

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN  
MILWAUKEE DIVISION**

ANTHONY MUSZYTOWSKI, Individually and on Behalf of All Others Similarly Situated,	)	Case No.: 18-cv-1018
	)	<b>CLASS ACTION COMPLAINT</b>
Plaintiff,	)	
v.	)	
	)	<b>Jury Trial Demanded</b>
RECEIVABLES PERFORMANCE MANAGEMENT LLC,	)	
	)	
Defendant.	)	

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**INTRODUCTION**

1. This class action seeks redress for collection practices that violate the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (the “FDCPA”).

**JURISDICTION AND VENUE**

2. The court has jurisdiction to grant the relief sought by the Plaintiff pursuant to 15 U.S.C. § 1692k and 28 U.S.C. §§ 1331 and 1337. Venue in this District is proper in that Defendant directed its collection efforts into the District.

**PARTIES**

3. Plaintiff Anthony Muszytowski is an individual who resides in the Eastern District of Wisconsin (Milwaukee County).

4. Plaintiff is a “consumer” as defined in the FDCPA, 15 U.S.C. § 1692a(3), in that Defendant sought to collect from him a debt allegedly incurred for personal, family, or household purposes.

5. Defendant Receivables Performance Management, LLC (“RPM”) is a debt collection agency with its principal place of business located at 20816 44th Ave West Lynnwood, WA 98036.

6. RPM is engaged in the business of a collection agency, using the mails and telephone to collect consumer debts originally owed to others.

7. RPM is a debt collector as defined in 15 U.S.C. § 1692a.

### **FACTS**

8. On or about November 15, 2017, RPM mailed a debt collection letter to Plaintiff regarding an alleged debt, allegedly owed to “U.S. Cellular” (“USC”). A copy of this letter is attached to this complaint as Exhibit A.

9. The alleged debt referenced in Exhibit A is an alleged personal cellular phone service account.

10. Plaintiff used his cell phone for personal, family, or household purposes. Plaintiff did not open or use the cell phone for business purposes.

11. Upon information and belief, Exhibit A is a form letter, generated by computer, and with the information specific to Plaintiff inserted by computer.

12. Upon information and belief, Exhibit A is a form debt collection letter used by RPM to attempt to collect alleged debts.

13. Upon information and belief, Exhibit A is the first written communication Plaintiff received from RPM in reference to the alleged USC debt referenced in Exhibit A.

14. Exhibit A contains the statutory debt validation notice that the FDCPA, 15 U.S.C. § 1692g, requires the debt collector mail the consumer along with, or within five days of, the initial communication:

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice, that you dispute the validity of this debt or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor.

Exhibit A.

15. Pursuant to the FDCPA's statutory mandate, Exhibit A informs the consumer that he or she has thirty days to dispute the debt.

16. Exhibit A contains false, deceptive, misleading, and confusing representations about when the thirty-day validation period begins.

17. The header in Exhibit A states:

Reference Number: [REDACTED] 2391  
Creditor: U.S. Cellular  
Creditor Account#: [REDACTED] 7543  
Original Creditor: U.S. Cellular  
Date: 01-27-17  
Amount: \$148.44  
**Amount Due: \$148.44 (U.S. FUNDS ONLY)**

Exhibit A.

18. Exhibit A also contains a payment remittance slip, which states:

Notice Date:.....11-15-17  
Fecha de notificación  
Amount Due:.....\$148.44  
Cantidad adeudada  
Creditor Account#:..... [REDACTED] 7543  
Acreedor Cuenta#

Exhibit A.

19. The header in Exhibit A states that the "Date" is January 27, 2017 but the payment remittance slip in Exhibit A states that the "Notice Date" is November 15, 2017.

20. Because the header in the letter states that the "Date" is January 27, 2017, the unsophisticated consumer, receiving Exhibit A would be confused and misled about when Exhibit A was actually mailed, and would have no idea why he received RPM's letter months after the "Date" stated in the header.

