

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

MANDY CERVENY, Individually and on Behalf of All Others Similarly Situated,)	Case No.: 17-cv-1486
)	
Plaintiff,)	CLASS ACTION COMPLAINT
)	
vs.)	
)	Jury Trial Demanded
WEBCOLLEX LLC d/b/a CKS FINANCIAL and)	
VELOCITY INVESTMENTS LLC,)	
)	
Defendants.)	

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, chapter 427, Wisconsin Statutes (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 Defendants directed their collection efforts into the District.

PARTIES

3. Plaintiff Mandy Cervený 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 her, a debt allegedly incurred for personal, family, or household purposes.

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

payment, namely a consumer personal loan used only for personal, family, or household purposes.

6. Defendant Webcollex, LLC (“Webcollex”) is a foreign limited liability company located at 505 Independence Parkway, Suite 300, Chesapeake, Virginia 23320. Its registered agent in Wisconsin is C T Corporation System, 301 S. Bedford St., Suite 1, Madison, Wisconsin 53703.

7. Webcollex does business under the fictitious or trade name “CKS Financial.”

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

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

10. Defendant Velocity Investments, LLC (“Velocity”) is a foreign limited liability company with its principal place of business located at 1800 Route 34 North, Suite 404A, Wall, New Jersey 07719 Its registered agent in Wisconsin is Corporation Service Company, 8040 Excelsior Drive, Suite 400, Madison, Wisconsin 53717.

11. Velocity is a “debt collector” as defined by Wis. Stat. § 427.103(3), in that Velocity is directly engaged in the business of a collection agency, soliciting claims for collection and collecting such claims alleged to be owed or due a merchant by a customer.

12. Velocity is engaged in the business of a collection agency under Wisconsin law, in that it purchases and receives assignment of consumer debts that are in default at the time Velocity acquires them.

13. 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). On its face, Wis. Stat. § 427.103(3) applies to creditors collecting on their own behalf.

14. 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.”

15. Velocity is a “merchant” as defined in the WCA, as it has, or claims to have, taken assignment of Plaintiff’s former “Avant, Inc.” (“Avant”) consumer loan account. Wis. Stat. § 421.301(25) (“The term [merchant] includes but is not limited to a seller, lessor, manufacturer, creditor, arranger of credit and any assignee of or successor to such person.”)

16. 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).

17. The Wisconsin Department of Financial Institutions has likewise designated merchants and creditors as “Debt Collectors” under the WCA:

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.

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

18. Velocity is a debt collector as defined in Wis. Stat. § 427.103(3)

FACTS

Velocity Letter

19. On or about June 7, 2017, Velocity mailed a debt collection letter to Plaintiff regarding an alleged debt, allegedly owed to “Velocity Investments, LLC.” A copy of this letter is attached to this complaint as Exhibit A.

20. Upon information and belief, the alleged debt referenced in Exhibit A is a consumer personal loan incurred for personal, family, or household purposes.

21. Upon information and belief and according to Exhibit A, the alleged debt referenced in Exhibit A was formerly owed to “Avant, Inc.” (“Avant”).

22. Plaintiff’s Avant loan was a consumer credit transaction in that it is a consumer transaction between a merchant (Avant) and a customer (Plaintiff), in which money was acquired on credit, and the obligation was both payable in installments and finance charges were imposed.

23. The debt at issue in this action was incurred for personal, family or household purposes, specifically, an alleged personal loan used for paying bills and other household expenses.

24. Avant is a lender, offering personal loans to consumers, and operating primarily if not exclusively online. See [https://en.wikipedia.org/wiki/Avant_\(company\)](https://en.wikipedia.org/wiki/Avant_(company)).

25. Avant offers “personal loans ... [that] amortize over time with simple, equal monthly payments.” <http://support.avant.com/article/10-loan-products>.

26. In Wisconsin, Avant offers personal loans with terms ranging from 24 to 60 months and with APRs ranging from 9.95% to 35.99%. https://www.avant.com/rates_terms. While those rates may change from time to time, Avant loans are both payable in installments and impose a finance charge.

