

5. Plaintiff is also a “customer” as defined in the Wisconsin Consumer Act, Wis. Stat. § 421.301(17), in that the alleged debt allegedly arose from consumer transaction that included agreements to defer payment, namely a consumer credit card.

6. Defendant McCarthy, Burgess & Wolff, Inc. (“McCarthy”) is a foreign corporation with its principal place of business located at 26000 Cannon Road, Cleveland, OH 44146.

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

8. McCarthy is engaged in the business of collecting debts owed to others and incurred for personal, family, or household purposes. McCarthy is a debt collector as defined in 15 U.S.C. § 1692a and Wis. Stat. § 427.103(3).

9. Defendant HSN, Inc. (“HSN”) is a foreign corporation with its principal place of business located at 1 HSN Drive, St. Petersburg, FL 33729.

10. On its face, Wis. Stat. § 427.103(3) applies both to creditors collecting on their own behalf and to creditors who hire other debt collectors to collect on the creditor’s behalf.

11. Wis. Stat. § 427.103(3) defines debt collector as: “any person engaging, *directly or indirectly*, in debt collection, and includes any person who sells, or offers to sell, forms represented to be a collection system, device or scheme, intended or calculated to be used to collect claims. The term does not include a printing company engaging in the printing and sale of forms.” (emphasis added).

12. Wis. Stat § 427.103(2) states: “Debt collection” means any action, conduct or practice of soliciting claims for collection or in the collection of claims owed or due or alleged to be owed or due a merchant by a customer.”

13. The Western District of Wisconsin has noted: “Unlike the FDCPA, the Wisconsin Consumer Act does not provide exceptions to its general definition of a debt collector.” *Hartman v. Meridian Fin. Servs.*, 191 F. Supp. 2d 1031, 1048 (W.D. Wis. 2002).

14. The Wisconsin Department of Financial Institutions, which has been tasked with administering the Wisconsin Consumer Act since it was passed in 1971, *see* Wis. Stat. §§ 421.301(2) and 426.103, interprets Wis. Stat. § 427.103(2) to mean that:

Anyone attempting to collect a debt arising from a consumer credit transaction in Wisconsin, whether a merchant doing its own debt collecting or a third-party debt collector, must follow Wisconsin's debt collection law, Ch. 427, Wis. Stats. This is an important point because many merchants collecting debt owed directly to them mistakenly believe that they are exempt from Wisconsin's debt collection law because they are not included within the definition of 'debt collector' under the federal Fair Debt Collection Practices Act. . . . Compliance with Wisconsin law does not ensure compliance with the federal law and vice versa.

https://www.wdfi.org/wca/business_guidance/creditors/debt_collection/.

15. HSN is a “debt collector” under Wisconsin law, in that it collects consumer debts owed to itself, both directly and indirectly through collection agencies.

16. HSN uses third party debt collection agencies, including McCarthy, to collect consumer debts. HSN, directly or indirectly, is thus a debt collector under this arrangement. Wis. Stat. § 427.103(3).

17. A company meeting the definition of a “debt collector” (here, HSN) is vicariously liable for the actions of a second company collecting debts on its behalf. *Janetos v. Fulton Friedman & Gullace, LLP*, 825 F.3d 317, 325-26 (7th Cir. 2016) (assignees who are “debt collectors” are responsible for the actions of those collecting on their behalf); *citing Pollice*, 225 F.3d at 404-05.

FACTS

18. On or about January 9, 2017, McCarthy mailed a debt collection letter to Plaintiff regarding debt allegedly owed to “HSN, Inc. d/b/a Home Shopping Network.” A copy of this letter is attached to this complaint as Exhibit A.

19. The debt referenced in Exhibit A was incurred as a result of two transactions with HSN for the purchase of personal, family, or household goods with an agreement to defer pay.

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

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

22. Upon information and belief, Plaintiff had entered into two modified payment plans, referred to in Exhibit A as a “FlexPay account(s),” sometime prior to January 9, 2017.

23. Upon information and belief, HSN referred Plaintiff’s FlexPay accounts to McCarthy for collection prior to the terms of the agreements ended.