21. Based on the January 27, 2017 date stated in the header in Exhibit A, the consumer would assume the thirty-day validation period had already expired.

22. Moreover, even assuming the consumer actually saw the “Notice Date” stated in the payment remittance slip in Exhibit A, he would be confused and misled to believe that the validation period ended or began with the “Notice Date.”

23. In fact, the validation period begins to run when the consumer receives the letter, not when the debt collector mails it. 15 U.S.C. § 1692g(a)(3)-(5); *see Chauncey v. JDR Recovery Corp.*, 118 F.3d 516, 518-19 (7th Cir. 1997).

24. The conflicting and confusing dates stated in Exhibit A are inconsistent with and overshadow the statutory notice that the validation period gives the consumer “30 days *after receiving this notice*” to dispute the debt. Exhibit A; *see also*, 15 U.S.C. § 1692g(a)(3)-(5).

25. Congress expressly instructed debt collectors to inform consumers that the validation period does not begin until the consumer receives the validation notice to protect consumers against the backdating of collection notices, which would confuse and mislead consumers to believe the validation period may have already run. *E.g., Philip v. Sardo & Batista, P.C.*, 2011 U.S. Dist. LEXIS 130267, at \*8-9 (D.N.J. Nov. 10, 2011); *Rivera v. Amalgamated Debt Collection Servs.*, 462 F. Supp. 2d 1223, 1228 (S.D. Fla. Oct. 16, 2006); *Cavallaro v. Law Office of Shapiro & Kreisman*, 933 F. Supp. 1148, 1154 (E.D.N.Y. Aug. 7, 1996).

26. Backdating a letter by several months would confuse and mislead the consumer about when the validation period began. *Compare with Kellar v. Fin. Recovery Servs.*, 2013 U.S. Dist. LEXIS 183836, at \*7-9 (D.N.D. Oct. 29, 2013) (awarding summary judgment to debt

collector on claim that letter was backdated alleged backdating was one day, and “printing a letter one day and placing it in the mail the following day is a common business occurrence[.]”).

27. Even though the validation notice in Exhibit A states that the consumer may “notify this office within 30 days after receiving this notice” to dispute the debt, the confusing and misleading “Date” stated in the header in Exhibit A overshadows and is inconsistent with the disclosure that the consumer has thirty days to dispute the debt. *See Bartlett v. Heibl*, 128 F.3d 497, 500 (7th Cir. 1997) (“the debt collector may not defeat the statute’s purpose by making the required disclosures in a form or within a context in which they are unlikely to be understood by the unsophisticated debtors who are the particular objects of the statute’s solicitude.”).

28. Moreover, the January 27, 2017 date is also false and misleading because it implies that the amount RPM was attempting to collect was past due as of that date.

29. On or about March 12, 2017, USC mailed Plaintiff a “Cancellation Notice” letter, stating that Plaintiff’s service had been cancelled. A copy of this letter is attached to this complaint as Exhibit B.

30. Exhibit B states:

Account Number:	██████████7543
Payments posted through:	03/01/2017
Amount Past Due:	\$143.44
Total Amt Due:	\$148.44

Exhibit B.

31. Exhibit B states that, as of March 12, 2017, the “Total Amt Due” on Plaintiff’s USC account was \$148.44 and the “Amount Past Due” was \$143.44, based on “Payments posted through” March 1, 2017.

32. Exhibit B was mailed on or about March 12, 2017, more than month after the “Date” stated in the header in Exhibit A.

33. Upon information and belief, as of January 27, 2017, the “Date” stated in the header in Exhibit A, the \$148.44 balance that RPM was attempting to collect with Exhibit A was not yet due, let alone past due. *See Chuway v. Nat’l Action Fin. Servs.*, 362 F.3d 944, 948 (7th Cir. 2004) (debt collector misleads the consumer about the amount of the debt if it leads him to believe that it is authorized to collect amounts that “might not yet be due, let alone overdue.”).

