

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

JOSEPH CERVENY and CYNTHIA ZOLANDZ, ) Individually and on Behalf of All Others Similarly ) Situating, )  Plaintiffs, )  v. )  KOHN LAW FIRM S.C., )  Defendant. )	Case No.: 18-cv-1474  <b>CLASS ACTION COMPLAINT</b>  <b>Jury Trial Demanded</b>
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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”) and the Wisconsin Consumer Act, Chs. 421-427, Wis. Stats. (the “WCA”).

**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, 1337, and 1367. Venue in this District is proper in that Defendant directed its collection efforts into the District.

**PARTIES**

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

4. Plaintiff Cynthia Zolandz is an individual who resides in the Eastern District of Wisconsin (Milwaukee County).

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

6. Each plaintiff is also a “customer” as defined in the WCA, Wis. Stat. § 421.301(17), in that the alleged debt allegedly arose from a consumer transaction that included agreements to defer payment.

7. Defendant Kohn Law Firm, S.C. (“Kohn”) is a service corporation with its principal offices at 735 North Water Street #1300, Milwaukee, Wisconsin 53202.

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

9. Kohn is engaged in the business of collecting debts owed to others and incurred for personal, family or household purposes.

10. Kohn is a debt collector as defined in 15 U.S.C. § 1692a and Wis. Stat. § 427.103(3).

## **FACTS**

### ***Facts Relating to Plaintiff Cerveny***

11. On March 27, 2018, a judgment of was entered against Plaintiff Cerveny in favor of Discover Bank in an action before the Milwaukee County small claims court. *See* Wisconsin Circuit Court Access (<https://wcca.wicourts.gov/caseDetail.html?caseNo=2017SC040073&countyNo=40&index=0>) (last accessed September 18, 2018)).

12. Discover Bank retained Kohn as its counsel in the abovementioned small actions case against Plaintiff Cerveny.

13. The judgment was awarded based upon claims alleging that Plaintiff Cerveny owed a debt to Discover Bank pursuant to a charge account, which was used only for person, family, and household purposes.

14. On or about May 1, 2018, Kohn mailed a debt collection letter to Plaintiff Cerveny regarding the abovementioned judgment. A copy of this letter is attached to this complaint as Exhibit A.

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

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

17. Exhibit A states: "Despite the fact that our client has been awarded a judgment against you, this debt remains outstanding."

18. Exhibit A, however, fails to state the amount of the judgment anywhere in the letter.

19. The failure of a debt collection letter to state the amount of the debt is inherently deceptive and misleading and/or an unfair debt collection practice. *See Taylor v. Cavalry Inv., L.L.C.*, 365 F.3d 572, 574 (7th Cir. 2004) ("The Act requires among other things, that any dunning letter by a debt collector state "the amount of the debt" that he's trying to collect.") (citing *Chuway v. National Action Financial Services Inc.*, 362 F.3d 944 (7th Cir. 2004)).

20. Over a month later, on or about June 7, 2018, Kohn mailed another debt collection letter to Plaintiff Cerveny regarding this same judgment. A copy of this letter is attached to this complaint as Exhibit B.

21. Upon information and belief, Exhibit B is another form letter, generated by computer, with the information specific to Plaintiff Cerveny inserted by computer

22. Exhibit B includes the following representations:

Re: Creditor: DISCOVER BANK C/O DISCOVER PRODUCTS INC  
Debtor: JOSEPH J CERVENY  
Our File Number: 906760  
Case Number: 17SC040073  
Balance Due as of June 7, 2018: \$7,706.21

23. Exhibits A & B are attempting to collect on the same judgment, identified by Kohn with a “File Number” of 906760.

24. Between April 17, 2018, the date judgment was entered, and June 7, 2018, when Exhibit B was mailed, however, the judgment debt purportedly increased from \$7,367.55 to \$7,706.21.

25. Upon information and belief, the difference in the amount of the initial award of judgment and the amount referenced in Exhibit B is attributable to the assessment of post-judgment interest.

26. In order to account for the \$338.66 difference in the amount of the judgment debt from April 17, 2018, the date judgment was entered, and June 7, 2018, when Exhibit B was mailed, however, the judgment debt would need be accruing interest at an annual rate of approximately 23.6%

27. A post-judgment interest rate of 23.6% is in gross excess of the rate permitted by law, which on April 27, 2018, the date judgment was entered, would have been 5.5% annually. *See Wis. Stat. §§ 814.04(4) and 815.05(8)* (providing for post-judgment interest at a rate “equal to 1 percent plus the prime rate in effect on January 1 of the year in which the judgment is entered if the judgment is entered on or before June 30 of that year or in effect on July 1 of the

year in which the judgment is entered if the judgment is entered after June 30 of that year, as reported by the federal reserve board in federal reserve statistical release H. 15.”); *see also* <https://www.federalreserve.gov/datadownload/Choose.aspx?rel=H15> (providing the relevant interest rate was 5.0%) (last visited September 18, 2018).