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

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

29. Exhibit A states the following:

Wisconsin: This collection agency is licensed by the Division of Banking, P.O. Box 7876, Madison, Wisconsin 53707.

Exhibit A.

30. The above language on a collection letter is a representation that the debt collector holds a Wisconsin Collection Agency License, pursuant to Wis. Stat. § 218.04 and Wis. Admin. Code § DFI-Bkg. 74.

31. Velocity does not, in fact, hold a Wisconsin Collection Agency License.

32. Velocity is not licensed by the Office of the Administrator of the Division of Banking or any other Wisconsin governmental agency.

33. Velocity was not licensed by the Office of the Administrator of the Division of Banking or any other Wisconsin governmental agency at the time Exhibit A was sent to Plaintiff.

34. Velocity is not listed on the Division of Banking's website that lists all collection agencies that currently hold a Wisconsin collection agency license. http://www.wdfi.org/fi/lfs/licensee_lists/Default.asp?Browse=CA (visited October 25, 2017).

35. A false statement about a debt collector's licensing status is a material false statement. "It suggests that [the debt collector] has been approved by the state, thereby enhancing in the mind of the unsophisticated consumer [the debt collector's] legitimacy and power to collect the debt." *Radaj v. ARS Nat. Services, Inc.*, No. 05 C 773, 2006 U.S. Dist. LEXIS 68883 at *10; 2006 WL 2620394 at *3 (E.D. Wis. Sep. 12, 2006); *Seeger v. Aid Assocs.*, 2007 U.S.

Dist. LEXIS 22824 at *13, 2007 WL 1029528 (E.D. Wis. Mar. 29, 2007) (“this court believes that the false statement used by Plaza that it was licensed by the state of Wisconsin, is precisely the kind of misrepresentation that Congress sought to prohibit when it passed the FDCPA.”).

Webcollex Letter

36. On or about August 17, 2017, Webcollex mailed Plaintiff a debt collection letter to Plaintiff regarding an alleged debt. A copy of this letter is attached to this complaint as Exhibit B.

37. Upon information and belief, the alleged debt referenced in Exhibit B is a personal consumer loan incurred for personal, family, or household purposes.

38. Upon information and belief, the alleged debt referenced in Exhibit B is the same loan account as referenced in Exhibit A.

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

40. Upon information and belief, Exhibit B is a form debt collection letter used by Webcollex to attempt to collect alleged debts.

41. Upon information and belief, Exhibit B is the first written communication that Plaintiff received from Webcollex.

42. Exhibit B contains the statutory validation notice, which the FDCPA, 15 U.S.C. § 1692g, requires debt collectors to send to consumers 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 after receiving this notice that you dispute the validity of this debt, 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 of 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 B.

43. Exhibit B contains the following:

Creditor: AVANT
Account ID: [REDACTED] 5676
Balance: \$6,463.66

Exhibit B.

44. Exhibit B also contains the following:

This letter serves as notification to inform you that Velocity Investments LLC purchased your AVANT account, and has been placed with this office.

Exhibit B.

45. Exhibit B is false, misleading and confusing. It identifies two different entities as the creditor to whom the debt is owed.

46. Exhibit B states both that the creditor is “Avant,” but also purports “to inform you that Velocity Investments, LLC purchased your Avant account.” Exhibit B.

47. Webcollex’s reference in Exhibit B to Avant being the “CREDITOR” is false and misleading to the unsophisticated consumer.

48. Whether a debt has been sold is a material aspect of the character and legal status of the debt. *See* 15 U.S.C. § 1692e(2)(a). Third party purchasers of unsecured debt generally pay pennies on the dollar and are likely be willing to settle those debts for less than the original creditor.

49. Because debt buyers may be willing to settle their debts for less than an original creditor would, failing to disclose that a debt has been sold is an unconscionable means of extracting value from the debt.

50. Moreover, the unsophisticated consumer could not determine whether Velocity has actually purchased Plaintiff’s Avant account or is simply collecting on the account as a third party debt collector and subcontracting some of its duties to Webcollex.