34. The unsophisticated consumer receiving Exhibit A would be misled as to the date of delinquency and the amount of the debt that was purportedly “past due” as of January 27, 2017.

35. The false “Date” is material to the consumer because it has important implications for consumer credit reporting and the date on which the statute of limitations begins to run. *See Slick v. Portfolio Recovery Assocs., LLC*, 111 F. Supp. 3d 900, 904-05 (N.D. Ill. June 30, 2015); *Kasalo v. Trident Asset Mgmt., LLC*, 53 F. Supp. 3d 1072, 1086-87 (N.D. Ill. July 7, 2014); *see also, e.g., Agosta v. InoVision, Inc.*, 2003 U.S. Dist. LEXIS 23889, at \*13-15 (E.D. Pa. Dec. 16, 2003); *Brandon v. Fin. Accounts Servs. Team*, 701 F. Supp. 2d 990, 99-93 (E.D. Tenn. Mar. 24, 2010).

36. Upon information and belief, the “Date” stated in the header in Exhibit A serves no purpose other than to confuse, mislead, and deceive the consumer about his validation rights and the amount of the debt.

37. Plaintiff was confused and misled by Exhibit A.

38. The unsophisticated consumer would be confused by Exhibit A.

39. Plaintiff had to spend time and money investigating Exhibit A.

40. Plaintiff had to take time to obtain and meet with counsel, including traveling to counsel's office by car and its related expenses, including but not limited to the cost of gasoline and mileage, to advise Plaintiff on the consequences of Exhibit A.

### ***The FDCPA***

41. The FDCPA creates substantive rights for consumers; violations cause injury to consumers, and such injuries are concrete and particularized. *Derosia v. Credit Corp Solutions*, 2018 U.S. Dist. LEXIS 50016, at \*12 (E.D. Wis. Mar. 27, 2018) (“ ‘a plaintiff who receives misinformation from a debt collector has suffered the type of injury the FDCPA was intended to protect against’ and ‘satisfies the concrete injury in fact requirement of Article III.’ ”) (quoting *Pogorzelski v. Patenaude & Felix APC*, 2017 U.S. Dist. LEXIS 89678, 2017 WL 2539782, at \*3 (E.D. Wis. June 12, 2017)); *Spuhler v. State Collection Servs.*, No. 16-CV-1149, 2017 U.S. Dist. LEXIS 177631 (E.D. Wis. Oct. 26, 2017) (“As in *Pogorzelski*, the Spuhlers’ allegations that the debt collection letters sent by State Collection contained false representations of the character, amount, or legal status of a debt in violation of their rights under the FDCPA sufficiently pleads a concrete injury-in-fact for purposes of standing.”); *Lorang v. Ditech Fin. LLC*, 2017 U.S. Dist. LEXIS 169286, at \*6 (W.D. Wis. Oct. 13, 2017) (“the weight of authority in this circuit is that a misrepresentation about a debt is a sufficient injury for standing because a primary purpose of the FDCPA is to protect consumers from receiving false and misleading information.”); *Neeley v. Portfolio Recovery Assocs., LLC*, 268 F. Supp. 3d 978, 982 (S.D. Ind. Aug. 2, 2017) (“[N]othing in *Spokeo* overruled the Seventh Circuit’s decisions that emphasized and affirmed the power of Congress to pass legislation creating new rights, which if violated, would confer standing under Article III.”) (alteration in original) (quoting *Saenz v. Buckeye Check Cashing*, 2016 U.S. Dist. LEXIS 127784, at \*5 (N.D. Ill. Sep. 20, 2016); *Qualls v. T-H Prof’l & Med.*