28. Furthermore, neither Exhibit A nor Exhibit B states that the debt is accruing interest, and Exhibit B does not itemize the additional interest.

29. On the face of Exhibits A & B, the unsophisticated consumer would have no idea that the amount of the alleged debt stated in each letter was subject to change.

30. When the amount of the debt varies day to day, the debt collector should avoid confusion by including explanatory language in the letter. *See Miller v. McCalla, Raymer, Padrick, Cobb, Nichols, & Clark, L.L.C.*, 214 F.3d 872, 876 (7th Cir. 2000) (“As of the date of this letter, you owe \$ [the exact amount due]. Because of interest, late charges, and other charges that may vary from day to day, the amount due on the day you pay may be greater. Hence, if you pay the amount shown above, an adjustment may be necessary after we receive your check, in which event we will inform you before depositing the check for collection. For further information, write the undersigned or call 1-800-[phone number].”); *see also Chuway v. Nat’l Action Fin. Servs.*, 362 F.3d 944, 949 (7th Cir. 2004); *Fields v. Wilber Law Firm, P.C.*, 383 F.3d 562, 565-66 (7th Cir. 2004).

31. No such explanatory language was used in Exhibits A & B.

32. In *Chuway*, 362 F.3d at 949, the Seventh Circuit made clear that the debt collector must use the safe harbor language in *Miller* or equivalent language, in cases where the debt collector is attempting to collect the listed balance plus the interest running on it or other charges. *See also Avila v. Riexinger & Assocs., LLC*, 817 F.3d 72 (2d Cir. 2016) (a collection

notice violated 15 U.S.C. § 1692e by stating the “current balance” without providing notice that the amount is increasing due to accruing interest or other charges.); *Boucher v. Fin. Sys. of Green Bay*, No. 17-2308, 2018 U.S. App. LEXIS 1094 \*\*12-14 (7th Cir. Jan. 17, 2018) (*Miller*, including its “accuracy requirement,” applies to claims brought under 15 U.S.C. § 1692e).

33. A court in this district recently held in a similar scenario that when a debt collector is, in fact, collecting interest, the collector must use the *Miller* safe harbor or equivalent language, or risk misleading and confusing the unsophisticated consumer. *Spuhler v. State Collection Servs.*, No. 16-CV-1149, 2017 U.S. Dist. LEXIS 210895 at \*17-20 (E.D. Wis. Dec. 22, 2017) (“State Collection’s letter undeniably does not contain any form of Miller’s safe harbor language. Because State Collection’s letter failed to inform the Spuhlers that interest was running on the amount owed, I find there is a triable issue of fact as to whether the collection letter is confusing or unclear on its face.”); *see also Synder v. Gordon*, 2012 U.S. Dist. LEXIS 120659, at \*8-9 (W.D. Wash. Aug. 24, 2012); *Michaelek v. ARS Nat’l Sys., Inc.*, 2011 U.S. Dist. LEXIS 142976, at \*4 (M.D. Penn. Dec. 13, 2011); *Dragon v. I.C. Sys.*, 483 F. Supp. 2d 198, 202-03 (D. Conn. 2007); *Lukawski v. Client Servs., Inc.*, 2013 U.S. Dist. LEXIS 124075, at \*10-14 (M.D. Penn. Aug. 29, 2013).

34. Kohn’s failure to include explanatory safe harbor language in Exhibits A & B is material because the unsophisticated consumer may pay the amount listed on Exhibit A or Exhibit B, but the payment would not actually satisfy the judgment. The unsophisticated consumer would have no way of knowing if the judgment was satisfied because Exhibits A & B do not explain that the debt Kohn is collecting is subject to the accrual of interest.

35. Plaintiff Cerveny was confused and misled by Exhibits A & B.

36. The unsophisticated consumer would be confused and misled by Exhibits A & B.

***Facts Relating to Plaintiff Zolandz***

37. On or about January 26, 2018, Kohn mailed a debt collection letter to Plaintiff Zolandz regarding an alleged debt owed to “COTTONWOOD FINANCIAL WILLC DBA THE CASH STORE.” A copy of this letter is attached to this complaint as Exhibit C.