24. Upon information and belief, at the time HSN referred Plaintiff’s FlexPay accounts to McCarthy for collection, Plaintiff was current with all payments according to the terms of the modified agreement.

25. Plaintiff was confused by Exhibit A. She had no idea why McCarthy was collecting on an account which was actually current.

26. The Seventh Circuit has held that a party who erroneously treats an alleged debt as being in default, even if it is not in default, is a “debt collector” under 15 U.S.C. §1692a(6). *Schlosser v. Fairbanks Capital Corp.*, 323 F.3d 534, 538 (7th Cir. 2003).

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

28. Plaintiff had to spend time and money investigating Exhibit A, and the consequences of any potential responses to Exhibit A.

29. 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.

30. The FDCPA creates substantive rights for consumers; violations cause injury to consumers, and such injuries are concrete and particularized. *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); *Church v. Accretive Health, Inc.*, No. 15-15708, 2016 U.S. App. LEXIS 12414 *7-11 (11th Cir. July 6, 2016) (same). 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).

31. 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”).

COUNT I – FDCPA

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

33. Count I is brought against Defendant McCarthy.

34. 15 U.S.C. § 1692e generally prohibits “any false, deceptive, or misleading representation or means in connection with the collection of any debt.”

35. 15 U.S.C. § 1692e(2)(A) specifically prohibits any false representation of the “the character, amount, or legal status of any debt.”

36. 15 U.S.C. § 1692f generally prohibits debt collectors from “us[ing] unfair or unconscionable means to collect or attempt to collect any debt.”

37. Exhibit A is misleading as to the legal status of Plaintiff’s alleged debt in that the issuance of a debt collection letter falsely implies Plaintiff was in default on the terms of her modified payment agreement.

38. By sending Plaintiff a debt collection letter before the terms of her payment agreement had terminated, McCarthy unconscionably sought to engage in deceptive and harassing conduct against Plaintiff in order to accelerate the repayment of the alleged debt.

39. Defendant McCarthy therefore violated 15 U.S.C. §§ 1692e, 1692e(2)(A) and 1692f.

COUNT II – WCA

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

41. Count II is brought against both Defendants McCarthy and HSN.

42. Wis. Stat. § 427.104(1)(g) specifically prohibits a debt collector from “Communicat[ing] with the customer or a person related to the customer with such frequency or at such unusual hours or in such a manner as can reasonably be expected to threaten or harass the customer.”

43. Wis. Stat. § 427.104(1)(h) specifically prohibits a debt collector from “Engag[ing] in other conduct which can reasonably be expected to threaten or harass the customer or a person related to the customer.”

44. Wis. Stat. § 427.104(1)(j) specifically prohibits a debt collector from “Claim[ing], or attempt[ing] or threaten[ing] to enforce a right with knowledge or reason to know that the right does not exist.”

45. At the time McCarthy sent Exhibit A to Plaintiff, Plaintiff only owed the amount of the next payment, not the entire balance. Yet Exhibit A erroneously treated the balanced as if it had been accelerated.

46. By sending Plaintiff a debt collection letter before the terms of her payment agreement had terminated, Defendants McCarthy and HSN communicated with Plaintiff in such a manner and engaged in conduct that could reasonably be expected to harass Plaintiff.

47. Defendants McCarthy and HSN violated Wis. Stat. §§ 427.104(1)(h), 427.104(1)(g) and 427.104(1)(j).

CLASS ALLEGATIONS

48. Plaintiff brings this action on behalf of a Class, consisting of (a) all natural persons in the State of Wisconsin (b) who were sent a collection letter by McCarthy, (c) seeking to collect the entire balance due, (d) on an HSN FlexPay account, (e) when the consumer was

current on payments on the FlexPay account, (f) seeking to collect a debt for personal, family or household purposes, (g) between September 29, 2016 and September 29, 2017, inclusive, (h) that was not returned by the postal service.

49. The Class is so numerous that joinder is impracticable. Upon information and belief, there are more than 50 members of the Class.

50. 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 Exhibit A violates the FDCPA and/or the WCA.

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

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

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

JURY DEMAND

54. Plaintiff hereby demands a trial by jury.

PRAYER 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: September 29, 2017.