51. The misrepresentation that Avant is still the creditor creates the risk that the consumer will pay the wrong entity. Certainly, the consumer would be more familiar with Avant, a lender with whom the consumer has previously done business, than with either Velocity or Webcollex.

52. If a consumer sent a check to Avant, the payment may not satisfy the alleged debt owed to the correct creditor, Velocity, who would be within its rights to continue collection efforts or even file a lawsuit to collect the debt.

53. Furthermore, the consumer may be barred from recovering a payment to the incorrect party by the voluntary payment doctrine. Even if the voluntary payment doctrine does not apply or would not be enforced, the logistical challenge of obtaining a refund would discourage consumers from attempting to recover their erroneous payment.

54. Plaintiff was confused by Exhibits A and B.

55. Plaintiff had to spend time and money investigating Exhibits A and B, and the consequences of any potential responses to Exhibits A and B.

56. 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 Exhibits A and B.

The FDCPA

57. 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); *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).

58. 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”). 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).

59. 15 U.S.C. § 1692e generally prohibits “any false, deceptive, or misleading representation or means in connection with the collection of any debt.”

60. 15 U.S.C. § 1692e(2)(a) specifically prohibits the “false representation of the character, amount, or legal status” of an alleged debt.

61. 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.”

62. 15 U.S.C. § 1692f generally prohibits “unfair or unconscionable means to collect or attempt to collect any debt.”

63. 15 U.S.C. § 1692g states:

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—

(2) the name of the creditor to whom the debt is owed;

64. The Seventh Circuit has held that a debt collector must state the required disclosures in a non-confusing manner. *See Miller v. McCalla, Raymer, Padrick, Cobb, Nichols, & Clark, L.L.C.*, 214 F.3d 872, 875 (7th Cir. 2000):

65. While *Miller* addressed a debt collector’s obligation to provide the amount of the debt under 15 U.S.C. § 1692g(a)(1), the Seventh Circuit has held that the standards for claims

under § 1692e and § 1692g are the same. *McMillan v. Collection Professionals, Inc.*, 455 F.3d 754, 759 (7th Cir. 2006).

We cannot accept the district court's view that claims brought under § 1692e or § 1692f are different from claims brought under § 1692g for purposes of Rule 12(b)(6) analysis. Whether or not a letter is 'false, deceptive, or misleading' (in violation of § 1692e) or 'unfair or unconscionable' (in violation of § 1692f) are inquiries similar to whether a letter is confusing in violation of § 1692g. After all, as our cases reflect, the inquiry under §§ 1692e, 1692g and 1692f is basically the same: it requires a fact-bound determination of how an unsophisticated consumer would perceive the letter.")

The WCA

66. 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).

67. 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).

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

69. "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.

70. 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.

71. 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).

72. 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).

73. 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. Nuvel 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.*

74. Wis. Stat. § 427.104(1)(k) states that a debt collector may not “use a communication which simulates legal or judicial process or which gives the appearance of being authorized, issued or approved by a government, government agency or attorney-at-law when it is not.”

COUNT I – FDCPA

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

76. Plaintiff brings this count against Defendant Webcollex.

77. The statement in Exhibit B that the creditor of the debt is Avant is a false, deceptive, and misleading statement that would deceive, mislead, and confuse the unsophisticated consumer as to whom the debt was owed and whether the debt had been sold.

78. Exhibit B fails to state the name of the creditor to whom the debt is owed in a non-confusing manner.

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

COUNT II – WCA

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

81. Plaintiff brings this count against Defendant Velocity.

82. Exhibit A states that Velocity “is licensed by the Division of Banking, P.O. Box 7876, Madison, Wisconsin 53707.”

83. In fact, Velocity is not a licensed debt collector in the State of Wisconsin.

84. Defendant violated Wis. Stat. § 427.104(1)(k).

CLASS ALLEGATIONS

85. Plaintiff brings this action on behalf of two Classes.

86. Class I consists of (a) all natural persons in the State of Wisconsin (b) who were sent a collection letter by Webcollex, (c) in the form of Exhibit B, (d) seeking to collect a debt

for personal, family, or household purposes, (e) that was owed to Velocity, (f) between October 27, 2016 and October 27, 2017, inclusive, (g) that was not returned by the postal service.