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

39. Upon information and belief, Exhibit C is a form debt collection letter used by Kohn to attempt to collect alleged debts.

40. Exhibit C contains the following:

Re: Creditor: COTTONWOOD FINANCIAL WILLC DBA THE CASH STORE  
Debtor: CYNTHIA ZOLANDZ  
File Number: ████████068  
Balance Due as of January 26, 2018: \$308.75

41. Exhibit C also contains the following settlement offer:

The tax refund season often makes available the funds necessary to finally resolve your delinquent debt. The ability to do so for a reduced amount makes such a resolution even more appealing. We are authorized to extend the following payment options as settlement in full:

	Due Date(s)	Each Payment	Total Payments	Your Savings
1 Payment	March 19, 2018	\$200.69	\$200.69	\$108.06
2 Payments	March 19, 2018 & April 30, 2018	\$108.06	\$216.12	\$92.63
3 Payments	March 19, 2018 & April 30, 2018 & May 31, 2018	\$77.19	\$231.57	\$77.18

42. Exhibit C also contains the following:

These settlement offers would represent a significant compromise and savings to you. If you wish to take advantage of one of these offers, please forward the appropriate amount to our address listed above or visit our payment website at [www.kohnlaw.com](http://www.kohnlaw.com). However, these offers are only valid until the listed expiration date(s) expire, and we are not obligated to renew them. Until an actual settlement is reached – which means all settlement payments have been received – we may commence or continue legal action. If you wish to take advantage of one of these settlement plans but that plan will not be completed prior to a court date or deadline in pending legal action involving this debt, you must contact us to discuss the possibility of adjourning or dismissing that legal action.

43. Exhibit C states that “until an actual settlement is reached – which means all settlement payments have been received – we may commence or continue legal action.”

44. The representation in Exhibit C that, even if the consumer accepts the settlement offer and begins to make payments per the schedule offered in Exhibit C, Kohn “may commence or continue legal action,” is false, deceptive, misleading, and confusing to the unsophisticated consumer.

45. The debt referenced in Exhibit C has been reduced to judgment in the Wisconsin State Courts. *See* Milwaukee County Case No. 15-sc-5402.

46. The unsophisticated consumer would understand the statement that Kohn “may commence or continue legal action” to be a threat that Kohn will initiate garnishment proceedings against the debtor even if the consumer has accepted Kohn’s settlement offer and is current on the payment schedule offered in Exhibit C.

47. Upon information and belief, assuming Plaintiff Zolandz accepted one of the settlement plans offered on Exhibit C and began making installment payments according to the schedule offered in Exhibit C, Kohn had no intention of initiating garnishment proceedings to collect Plaintiff Zolandz’ debt until Plaintiff Zolandz actually defaulted on the payment schedule.

48. Upon information and belief, when debtors accept one of the settlement plans offered in letters in the form of Exhibit C and begin making installment payments according to the schedule offered in Exhibit C, Kohn does not, as a matter of course, initiate garnishment proceedings to collect the debt until the debtor has actually defaulted on the payment schedule.

49. Moreover, Exhibit C states that Kohn is attempting to collect a debt with a “Balance Due as of January 26, 2018” in the amount of \$308.75.

50. Exhibit C offers to settle this debt for a lump-sum payment in the amount of \$200.69, provided that this lump-sum payment is received by March 19, 2018.



51. Exhibit C represents that, if a \$200.69 payment is received on March 19, 2018, the debt will be satisfied in full and “Your Savings” will be \$108.06.

52. Exhibit C represents that, assuming Plaintiff Zolandz does not accept Kohn’s offer to settle the account on or before March 19, 2018, the balance of the account on March 19, 2018 will be \$308.75.

53. Exhibit C states that the balance of the account is not changing. The “Balance Due as of January 31, 2018” is \$308.75, and the projected balance on March 19, 2018 is also \$308.75.

54. Upon information and belief, the representation in Exhibit C that the balance is not changing is false; in fact, interest is accruing on the account, which has been reduced to judgment.

55. On or about May 2, 2017, Kohn mailed a debt collection letter to Plaintiff Zolandz stating that the balance of this account was \$299.99. *See* Exhibit D.