*Collections, Ltd.*, 2017 U.S. Dist. LEXIS 113037, at \*8 (C.D. Ill. July 20, 2017) (“Courts in this Circuit, both before and after *Spokeo*, have rejected similar challenges to standing in FDCPA cases.”) (citing “*Hayes v. Convergent Healthcare Recoveries, Inc.*, 2016 U.S. Dist. LEXIS 139743 (C.D. Ill. 2016)); *Bock v. Pressler & Pressler, LLP*, No. 11-7593, 2017 U.S. Dist. LEXIS 81058 \*21 (D.N.J. May 25, 2017) (“through [s]ection 1692e of the FDCPA, Congress established ‘an enforceable right to truthful information concerning’ debt collection practices, a decision that ‘was undoubtedly influenced by congressional awareness that the intentional provision of misinformation’ related to such practices, ‘contribute[s] to the number of personal bankruptcies, to marital instability, to the loss of jobs, and to invasions of individual privacy,’”); *Quinn v. Specialized Loan Servicing, LLC*, No. 16 C 2021, 2016 U.S. Dist. LEXIS 107299 \*8-13 (N.D. Ill. Aug. 11, 2016) (rejecting challenge to Plaintiff’s standing based upon alleged FDCPA statutory violation); *Lane v. Bayview Loan Servicing, LLC*, No. 15 C 10446, 2016 U.S. Dist. LEXIS 89258 \*9-10 (N.D. Ill. July 11, 2016) (“When a federal statute is violated, and especially when Congress has created a cause of action for its violation, by definition Congress has created a legally protected interest that it deems important enough for a lawsuit.”); *Church v. Accretive Health, Inc.*, No. 15-15708, 2016 U.S. App. LEXIS 12414 \*7-11 (11th Cir. July 6, 2016) (same); *see also Mogg v. Jacobs*, No. 15-CV-1142-JPG-DGW, 2016 U.S. Dist. LEXIS 33229, 2016 WL 1029396, at \*5 (S.D. Ill. Mar. 15, 2016) (“Congress does have the power to enact statutes creating legal rights, the invasion of which creates standing, even though no injury would exist without the statute,” (quoting *Sterk v. Redbox Automated Retail, LLC*, 770 F.3d 618, 623 (7th Cir. 2014))). For this reason, and to encourage consumers to bring FDCPA actions, Congress authorized an award of statutory damages for violations. 15 U.S.C. § 1692k(a).



42. Moreover, Congress has explicitly described the FDCPA as regulating “abusive practices” in debt collection. 15 U.S.C. §§ 1692(a) – 1692(e). Any person who receives a debt collection letter containing a violation of the FDCPA is a victim of abusive practices. *See* 15 U.S.C. §§ 1692(e) (“It is the purpose of this subchapter to eliminate abusive debt collection practices by debt collectors, to insure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and to promote consistent State action to protect consumers against debt collection abuses”).

43. 15 U.S.C. § 1692e generally prohibits “any false, deceptive, or misleading representation or means in connection with the collection of any debt.”

44. 15 U.S.C. § 1692e(2)(A) specifically prohibits “the false representation of---the character, amount, or legal status of any debt.”

45. 15 U.S.C. § 1692e(10) specifically prohibits the “use of any false representation or deceptive means to collect or attempt to collect any debt.

46. 15 U.S.C. § 1692f generally prohibits a debt collector from using “unfair or unconscionable means to collect or attempt to collect any debt.”

47. 15 U.S.C. § 1692g states, in part:

**(a) Notice of debt; contents**

Within five days after the initial communication with a consumer in connection with the collection of any debt, a debt collector shall, unless the following information is contained in the initial communication or the consumer has paid the debt, send the consumer a written notice containing—

- (1) the amount of the debt;
- (2) the name of the creditor to whom the debt is owed;
- (3) a statement that unless the consumer, within thirty days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector;

(4) a statement that if the consumer notifies the debt collector in writing within the thirty-day period that the debt, or any portion thereof, is disputed, the debt collector will obtain verification of the debt or a copy of a judgment against the consumer and a copy of such verification or judgment will be mailed to the consumer by the debt collector; and

(5) a statement that, upon the consumer's written request within the thirty-day period, the debt collector will provide the consumer with the name and address of the original creditor, if different from the current creditor.

(b) Disputed Debts

...

