principal, RONALD J. KAPUSTKA, Principal, WENDY DURBIN , the “Kovitz firm”)

44. Plaintiffs adopt and restate the allegations contained in Paragraphs 1 through 43 as if the same were fully set forth herein.

45. The Kovitz Defendants aided and abetted⁶ their clients Wesley Terrace, Donald Fumo, Reliably Reality Management LTD in committing a tort against the Plaintiff.

46. The Kovitz Defendants owed a duty to the Plaintiff to not engage in deceptive trade practices, billing fraud and mail fraud.. The Kovitz Law firm Defendants were aware of the duty of care that their clients owed the Plaintiffs. The Wesley Terrace Condominium Association, Donald Fumo, Reliable Realty Management LDD breached that duty and committed numerous torts to the Plaintiffs as described throughout this Complaint.

47. The Kovitz Defendants, all which are lawyers, are aware of the breach and torts that their clients committed and for which the Plaintiffs have suffered damages. Proximate cause of injury to the Plaintiffs was foreseeable.

⁵ The elements necessary to convict under aiding and abetting theory are (1) that the accused had specific intent to facilitate the commission of a crime by another; (2) the accused had the requisite intent of the underlying substantive offenses; (3) the accused assisted or participated in the commission of the underlying substantive offense and (4) that someone committed the underlying offense.

⁶Aiding and abetting and conspiracy claims find their roots in criminal law. In the civil context, they lead to liability. For those who help others actors or a main actor (usually for lawyers, it is the client) to commit some tort against a third party. In practice, this often involves a claim that the lawyer helped the client either to commit a fraud on a third party or breach some duty (usually a fiduciary duty). To a third party, when brought against lawyers, these in-concert liability claims, in most jurisdictions, involve the following elements: (1) a duty owed by the client to a third party; (2) that the lawyer is aware of the duty owed by the client to the third party; (3) that the client breaches that duty and/or commits a tort against that third party; (4) that the lawyer is aware of the breach and/or tort committed by the client; (5) that the lawyer assists the client in committing the tort and/or breach; and (6) that the third-party suffers some damage. *Thornwood v. Jenner & Block*, 344 N.E. 2d. 15 (ILL. App. 2003).

48. Proximate cause of injury to the Plaintiffs was foreseeable and the Plaintiff have suffered and are still suffering damages resulting from the horrendous discrimination and behavior of the Defendants.

WHEREFORE, Plaintiffs pray for judgment against each of the Defendants as follows, for compensatory damages for the maximum amount allowed by law. Plaintiffs also request leave of court for punitive damages for the maximum amount allowed by law, for any and all costs associated with the lawsuit herein, for reasonable attorney's fees and for such other remedies as this Court may deem proper and just.

COUNT VII⁷

Willful and Wanton Misconduct/Negligence

49. Plaintiffs adopt and restate the allegations contained in Paragraphs 1 through 48 of Plaintiff's Complaint, as if the same were fully set forth herein.

50. Defendants had a specific duty to the Plaintiffs to act with integrity and honesty.

51. Defendants breached that duty when they created a fraudulent invoice for \$109,208.66 and sent it through the U.S. Mail to the Plaintiff Exhibit 1, for which the Plaintiff did not owe \$109,208.66 as well known to the defendants. Causing Plaintiff to endure mental and physical harm.

52. There is a direct and actual connection between the Defendants' conduct and the resulting harm that the Plaintiffs have endured when plaintiff received the fraudulent invoice (Exhibit 1).

⁷Course of action which shows actual or deliberate intention to harm or which if not intentional show an utter indifference to or conscious disregard for a person's safety and the safety of others.

53. Proximate cause of injury to the Plaintiffs was foreseeable and the Plaintiff have suffered and are still suffering damages resulting from the mailing of a fraudulent invoice to the Plaintiff for \$109,208.66 for which the Plaintiff did not owe.

WHEREFORE, Plaintiffs pray for judgment against each of the Defendants as follows, for compensatory damages for the maximum amount allowed by law. Plaintiffs also request leave of court for punitive damages for the maximum amount allowed by law, for any and all costs associated with the lawsuit herein, for reasonable attorney's fees and for such other remedies as this Court may deem proper and just.

COUNT VII⁸
Negligent Hiring and Supervision

54. Plaintiffs adopt and restate the allegations contained in Paragraphs 1 through 53 of Plaintiffs' Complaint, as if the same were fully set forth herein.

55. Defendant(s) lacks control over its employee's *i.e* Thomas Fumo, Kovitz Firm

56. Proximate cause of injury to the Plaintiffs was foreseeable and the Plaintiffs have suffered and are still suffering damages resulting from the Defendant's mail fraud.

WHEREFORE, Plaintiffs pray for judgment against each of the Defendants as follows, for compensatory damages for the maximum amount allowed by law. Plaintiffs also request punitive damages for the maximum amount allowed by law, for any and all costs associated with the lawsuit herein, for reasonable attorney's fees and for such other remedies as this Court may deem proper and just.