56. Upon information and belief, Kohn is attempting to collect running interest on the balance.

57. The unsophisticated consumer would be confused and misled as to the amount and character of the debt.

58. When the amount of the debt varies day to day, the debt collector should avoid confusion by including explanatory language in the letter. *See Miller*, 214 F.3d at 876 (“As of the date of this letter, you owe \$ [the exact amount due]. Because of interest, late charges, and other charges that may vary from day to day, the amount due on the day you pay may be greater. Hence, if you pay the amount shown above, an adjustment may be necessary after we receive your check, in which event we will inform you before depositing the check for collection. For

further information, write the undersigned or call 1-800-[phone number].”); *see also Chuway*, 362 F.3d at 949; *Fields*, 383 F.3d at 565-66.

59. No such explanatory language was used in Exhibit D. *See Chuway*, 362 F.3d at 949; *Avila*, 817 F.3d 72; *Boucher*, 880 F.3d at 370; *Spuhler*, 2017 U.S. Dist. LEXIS 210895 at \*17-20; *Snyder v. Gordon*, 2012 U.S. Dist. LEXIS 120659, at \*8-9 (W.D. Wash. Aug. 24, 2012); *Michalek v. ARS Nat’l Sys., Inc.*, 2011 U.S. Dist. LEXIS 142976, at \*4 (M.D. Penn. Dec. 13, 2011); *Dragon v. I.C. Sys.*, 483 F. Supp. 2d 198, 202-03 (D. Conn. 2007); *Lukawski v. Client Servs., Inc.*, 2013 U.S. Dist. LEXIS 124075, at \*10-14 (M.D. Penn. Aug. 29, 2013); *May v. Consumer Adjustment Co.*, 2015 U.S. Dist. LEXIS 97162, at \*15-20 (E.D. Mo. July 24, 2015); *Gill v. Credit Bureau of Carbon County*, 2015 U.S. Dist. LEXIS 58759, at \*14 (D. Colo. May 5, 2014); *Smith v. Lyons, Doughty & Veldhuis, P.C.*, 2008 U.S. Dist. LEXIS 56725, at \*16-20 (D.N.J. July 22, 2008).

60. Kohn’s failure to include explanatory safe harbor language in Exhibit C is material because the unsophisticated consumer may pay the amount listed on Exhibit C, but the payment would not actually resolve the debt. The unsophisticated consumer would have no way of knowing if the debt was resolved because Exhibits C fails to explain what amount Kohn is actually collecting.

61. Kohn’s failure to include explanatory safe harbor language in Exhibit C is also material because whether the account is bearing interest would undoubtedly be a factor in the unsophisticated consumer’s prioritization of the debt. .

62. Further, even assuming Kohn previously disclosed that the account was bearing interest, the unsophisticated consumer is not expected to reference documents sent years prior to ameliorate the confusion.

63. Plaintiff Zolandz was confused by Exhibits C & D.

64. The unsophisticated consumer would be confused by Exhibits C & D.

### *The FDCPA*

65. The FDCPA creates substantive rights for consumers; violations cause injury to consumers, and such injuries are concrete and particularized. *Pogorzelski v. Patenaude & Felix APC*, No. 16-C-1330, 2017 U.S. Dist. LEXIS 89678 \*9 (E.D. Wis. June 12, 2017) (“A plaintiff who receives misinformation from a debt collector has suffered the type of injury the FDCPA was intended to protect against.”); *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.”); *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)); *Long v. Fenton & McGarvey Law Firm P.S.C.*, 223 F. Supp. 3d 773, 777 (S.D. Ind. Dec. 9, 2016) (“While courts have found that violations of other statutes . . . do not create concrete injuries in fact, violations of the FDCPA are distinguishable from these other statutes and have been repeatedly found to establish concrete injuries.”); *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).

66. 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”).

67. 15 U.S.C. § 1692e generally prohibits “any false, deceptive, or misleading representation or means in connection with the collection of any debt.”

68. 15 U.S.C. § 1692e(2)(a) specifically prohibits “The false representation of— the character, amount, or legal status of any debt.

69. 15 U.S.C. § 1692e(5) specifically prohibits “the threat to take any action that cannot legally be taken or that is not intended to be taken.”

70. 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.”

71. 15 U.S.C. § 1692f generally prohibits “unfair or unconscionable means to collect or attempt to collect any debt.”

72. 15 U.S.C. § 1692f(1) specifically prohibits the “collection of any amount (including any interest, fee, charge, or expense incidental to the principal obligation) unless such amount is expressly authorized by the agreement creating the debt or permitted by law.”

73. Failure to disclose that the account was accruing interest is ambiguous as to the amount and character of the debt. *See Spuhler*, 2017 U.S. Dist. LEXIS 210895, at \*19-20 (triable issue of fact as to whether the collection letter is misleading under 15 U.S.C. §§ 1692e and 1692f).