ADEMI & O'REILLY, LLP

By: /s/ John D. Blythin
Shpetim Ademi (SBN 1026973)
John D. Blythin (SBN 1046105)
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meldridge@ademilaw.com
jfruchter@ademilaw.com


EXHIBIT A

26000 CANNON ROAD
CLEVELAND, OH 44146

THE MB&W BUILDING
26000 Cannon Road
Cleveland, Ohio 44146
Phone 888-817-1750

01/09/17



 LUISA AVILES
1700 E RIVER PARK CT APT 618
Milwaukee, WI 53211-2776

Re: Creditor: HSN, Inc. d/b/a Home Shopping Network
Account#: [REDACTED] 8800
Balance Due: \$75.96
MBW #: [REDACTED] 327

MCAR/7VHSN/ 705049209855 15303/000007407/000000028

Dear LUISA AVILES

Please be advised that HSN, Inc. d/b/a Home Shopping Network has placed the above referenced account(s) with our office for collection activity regarding your FlexPay account(s). Please see attached for your order summary. The terms of the FlexPay option require set monthly payments as agreed at the time of purchase. As a reminder, the FlexPay option is completely separate from the terms of a HSN, Inc. d/b/a Home Shopping Network credit card account.

Our account representatives are standing by to assist you at 888-817-1750. Our office hours are Monday through Thursday 8:30 A.M. EST to 9:00 P.M. EST and Friday 8:30 A.M. EST to 5:00 P.M. EST. For your convenience, you can also visit our website at www.mbwpay.com.

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. Upon your written request made within 30 days after receiving this notice, this office will provide you the name and address of the original creditor, if different from the current creditor.

PLEASE SEE REVERSE FOR IMPORTANT CONSUMER RIGHTS INFORMATION

Regards,

Nick Evans

Nick Evans
844-838-4046 EXT. 4224
customerservice@mbandw.com
www.mbandw.com

This communication is from a debt collector.

This is an attempt to collect a debt and any information obtained will be used for those purposes.

PLEASE INCLUDE REMIT SECTION WITH YOUR PAYMENT.

DATE	ACCOUNT #	REFERENCE #	TOTAL DUE
01/09/17	[REDACTED] 8800	[REDACTED] 327	\$75.96

Please send payment and correspondence to:

When you provide a check as payment, you authorize us to use the information from your check to make a one time electronic transfer from your account. In certain circumstances, such as for technical or processing reasons, we may process your payment as a check transaction. If you wish to opt out, you may send payment in the form of a money order, certified check or by writing to us.

McCarthy, Burgess & Wolff, Inc.
26000 CANNON ROAD
CLEVELAND, OH 44146

We are required to provide the following information under state law for the states indicated. This is not a complete list of your rights by state. If you do not reside in one of these states, you may have the same or similar rights under state or federal law.

CALIFORNIA:

The state Rosenthal Fair Debt Collection Practices Act and the federal Fair Debt Collection Practices Act require that, except under unusual circumstances, collectors may not contact you before 8am or after 9pm. They may not harass you by using threats of violence or arrest or by using obscene language. Collectors may not use false or misleading statements or call you at work if they know or have reason to know that you may not receive personal calls at work. For the most part, collectors may not tell another person, other than your attorney or spouse, about your debt. Collectors may contact another person to confirm your location or enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission at 1-877-FTC-HELP or www.ftc.gov. Cal. Civ. Code § 1812.700

Nonprofit credit counseling services may be available in the area.

As required by law, you are hereby notified that a negative credit report reflecting on your credit record may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit obligations.

COLORADO:

FOR INFORMATION ABOUT THE COLORADO FAIR DEBT COLLECTION PRACTICES ACT, SEE WWW.COAG.GOV/CAR

A consumer has the right to request in writing that a debt collector or collection agency cease further communication with the consumer. A written request to cease communication will not prohibit the debt collector or collection agency from taking any other action authorized by law to collect the debt.

MAINE:

Our hours of operation are Mon - Fri 8:00am to 5:00pm EST.

MASSACHUSETTS:

NOTICE OF IMPORTANT RIGHTS.