Any collection activities and communication during the 30-day period may not overshadow or be inconsistent with the disclosure of the consumer's right to dispute the debt or request the name and address of the original creditor.

**COUNT I -- FDCPA**

48. Plaintiff incorporates by reference as if fully set forth herein the allegations contained in the preceding paragraphs of this Complaint.

49. The "Date" stated in the header in Exhibit A is months before Exhibit A was actually mailed.

50. The "Date" stated in the header in Exhibit A is false, deceptive, misleading, and confusing to the unsophisticated consumer.

51. Exhibit A is patently misleading and confusing as to the date when Exhibit A was mailed, and would confuse and mislead the consumer about their whether their rights to dispute the debt had lapsed before they actually received Exhibit A.

52. Exhibit A is patently misleading and confusing as to the date when Exhibit A was mailed, and would confuse and mislead the consumer about the amount of the debt that was past due as of the “Date” stated on Exhibit A.

53. The “Date” stated in Exhibit A serves no purpose other than confusing, misleading, and deceiving the consumer about his validation rights, and the amount of the debt.

54. Defendant violated 15 U.S.C. §§ 1692e, 1692e(2)(A), 1692e(10), 1692f, 1692g(a)(1), 1692g(a)(3), 1692g(a)(4), 1692g(a)(5), and 1692g(b).

### **CLASS ALLEGATIONS**

55. Plaintiff brings this action on behalf of a class.

56. The Class is defined as (a) all natural persons in the State of Wisconsin (b) who were sent a collection letter in the form of Exhibit A by Defendant that sought to collect an alleged debt, (c) allegedly incurred for personal, family or household purposes, (d) which states a “Date” in the header, (e) which is more than thirty days before the “Notice Date” stated in the payment remittance slip, (f) where the “Notice Date” is between July 3, 2017 and July 3, 2018, inclusive, (g) and the letter was not returned by the postal service.

57. The Class is so numerous that joinder is impracticable. Upon information and belief, there are more than 50 members of the Class. There are questions of law and fact common to the members of the Class, which common questions predominate over any questions that affect only individual class members. The predominant common question is whether the Defendant complied with the FDCPA.

58. Plaintiff’s claims are typical of the claims of the members of the Class. All are based on the same factual and legal theories.

59. Plaintiff will fairly and adequately represent the interests of the members of the Class. Plaintiff has retained counsel experienced in consumer credit and debt collection abuse cases.

60. A class action is superior to other alternative methods of adjudicating this dispute. Individual cases are not economically feasible.

**JURY DEMAND**

61. Plaintiff hereby demands a trial by jury.

**RPMYER FOR RELIEF**

WHEREFORE, Plaintiff requests that the Court enter judgment in favor of Plaintiff and the Class and against Defendant for:

- (a) actual damages;
- (b) statutory damages;
- (c) attorneys' fees, litigation expenses and costs of suit; and
- (d) such other or further relief as the Court deems proper.

Dated: July 3, 2018

**ADEMI & O'REILLY, LLP**

By: /s/ Mark A. Eldridge  
John D. Blythin (SBN 1046105)  
Mark A. Eldridge (SBN 1089944)  
Jesse Fruchter (SBN 1097673)  
Ben J. Slatky (SBN 1106892)  
3620 East Layton Avenue  
Cudahy, WI 53110  
(414) 482-8000  
(414) 482-8001 (fax)  
jblythin@ademilaw.com  
meldridge@ademilaw.com  
jfruchter@ademilaw.com  
bslatky@ademilaw.com

# **EXHIBIT A**



20816 44th Ave W  
Lynnwood, WA 98036

Reference Number: [REDACTED] 2391  
Creditor: U.S. Cellular  
Creditor Account#: [REDACTED] 7543  
Original Creditor: U.S. Cellular  
Date: 01-27-17  
Amount: \$148.44  
**Amount Due: \$148.44 (U.S. FUNDS ONLY)**

Dear Customer:

Your account has been listed with Receivables Performance Management for payment processing and collection. If you have any questions or need assistance, please call TOLL FREE 877.297.3159.