### ***The WCA***

74. The Wisconsin Consumer Act (“WCA”) was enacted to protect consumers against unfair, deceptive, and unconscionable business practices and to encourage development of fair and economically sound practices in consumer transactions. Wis. Stat. § 421.102(2).

75. The Wisconsin Supreme Court has favorably cited authority finding that the WCA “goes further to protect consumer interests than any other such legislation in the country,” and is “probably the most sweeping consumer credit legislation yet enacted in any state.” *Kett v. Community Credit Plan, Inc.*, 228 Wis. 2d 1, 18 n.15, 596 N.W.2d 786 (1999) (citations omitted).

76. To further these goals, the Act’s protections must be “liberally construed and applied.” Wis. Stat. § 421.102(1); *see also* § 425.301.

77. “The basic purpose of the remedies set forth in Chapter 425, Stats., is to induce compliance with the WCA and thereby promote its underlying objectives.” *First Wisconsin Nat’l Bank v. Nicolaou*, 113 Wis. 2d 524, 533, 335 N.W.2d 390 (1983). Thus, private actions under the WCA are designed to both benefit consumers whose rights have been violated and also competitors of the violators, whose competitive advantage should not be diminished because of their compliance with the law.

78. To carry out this intent, the WCA provides Wisconsin consumers with an array of protections and legal remedies. The Act contains significant and sweeping restrictions on the activities of those attempting to collect debts. *See* Wis. Stats. § 427.104.

79. The Act limits the amounts and types of additional fees that may be charged to consumers in conjunction with transactions. Wis. Stats. § 422.202(1). The Act also provides injured consumers with causes of action for class-wide statutory and actual damages and injunctive remedies against defendants on behalf of all customers who suffer similar injuries. *See* Wis. Stats. §§ 426.110(1); § 426.110(4)(e). Finally, “a customer may not waive or agree to forego rights or benefits under [the Act].” Wis. Stat. § 421.106(1).

80. Consumers' WCA claims under Wis. Stat. § 427.104(1) are analyzed using the same methods as claims under the FDCPA. Indeed, the WCA itself requires that the court analyze the WCA "in accordance with the policies underlying a federal consumer credit protection act," including the FDCPA. Wis. Stat. § 421.102(1).

81. Further, the Wisconsin Supreme Court has held that WCA claims relating to debt collection are to be analyzed under the "unsophisticated consumer" standard. *Brunton v. Nuwell Credit Corp.*, 785 N.W.2d 302, 314-15. In *Brunton*, the Wisconsin Supreme Court explicitly adopted and followed the "unsophisticated consumer" standard, citing and discussing *Gammon v. GC Servs. Ltd. P'ship*, 27 F.3d 1254, 1257 (7th Cir. 1994). *Id.*

82. Wis. Stat. § 427.104(1)(g) states that a debt collector may not: "Communicate with the customer or a person related to the customer with such frequency of at such unusual hours or in such a manner as can reasonably be expected to threaten or harass the customer."

83. Wis. Stat. § 427.104(1)(h) states that a debt collector may not: "Engage in other conduct . . . in such a manner as can reasonably be expected to threaten or harass the customer."

84. Wis. Stat. § 427.104(1)(j) states that a debt collector may not: "Claim, or attempt or threaten to enforce a right with knowledge or reason to know that the right does not exist."

85. Wis. Stat. § 427.104(1)(L) states that a debt collector may not: "Threaten action against the customer unless like action is taken in regular course or is intended with respect to the particular debt."

86. The Wisconsin Department of Financial Institutions, which is tasked with regulating licensed collection agencies, has found that "conduct which violates the Federal Fair Debt Collection Practices Act" can reasonably be expected to threaten or harass the customer. *See* Wis. Admin. Code DFI-Bkg 74.16(9) ("Oppressive and deceptive practices prohibited.").

87. Although the FDCPA does not authorize injunctive or declaratory relief, *see Ademiluyi v. PennyMac Mortg. Inv. Trust Holdings I, LLC*, 929 F. Supp. 2d 502, 507 n.3 (D. Md. Mar. 11, 2013), these forms of relief are available under the WCA. Wis. Stat. §§ 426.109(1); 426.110(4)(e); 426.110(6)(b).

88. The WCA expressly authorizes individual actions to enjoin “any person who in . . . enforcing consumer credit transactions engages in . . . False, misleading, deceptive, or unconscionable conduct in enforcing debts . . . arising from consumer credit transactions.” Wis. Stat. § 426.110(2)(c); *see* Wis. Stat. § 426.110(3).