⁸The tort claims of negligent hiring and negligent retention are rooted in common law and are generally permitted where an employee's tortious conduct cannot result in any violation under the theory of respondent superior. A claim for negligent hiring "is based on the principle that an employer is liable for the harm resulting from its employee's negligent acts 'in the employment of improper persons or instrumentalities in work involving risk of harm to other. Labor and Employment Law, Ch. 270, § 270.03. Accordingly, in analyzing such claims, courts generally assess whether the employer exercised reasonable care in choosing or retaining an employee for the particular duties to be performed. *Id.* Similarly, claims for negligent retention on are based upon the premise that an employer should be liable when it places an employee, who it knows or should have known is predisposed to committing a wrong, in a position in which the employee can commit a wrong against a third party. *Id.*

COUNT VIII⁹
Fraud

57. Plaintiffs adopt and restate the allegations contained in Paragraphs 1 through 56 Plaintiffs' Complaint, as if the same were fully set forth herein.

58. Defendants created a fraudulent invoice (**Exhibit 1**) on or about April 9th 2019 and mailed it to Christopher Stoller, with the intent to defraud Christopher Stoller of \$109,208.66. Defendant Nicklos Mitchell called Donald Fumo and to him to create the false invoice, which the defendants' intended to use to get an unlawful judgment against Christopher Stoller for \$109,208.66, which the defendants knew Christopher Stoller did not owe Wesley Terrace Condominium Association. Notwithstanding the defendants' employed the U.S. Mail to send the fraudulent invoice (Exhibit 1) to the Plaintiff. The Proximate cause of injury to the Plaintiffs was foreseeable and the Plaintiffs have suffered and is still suffering damages resulting from the Defendant's (mail) fraud.

WHEREFORE, Plaintiffs pray for judgment against each of the Defendants as follows, for compensatory damages for the maximum amount allowed by law. Plaintiffs also request leave of court to request punitive damages for the maximum amount allowed by law, for any and all costs associated with the lawsuit herein, for reasonable attorney's fees and for such other remedies as this Court may deem proper and just.

⁹Deceit, trickery, sharp practice or breach of confidence perpetrated for profit or to gain some unfair or dishonest advantage.

COUNT IX¹⁰
Intentional Infliction of Emotional Distress

59. Plaintiffs adopt and restate the allegations contained in Paragraphs 1 through 58 of Plaintiffs' Complaint, as if the same were fully set forth herein.

60. This cause of action for intentional infliction of distress is premised on the outrageous conduct of the Defendants engaging in the creation of a false invoice for **\$109,208.66 (Exhibit 1)** and mailing it to the Plaintiff caused a direct injury to the Plaintiffs as previously stated herein.

61. The Defendants' conduct is so extreme and outrageous when considering that both Plaintiff is a 70 year old disabled person, a protected person under the Americans for Disability Act (ADA) nearly blind.

62. Said conduct of the Defendants goes beyond all possible pound of decency.¹¹ ; with the culmination of attempting to leave the disabled Plaintiffs homeless.

63. Said conduct has caused the Plaintiffs to endure physical and emotional illness and as a result of Defendants' misconduct, the Defendants caused direct injury to the Plaintiffs.

64. Defendants recklessly or consciously disregarded the probability of causing emotional distress to Plaintiff which is disabled, and a direct injury and should not have to endure such conduct.

65. Plaintiff 70, a disabled person, suffered severe and extreme emotional distress and continue to suffer and endure it. Plaintiff have suffered grief, worry, humiliation and shame which they should never have to endure.

10Four elements must be present in order for intentional infliction of emotional distress to exist (1) defendants acted intentionally or recklessly; (2) defendants' conduct was extreme and outrageous; (3) defendants' act is the cause of the distress; and (4) plaintiff suffers severe emotional distress as a result of the defendants' conduct. All four of these elements are present in the case at bar.

¹¹ *Public Finance Corporation v. Davis*, 66 Ill. 2d 85, 90;

66. Defendants' extreme and cruel behaviors go way beyond all possible bounds of decency. Proximate cause of injury to the Plaintiffs was foreseeable and the Plaintiffs have suffered and are still suffering damages resulting from the Defendant's mail fraud.

WHEREFORE, Plaintiffs pray for judgment against each of the Defendants as follows, for compensatory damages for the maximum amount allowed by law. Plaintiffs also request punitive damages for the maximum amount allowed by law, for any and all costs associated with the lawsuit herein, for reasonable attorney's fees and for such other remedies as this Court may deem proper and just.

COUNT X

Tortious inducement of Breach of Fiduciary Duties¹²

67. Plaintiff adopts and restates all allegations contained in Paragraphs 1 through 66 of Plaintiffs' Complaint, as if the same were fully set forth herein.

68. Defendants committing the breach of the fiduciary's duties.

69. Defendants has breached and failed in its responsibilities to the Plaintiffs.

70. The named Defendants conspired for the purpose of creating a fraudulent invoice for \$109,208.66 and mailing it to the Plaintiff.