In the event that your payment is by check, we may present your check electronically. In the ordinary course of business, your check will not be provided to you with your bank statement, but a copy can be retrieved by other means.

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice, that you dispute the validity of this debt or any portion thereof, this office will: obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor.

**This communication is from a debt collector. The purpose of this notice is to collect a debt. Any information obtained will be used for that purpose.**

If you have a complaint arising from the collection of this account, please visit RPM's complaint portal located at: <http://www.receivablesperformance.com/complaint> and allow us the opportunity to resolve your issue.

Estimado Cliente:

Su cuenta ha sido listada con Receivables Performance Management para procesamiento de pago y cobranza. Si tiene alguna pregunta o necesita ayuda, sírvase llamar GRATIS al número 877.297.3159.

Número de referencia: [REDACTED] 2391  
Acreedor: U.S. Cellular  
Acreedor Cuenta#: [REDACTED] 7543  
Acreedor Original: U.S. Cellular  
Fecha: 01-27-17  
Cantidad: \$148.44  
**Cantidad adeudada: \$148.44 (MONEDA DE EE.UU. SOLAMENTE)**

Si hace el pago mediante cheque, podríamos presentar el cheque electrónicamente. En el curso comercial normal, no se le devolverá el cheque con su informe de banco, pero podrá obtener una copia por otros medios.

Esta oficina asumirá que la deuda es válida a menos que, a más tardar 30 días después de recibir esta notificación, usted avise a esta oficina de que niega la validez total o parcial de esta deuda. Si a más tardar 30 días después de recibir esta notificación, avisa a esta oficina de que niega la validez total o parcial de esta deuda, haremos lo siguiente: obtendremos verificación de la deuda u obtendremos una copia de la sentencia de ley y le enviaremos una copia. Le daremos el nombre y dirección del acreedor original, si es diferente al acreedor presente, si usted así lo pide por escrito a esta oficina a más tardar 30 días después de recibir este aviso.

**Este comunicado es de un recaudador de deudas. La finalidad de esta notificación es recaudar una deuda. Cualquier información obtenida se utilizará con este fin.**

Si usted tiene una queja derivada de la colección de esta cuenta, por favor visite el portal de quejas de RPM se encuentra en: <http://www.receivablesperformance.com/complaint> y denos la oportunidad de resolver su problema.

To ensure proper credit, please detach the bottom portion of this notice and return with your payment.  
Para garantizar que se acredite el pago, corte la parte inferior de esta notificación y envíela con su pago.

Undeliverable Mail Only:  
PO Box 2630  
Southgate, MI 48195-4630

Notice Date:.....11-15-17  
Fecha de notificación  
Amount Due:.....\$148.44  
Cantidad adeudada  
Creditor Account#:.....[REDACTED] 7543  
Acreedor Cuenta#

File Number: [REDACTED] 7993 RPM004  
Número de archivo

Please make check or money order payable to:  
Sírvase enviar cheque o giro bancario a nombre de:

Muszytowski, Anthony  
3333 E Mallory Ave  
Cudahy, WI 53110-2218

Receivables Performance Management LLC  
PO Box 1548  
Lynnwood, WA 98046-1548

# Exhibit B



Account Number: [REDACTED] 7543  
Mobile Number: [REDACTED]  
Last Billing Date: 03/01/2017

### CANCELLATION NOTICE

==  
==  
—

03/12/2017

Anthony Muszytowski

As of the date of this letter, your service has been cancelled. A balance due of \$148.44 remains on this account. Applicable fees may also be applied for not fulfilling the terms of the Service Agreement. These fees, if applicable, are not included in the above balance due, but will appear on your next bill.

We do not want to lose you as a valued customer, and we would like to work with you to resolve this issue.