89. The WCA also authorizes “any customer affected by a violation of chs. 421 to 427 and 429 . . . or by a violation of the federal consumer credit protection act . . . [to] bring a civil action on behalf of all persons similarly situated, for actual damages by reason of such conduct or violation, together with penalties as provided in sub. (14), reasonable attorney fees and other relief to which such persons are entitled under chs. 421 to 427 and 429.” Wis. Stat. § 426.110(1).

90. The WCA authorizes customers to bring class actions for injunctive relief to cure violations of Wis. Stat. § 427.104(1).

### **COUNT I – FDCPA**

91. Plaintiffs incorporate by reference as if fully set forth herein the allegations contained in the preceding paragraphs of this Complaint.

92. Count I is brought on behalf of Plaintiff Cervený.

93. By not stating the amount of the debt, Exhibit A is deceptive and misleading as to the amount of the debt and is an unfair means of collecting a debt.

94. Defendant violated 15 U.S.C. §§ 1692e, 1692e(2)(a), 1692e(10), and 1692f.



## COUNT II – FDCPA

95. Plaintiffs incorporate by reference as if fully set forth herein the allegations contained in the preceding paragraphs of this Complaint.

96. Count II is brought on behalf of Plaintiff Cerveny.

97. By assessing post-judgment interest at an annual rate of approximately 23.6%, Exhibit B is false, deceptive, and misleading as to the amount and legal status of the debt, threatens to collect an amount which Kohn and the original creditor are not entitled to collect under Wisconsin law, and assess interest which Kohn is not entitled to assess under Wisconsin law.

98. Defendant violated 15 U.S.C. §§ 1692e, 1692e(2)(a), 1692e(5); 1692e(10), 1692f, and 1692f(1).

## COUNT III – WCA

99. Plaintiffs incorporate by reference as if fully set forth herein the allegations contained in the preceding paragraphs of this Complaint.

100. Count III is brought on behalf of Plaintiff Cerveny.

101. By assessing post-judgment interest at an annual rate of approximately 23.6%, Exhibit B may be reasonably expected to harass Cerveny, threatens to collect an amount which Kohn and the original creditor are not entitled to collect under Wisconsin law, and assess interest which Kohn is not entitled to assess under Wisconsin law.

102. Defendant violated Wis. Stat. §§ 427.104(1)(g), 427.104(1)(h), 427.104(1)(j), and 427.104(1)(L).

#### **COUNT IV – FDCPA**

103. Plaintiffs incorporate by reference as if fully set forth herein the allegations contained in the preceding paragraphs of this Complaint.

104. Count IV is brought on behalf of both Plaintiffs.

105. Exhibits A-D are confusing and misleading because they fail to disclose that the debts the letters are seeking to collect are subject to interest.

106. The amount of the debt varies day to day, and has increased over time, due to Kohn's addition of interest, but no *Miller* safe harbor language is provided to inform the unsophisticated consumer of that fact or how to pay the correct amount.

107. The unsophisticated consumer would be confused and misled as to the amount and character of the debt.

108. Defendant violated 15 U.S.C. §§ 1692e, 1692e(2)(a), and 1692e(10).

#### **COUNT V – FDCPA**

109. Plaintiffs incorporate by reference as if fully set forth herein the allegations contained in the preceding paragraphs of this Complaint.

110. Count V is brought on behalf of Plaintiff Zolandz.

111. Exhibit C falsely threatens that Kohn will initiate legal action against the consumer, even if she accepts Kohn's settlement offer and is current according the payment schedules Kohn provided.

112. Defendant violated 15 U.S.C. §§ 1692e, 1692e(2)(a), 1692e(5), and 1692e(10).

#### **COUNT VI – WCA**

113. Plaintiffs incorporate by reference as if fully set forth herein the allegations contained in the preceding paragraphs of this Complaint.

114. Count VI is brought on behalf of Plaintiff Zolandz.

115. Exhibit C falsely threatens that Kohn will initiate legal action against the consumer, even if she accepts Kohn's settlement offer and is current according the payment schedules Kohn provided.