87. Class II consists of (a) all natural persons in the State of Wisconsin (b) who were sent a collection letter by Velocity, (c) in the form of Exhibit A, (d) seeking to collect a debt for personal, family, or household purposes, (e) between October 27, 2015 and October 27, 2017, inclusive, (f) that was not returned by the postal service.

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

89. There are questions of law and fact common to the members of each class, which common questions predominate over any questions that affect only individual class members. The predominant common questions are whether Exhibits A and B violate the FDCPA and WCA.

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

91. 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.

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

JURY DEMAND

93. 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 Defendants 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: October 27, 2017

ADEMI & O'REILLY, LLP

By: /s/ John D. Blythin
John D. Blythin (SBN 1046105)
Mark A. Eldridge (SBN 1089944)
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EXHIBIT A



STATEMENT OF ACCOUNT - June 7, 2017

Original Acct. No.	Original Creditor	Current Creditor	Today's Current Balance
0881	Avant, Inc.	Velocity Investments, LLC	\$6,463.66

MANDY CERVENY,
2508 W KIMBERLY AVE
MILWAUKEE WI 53221

5694

INTRODUCTORY MESSAGE FROM VELOCITY

Velocity Investments, LLC has purchased the account you originally owed to Avant, Inc. under account number 0881. This does not mean that these monies are no longer due and owing but that the monies that were originally owed to Avant, Inc. under the account number set forth above should be paid to Velocity Investments, LLC.

We invite you to contact our office to discuss this matter further.

If you have any questions about this letter or the above referenced account please contact Velocity at 1-800-558-4027 or support@velocityrecoveries.com. Our general office hours are 9-5 / M-F. Our mailing address is PO BOX 788, Wall, New Jersey 07719 and our physical address is 1800 Route 34 North, Suite 404A, Wall, NJ 07719.

PAYMENT INFORMATION

Please return your payment with a copy of this statement setting forth the amount enclosed to ensure prompt and accurate credit.

Checks should be made payable to: **Velocity Investments, LLC**

Payments should be sent to: **1800 Route 34 North, Suite 404A, Wall, New Jersey 07719**

Payments should set forth your **Velocity Account No.:** 5694

Payments may also be made online at www.velocityrecoveries.com

DISCLOSURES / PLEASE READ

THIS COMMUNICATION IS FROM A DEBT COLLECTOR AND IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE. UNLESS YOU, THE CONSUMER, DISPUTE THE VALIDITY OF THIS DEBT, OR ANY PORTION THEREOF WITHIN THIRTY (30) DAYS AFTER THE RECEIPT OF THIS NOTICE, THIS OFFICE WILL ASSUME THAT THE DEBT IS VALID. IF YOU NOTIFY US IN WRITING WITHIN THIS THIRTY (30) DAY PERIOD THAT THE DEBT OR ANY PORTION THEREOF IS DISPUTED, VERIFICATION OF THE DEBT OR A COPY OF A JUDGMENT WILL BE PROVIDED TO YOU. FURTHER, UPON WRITTEN REQUEST WITHIN THIRTY (30) DAYS AFTER RECEIPT OF THIS NOTICE WE WILL PROVIDE YOU WITH THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR IF DIFFERENT FROM THE CURRENT CREDITOR.



We are required to provide the following information under state law. This is not a complete list of your rights by state. If you do not reside in one of these states, you may still have the same or similar rights under federal or state law. These rights do not alter, amend or shorten the rights given on the front of the letter

California Residents: 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 8 a.m. or after 9 p.m. 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 our 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.

Colorado Residents: For information about the Colorado Fair Debt Collection Practices Act, see www.ago.state.co.us/CADC/CADCmain.cfm. 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. You may also make payments in person to our in-state office as indicated below: Colorado Manager, Inc., 80 Garden Center, Suite 3, Broomfield, CO 80020, Phone: 303-920-4763

Massachusetts Residents: 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 debtor.