**Please remit payment today:**

Call U.S. Cellular® **Financial Services** at 1-888-939-3900  
Use any major credit card or direct debit from your checking account

**Or**

Mail your payment in the enclosed envelope  
Please include the bottom portion of this page and allow enough time for normal payment processing

If you have any questions regarding your account, please call 1-888-939-3900

Sincerely,

U.S. Cellular  
Financial Services Department

col cpfn/colcpfnwpt.doc

Please detach and mail bottom portion with your payment to ensure prompt handling



P.O. Box 7835  
Madison WI 53707-7835

Account Number: [REDACTED] 7543  
Payments posted through: 03/01/2017  
Amount Past Due: \$143.44  
Total Amt Due: \$148.44

Check box to indicate address change on back

Send check payable to:  
U.S. Cellular  
Dept. 0205  
Palatine, IL 60055-0205

Anthony Muszytowski  
3333 E Mallory Avenue  
Cudahy - WI - 53110 2218

[REDACTED] 7543 [REDACTED]





# CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

Place an X in the appropriate Box:  Green Bay Division  Milwaukee Division

**I. (a) PLAINTIFFS**  
**ANTHONY MUSZYTOWSKI**

**(b)** County of Residence of First Listed Plaintiff Milwaukee  
 (EXCEPT IN U.S. PLAINTIFF CASES)

**(c) Attorney's** (Firm Name, Address, and Telephone Number)  
 Ademi & O'Reilly, LLP, 3620 E. Layton Ave., Cudahy, WI 53110  
 (414) 482-8000-Telephone (414) 482-8001-Facsimile

**DEFENDANTS**  
**RECEIVABLES PERFORMANCE MGMT., LLC**

County of Residence of First Listed Defendant \_\_\_\_\_  
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

1 U.S. Government Plaintiff  3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant  4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated <i>or</i> Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated <i>and</i> Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	

**V. ORIGIN** (Place an "X" in One Box Only)

1 Original Proceeding  2 Removed from State Court  3 Remanded from Appellate Court  4 Reinstated or Reopened  5 Transferred from another district (specify)  6 Multidistrict Litigation  7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
 15 U.S.C. 1692 et seq

Brief description of cause:  
 Violation of Fair Debt Collection Practices Act

**VII. REQUESTED IN COMPLAINT:**  CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$** \_\_\_\_\_ **CHECK YES only if demanded in complaint:**  
**JURY DEMAND:**  Yes  No

**VIII. RELATED CASE(S) IF ANY** (See instructions): JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

DATE: July 3, 2018 SIGNATURE OF ATTORNEY OF RECORD: /s/ Mark A. Eldridge

## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

### Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

**I. (a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

**II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

**III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

**IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

**V. Origin.** Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

**VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553

Brief Description: Unauthorized reception of cable service

**VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

**VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

UNITED STATES DISTRICT COURT
for the
Eastern District of Wisconsin

ANTHONY MUSZYTOWSKI

Plaintiff(s)

v.

RECEIVABLES PERFORMANCE MGMT., LLC

Defendant(s)

Civil Action No. 18-cv-1018

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) RECEIVABLES PERFORMANCE MGMT., LLC
c/o CT CORPORATION SYSTEM
301 S. Bedford St. Suite 1
Madison , WI 53703

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you receive it) – or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12(a)(2) or (3) – you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or the plaintiff's attorney, whose name and address are:

John D. Blythin
Ademi & O'Reilly, LLP
3620 East Layton Avenue
Cudahy, WI 53110

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

STEPHEN C. DRIES, CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4(l))*

This summons and the attached complaint for *(name of individual and title, if any)*:

\_\_\_\_\_ were received by me on *(date)* \_\_\_\_\_.

I personally served the summons and the attached complaint on the individual at *(place)*:

\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons and the attached complaint at the individual's residence or usual place of abode with *(name)*

\_\_\_\_\_, a person of suitable age and discretion who resides there, on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons and the attached complaint on *(name of individual)* \_\_\_\_\_ who is designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_

\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify)*: \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.:

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit: Receivables Performance Management Listed Conflicting Dates in Collection Letter](#)

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