71. The Defendants are directly responsible for the proximate cause for the harm that Defendant Donald Fumo, inflicted on the Plaintiff.

72. Defendant(s) used their fiduciary relationship to benefit themselves.

¹²The Defendants' owed a fiduciary duty to the Plaintiff. *Ward Enters v. Banc & Olufsen Am.*, 2003 U.S. Dist. Lexis 21610, 2003 WL 22859793 at 2 (N.D. ILL. 2003) (citing *Bixby's Food Systems, Inc., v. McKay*, 985 F. supp. 802, 808 (N.D. ILL., 1997); *McGowan v. Pillsbury Co.*, 723 F. Supp. 530, 536 (W.D. Wash. 1989)). Special circumstances for the Plaintiff which created the breach of fiduciary duty because the Plaintiff reposed trust and confidence in the Defendants, who thereby gained a resulting influence and superiority over the Plaintiff. *Humana Health Plan, Inc. v. Heritage Ind. Med. Group P.C.*, 2001 U.S. Dist. Lexis 78, 2001 WL 8878 at 2 (N.D. ILL. 2001) (quoting *Oil Express National, Inc. v. Latos*, 966 F. Supp. 650, 651 (N.D. ILL. 1997)). Plaintiffs' Count XX alleges all of the elements necessary to establish a valid claim for breach of fiduciary duty (1) the existence of a fiduciary duty; (2) a breach of that duty; and (3) an injury proximately resulting from that breach. *Bernstein & Grazian, P.C. v. Grasan and Volpe, P.C.*, 402 Ill. App.3d 961, 976 (1st Dist. 2010). A fiduciary relationship exists where one party the (Plaintiff) reposes trust and confidence in another (Fletcher Jones) who thereby gains a resulting influence and superiority over the subservient party. *Khan v. Deutsche Bank AG*, 2012 IL 112219 Paragraph 58.

73. Defendants Kovitz Law firm knowingly induced the breach and Defendant Donald Fumo, RELIABLE MANAGEMENT REALTY, LTD has accepted benefits from the breach.

74. Plaintiffs have been damaged by the said breach and by the conduct of the Defendants.

WHEREFORE, Plaintiffs pray for judgment against each of the Defendants as follows, for compensatory damages for the maximum amount allowed by law. Plaintiffs also request punitive damages for the maximum amount allowed by law, for any and all costs associated with the lawsuit herein, for reasonable attorney's fees and for such other remedies as this Court may deem proper and just.

COUNT XXI
Civil Conspiracy

75. Plaintiff adopts and restates all allegations contained in Paragraphs 1 through 74 of Plaintiffs' Complaint, as if the same were fully set forth herein.

76. Conspired and are continuing to conspire, after this lawsuit was filed, with each other to accomplish by concerted action, the unlawful acts allege herein in order to defraud the Plaintiff out of his leasehold estate in the subject property.

77. The Plaintiffs have been damaged by the Defendants.

WHEREFORE, Plaintiff, Christopher Stoller, respectfully requests that this Honorable Court enter judgment in her favor as follows: declaring that the practices complained of herein are unlawful and violate the aforementioned statutes and regulations, awarding Plaintiff statutory and actual damages, in an amount to be determined at trial, for the underlying FDCPA violations, awarding Plaintiff costs and reasonable attorney fees as provided under 15 U.S.C. §1692, and awarding any other relief as this Honorable Court deems just and appropriate and refer this case to the U.S. Attorney for the Northern District of Illinois to conduct a mail fraud investigation of the Defendants and to refer this matter to the ARDC to conduct an investigation of the Kovitz firm lawyers. **MICHAEL J. SHIFRIN, Principal, ROBERT P. NESBIT, Principal, NICHOLAS MITCHELL, Principal, DIANE J. SILVERBERG, Principal, ALLEN KOVITZ, Principal, RONALD J. KAPUSTKA and Principal, WENDY DURBIN.**

Respectfully submitted,

/s/ Christopher Stoller
Christopher Stoller, E.D. Plaintiff,
415 Wesley, Apartment 1
Oak Park, IL 60303
(773) 746-3163
Cns40@hotmail.com

VERIFICATION

Under penalties as provided by law under Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct except as to matters therein stated to be on information and belief, and as much matters, the undersigned certifies as aforesaid that I verify believe the same to be true.

/s/ Christopher Stoller
Christopher Stoller

CERTIFICATE OF SERVICE

I, Christopher Stoller, certify that the foregoing documents have been served on each of the following Defendants listed on the Service List via First Class U.S. Mail on April 15, 2019.

/s/ Christopher Stoller
Christopher Stoller

EXHIBIT INDEX

EXHIBIT 1	Invoice for \$109,208.66
EXHIBIT 2	Oct 30, 2015 Lease agreement
EXHIBIT 3	Altered Lease Agreement
EXHIBIT 4	Judge Lee's Sanction Orders
EXHIBIT 5	Settlement Agreement