116. Defendant violated Wis. Stat. §§ 427.104(1)(g), 427.104(1)(h), 427.104(1)(j), and 427.104(1)(L).

### **CLASS ALLEGATIONS**

117. Plaintiffs brings this action on behalf of two Classes consisting of:

118. Class I ("Post-Judgment Interest") consists of:

(a) all natural persons in the State of Wisconsin (b) who were sent collection letters by Defendant in the form of Exhibit A and/or Exhibit B to the complaint in this action, (c) seeking to collect a debt for personal, family, or household purposes, (d) between September 20, 2017 and September 20, 2018, inclusive, (e) that was not returned by the postal service. Plaintiff Cervený is the named representative of Class I.

119. Class II ("False Settlement and Undisclosed Interest Class") consists of:

(a) all natural persons in the State of Wisconsin (b) who were sent collection letters by Defendant in the form of Exhibit C to the complaint in this action, (c) seeking to collect a debt for personal, family, or household purposes, (d) between September 20, 2017 and September 20, 2018, inclusive, (f) that was not returned by the postal service. Plaintiff Zolandz is the named representative of Class II.

120. Each Class is so numerous that joinder is impracticable. On information and belief, there are more than 50 members of each Class.

121. 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 Exhibits A, B, C, and/or D violate the FDCPA and/or the WCA.

122. Plaintiffs' claims are typical of the claims of the Class members. All are based on the same factual and legal theories.

123. Plaintiffs will fairly and adequately represent the interests of the Class members. Plaintiffs have retained counsel experienced in consumer credit and debt collection abuse cases.

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

**JURY DEMAND**

125. Plaintiffs hereby demand a trial by jury.

**PRAYER FOR RELIEF**

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

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

Dated: September 20, 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**



KOHN LAW FIRM S.C.

ATTORNEYS AT LAW

735 N. Water St., Suite 1300  
Milwaukee, WI 53202-4106

(414) 276-0435 (800) 451-1791  
Fax (414) 271-6046  
Email KLF@kohnlaw.com  
www.kohnlaw.com

May 1, 2018

JOSEPH J CERVENY  
2508 W KIMBERLY AVE  
MILWAUKEE WI 53221-4934

Re: Creditor: DISCOVER BANK C/O DISCOVER PRODUCTS INC  
Debtor: JOSEPH J CERVENY  
Our File Number: 906760

Dear JOSEPH J CERVENY

Despite the fact that our client has been awarded a judgment against you, this debt remains outstanding. We would like to see the above matter resolved voluntarily and we are willing to work with you to determine an appropriate payment plan to do so. If you would like to discuss this matter, we can be reached by phone at (414) 276-0435 Monday through Thursday from 8:00 a.m. to 7:00 p.m. (CT) and Friday from 8:00 a.m. to 6:00 p.m. (CT).

If you fail to communicate with us, we would have no alternative but to review this matter for any and all available legal remedies which may include wage garnishment to the extent permitted by law.

Sincerely,

KOHN LAW FIRM S.C.

NOTICE: This communication is from a debt collector. This is an attempt to collect a debt, and any information obtained will be used for that purpose.

# Exhibit B





KOHN LAW FIRM S.C.

ATTORNEYS AT LAW

735 N. Water St., Suite 1300  
Milwaukee, WI 53202-4106

(414) 276-0435 (800) 451-1791  
Fax (414) 271-6046  
Email KLF@kohnlaw.com  
www.kohnlaw.com

June 7, 2018

JOSEPH J CERVENY  
2508 W KIMBERLY AVE  
MILWAUKEE, WI 53221-4934

Re: Creditor: DISCOVER BANK C/O DISCOVER PRODUCTS INC  
Debtor: JOSEPH J CERVENY  
Our File Number: 906760  
Case Number: 17SC040073  
Balance Due as of June 7, 2018: \$7,706.21

As you should already be aware, there remains an outstanding judgment balance due in the above matter. That balance, as set forth above, represents the amount due arising out of the judgment awarded by the court on March 27, 2018.

If further legal action is required to collect this judgment, we will also ask the court to hold you liable for the additional court costs incurred. In addition, this judgment may create a lien upon real property you own or later acquire.

In light of this, we ask that you contact our office immediately to arrange for payment. If you would like to discuss this matter, we can be reached by phone at (414) 276-0435 Monday through Thursday from 8:00 a.m. to 7:00 p.m. (CT) and Friday from 8:00 a.m. to 6:00 p.m. (CT).

Sincerely,

KOHN LAW FIRM S.C.

NOTICE: This communication is from a debt collector. This is an attempt to collect a debt, and any information obtained will be used for that purpose.