YOU HAVE THE RIGHT TO MAKE A WRITTEN OR ORAL REQUEST THAT TELEPHONE CALLS REGARDING YOUR DEBT NOT BE MADE TO YOU AT YOUR PLACE OF EMPLOYMENT. ANY SUCH ORAL REQUEST WILL BE VALID FOR ONLY TEN DAYS UNLESS YOU PROVIDE WRITTEN CONFIRMATION OF THE REQUEST POSTMARKED OR DELIVERED WITHIN SEVEN DAYS OF SUCH REQUEST. YOU MAY TERMINATE THIS REQUEST BY WRITING TO THE COLLECTION AGENCY.

Hours of operation are Mon - Fri 8:00am to 5:00pm EST.

MINNESOTA: This collection agency is licensed by the Minnesota Department of Commerce.

NEW YORK CITY: New York City Department of Consumer Affairs license number 1463527.

NEW YORK:

In accordance with the Fair Debt Collection Practices, Act, 15 U.S.C. § 1692 et seq., debt collectors are prohibited from engaging in abusive, deceptive, and unfair debt collection efforts, including but not limited to: the use or threat of violence; the use of obscene or profane language; and repeated phone calls made with the intent to annoy, abuse or harass.

If a creditor or debt collector receives a money judgment against you in court, state and federal laws may prevent the following types of income from being taken to pay the debt: supplemental security income (SSI); social security; public assistance (welfare); spousal support, maintenance (alimony) or child support; unemployment benefits; disability benefits; workers' compensation benefits; public or private pensions; veterans' benefits; federal student loans, federal student grants, and federal work study funds; and ninety percent of your wages or salary earned in the last sixty days.

NORTH CAROLINA: North Carolina Department of Insurance permit number 3914.

TENNESSEE:

This collection agency is licensed by the Collection Services Board, State Department of Commerce and Insurance. 500 James Robertson Parkway, Nashville, TN 37243.

WISCONSIN:

This collection agency is licensed by the Division of Banking in the Wisconsin Department of Financial Institutions, www.wdfi.org.

Customer Name: LUISA AVILES

MBW #: [REDACTED] 327

ORDER SUMMARY

<u>Date Ordered</u>	<u>Item Description</u>	<u># of Payments</u>	<u>Item Price</u>	<u>Balance Remaining</u>
6/2/2016	AKKAD Deco Fever Blue Howlite 18 Drop Necklace	5.0	\$139.95	\$55.98
6/2/2016	AKKAD Deco Fever Blue Howlite and Crystal Ring SIZ	4.0	\$79.95	\$19.98

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

Rachel Holmes

(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

McCarthy, Burgess & Wolff, Inc.

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	PERSONAL INJURY	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	PROPERTY RIGHTS	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 650 Airline Regs.	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 660 Occupational Safety/Health	SOCIAL SECURITY	<input checked="" type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	LABOR	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 490 Selective Service
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 195 Contract Product Liability		<input type="checkbox"/> 720 Labor/Mgmt. Relations & Disclosure Act	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	<input type="checkbox"/> 740 Railway Labor Act	FEDERAL TAX SUITS	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/Accommodations	IMMIGRATION		<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 462 Naturalization Application		<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 463 Habeas Corpus - Alien Detainee		<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 465 Other Immigration Actions		<input type="checkbox"/> 950 Constitutionality of State Statutes
	<input type="checkbox"/> 440 Other Civil Rights			
		PRISONER PETITIONS		
		<input type="checkbox"/> 510 Motions to Vacate Sentence		
		Habeas Corpus:		
		<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		

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

SIGNATURE OF ATTORNEY OF RECORD

September 29, 2017

s/ John D. Blythin

FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT _____

APPLYING IEP _____

JUDGE _____

MAG. JUDGE _____

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

LUISA AVILES

Plaintiff(s)

v.

MCCARTHY, BURGESS & WOLFF, INC.

Defendant(s)

Civil Action No. 17-cv-1338

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) MCCARTHY, BURGESS & WOLFF, INC.
c/o NATIONAL REGISTERED AGENTS, INC.
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: Home Shopping Network, Debt Collector Send Pre-Mature Collection Letter](#)