# Exhibit C



**KOHN LAW FIRM S.C.**

ATTORNEYS AT LAW

735 N. Water St., Suite 1300  
Milwaukee, WI 53202-4106

(414) 276-0435 (800) 451-1791  
Fax (414) 271-6046  
Email KLF@kohnlaw.com  
www.kohnlaw.com

January 26, 2018

CYNTHIA ZOLANDZ  
5240 W MIDLAND DR #16  
MILWAUKEE WI 53220

Re: Creditor: COTTONWOOD FINANCIAL WILLC DBA THE CASH STORE  
Debtor: CYNTHIA ZOLANDZ  
File Number: ████████068  
Balance Due as of January 26, 2018: \$308.75

The tax refund season often makes available the funds necessary to finally resolve your delinquent debt. The ability to do so for a reduced amount makes such a resolution even more appealing. We are authorized to extend the following payment options as settlement in full:

	Due Date(s)	Each Payment	Total Payments	Your Savings
1 Payment	March 19, 2018	\$200.69	\$200.69	\$108.06
2 Payments	March 19, 2018 & April 30, 2018	\$108.06	\$216.12	\$92.63
3 Payments	March 19, 2018 & April 30, 2018 & May 31, 2018	\$77.19	\$231.57	\$77.18

These settlement offers would represent a significant compromise and savings to you. If you wish to take advantage of one of these offers, please forward the appropriate amount to our address listed above or visit our payment website at [www.kohnlaw.com](http://www.kohnlaw.com). However, these offers are only valid until the listed expiration date(s) expire, and we are not obligated to renew them. Until an actual settlement is reached – which means all settlement payments have been received – we may commence or continue legal action. If you wish to take advantage of one of these settlement plans but that plan will not be completed prior to a court date or deadline in pending legal action involving this debt, you must contact us to discuss the possibility of adjourning or dismissing that legal action.

If you wish to resolve this matter, but you are unable to afford the arrangements offered above, we would be happy to discuss alternative arrangements on a case by case basis. Please contact this office immediately to discuss your alternative arrangements. We can be reached by phone at (414) 276-0435 Monday through Thursday from 8:00 a.m. to 7:00 p.m., Friday from 8:00 a.m. to 6:00 p.m.

Sincerely,

KOHN LAW FIRM S.C.

NOTICE: This communication is from a debt collector. This is an attempt to collect a debt, and any information obtained will be used for that purpose.

# Exhibit D



**KOHN LAW FIRM S.C.**

ATTORNEYS AT LAW

735 N. Water St., Suite 1300  
Milwaukee, WI 53202-4106

(414) 276-0435 (800) 451-1791  
Fax (414) 271-6046  
Email KLF@kohnlaw.com  
www.kohnlaw.com

May 2, 2017

CYNTHIA ZOLANDZ  
5240 W MIDLAND DR #16  
MILWAUKEE, WI 53220

Re: Creditor: COTTONWOOD FINANCIAL WI LLC DBA THE CASH STORE  
Debtor: CYNTHIA ZOLANDZ  
Our File Number: [REDACTED] 068  
Balance Due as of May 2, 2017: \$299.99

Dear CYNTHIA ZOLANDZ:

According to our records, you have paid \$321.00 on the above referenced matter since it was placed in our office. Despite your previous efforts to resolve this, there remains an outstanding judgment balance with no formal payment arrangement setup.

We would like to discuss an amicable resolution of the debt. Once the judgment balance is resolved our office will be able to issue a Satisfaction of Judgment. If you would like to discuss this matter, we can be reached by phone at (414) 276-0435 Monday through Thursday from 8:00 a.m. to 7:00 p.m. (CT) and Friday from 8:00 a.m. to 6:00 p.m. (CT).

Sincerely,  
KOHN LAW FIRM S.C.

NOTICE: This communication is from a debt collector. This is an attempt to collect a debt, and any information obtained will be used for that purpose.

# 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**  
**JOSEPH CERVENY and CYNTHIA ZOLANDZ**

**(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**  
**KOHN LAW FIRM S.C.**

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)

	<b>PTF</b>	<b>DEF</b>		<b>PTF</b>	<b>DEF</b>
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	<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 and Wisconsin Consumer 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: September 20, 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

JOSEPH CERVENY and CYNTHIA ZOLANDZ

Plaintiff(s)

v.

KOHN LAW FIRM S.C.,

Defendant(s)

Civil Action No. 18-cv-1474

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) KOHN LAW FIRM, S.C.
c/o ROBERT E POTZEBOWSKI JR
735 N Water Street, Suite 1300
Milwaukee, WI 53202

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: [Kohn Law Firm Hit with Class Action Over Alleged Debt Collection Violations](#)

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