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

New Mexico: (for past statute debt only). We are required by New Mexico Attorney General Rule to notify you of the following information. This information is not legal advice: This debt may be too old for you to be sued on it in court. If it is too old, you can't be required to pay it through a lawsuit. You can renew the debt and start the time for the filing of a lawsuit against you to collect the debt if you do any of the following: make a payment of the debt; sign a paper in which you admit that you owe the debt or in which you make a new promise to pay; sign a paper in which you give up ("waive") your right to stop the debt collector from suing you in court to collect the debt.

Tennessee Residents: This collection agency is licensed by the Collection Service Board, State Department of Commerce and Insurance, 500 James Robertson Parkway, Nashville, Tennessee 37243.

Utah Residents: As required by Utah 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. We will not submit a negative credit report to a credit reporting agency about the credit obligation until the expiration of the time period described on the front of this letter.

New York City Department of Consumer Affairs License No. 1199638

North Carolina Permit No. 103657

Wisconsin: This collection agency is licensed by the Division of Banking, P.O. Box 7876, Madison, Wisconsin 53707.

Exhibit B

08/17/2017



FINANCIAL

RESPONSIBLE DEBT COLLECTION

PO Box 2856

Chesapeake, VA 23327-2856

Creditor: AVANT
Account ID: [REDACTED] 5676
Balance: \$6,463.66

Dear Mandy Cervený,

This letter serves as notification to inform you that Velocity Investments LLC purchased your AVANT account, and has been placed with this office.

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 after receiving this notice that you dispute the validity of this debt, 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 of 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.

You may call our office at (888) 273-8454 if you would like to speak with a representative. Our office hours are Monday through Friday from 8am to 9pm, Eastern Standard Time.

Webcollex, LLC dba CKS Financial - 505 Independence Parkway, Suite 300, Chesapeake VA 23320 - 888-273-8454

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.

CFIN5 663008554060

1078/000001036/000000004

P.O. Box 2856
Chesapeake, VA 23327-2856

08/17/2017



Mandy Cervený
2508 W Kimberly Ave
Milwaukee, WI 53221-4934

2304

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

MANDY CERVENY

(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

WEBCOLLEX LLC d/b/a CKS FINANCIAL, et al.

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	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"/> 362 Personal Injury - Med. Malpractice	<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"/> 365 Personal Injury - 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"/> 368 Asbestos Personal Injury Product Liability	<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	PERSONAL PROPERTY	<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"/> 370 Other Fraud	<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"/> 371 Truth in Lending	<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"/> 380 Other Personal Property Damage	<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	<input type="checkbox"/> 385 Property Damage Product Liability	LABOR	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 810 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	<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	PRISONER PETITIONS	<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"/> 510 Motions to Vacate Sentence	<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	Habeas Corpus:	<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	<input type="checkbox"/> 530 General	IMMIGRATION		<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty	<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"/> 540 Mandamus & Other	<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"/> 550 Civil Rights	<input type="checkbox"/> 465 Other Immigration Actions		<input type="checkbox"/> 950 Constitutionality of State Statutes
	<input type="checkbox"/> 440 Other 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 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

SIGNATURE OF ATTORNEY OF RECORD

October 27, 2017

s/ John D. Blythin

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ 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

MANDY CERVENY

Plaintiff(s)

v.

WEBCOLLEX LLC d/b/a CKS FINANCIAL and
VELOCITY INVESTMENTS LLC,

Defendant(s)

Civil Action No. 17-cv-1486

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Webcollex, LLC d/b/a CKS Financial
c/o C T Corporation System
301 S. Bedford St., Suite 1
Madison, Wisconsin 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

Civil Action No. 17-cv-1486

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.:

Print

Save As...

Case 1:17-cv-01188 Filed 10/27/17 Page 2 of 2 Document 1-1

Reset

UNITED STATES DISTRICT COURT
for the
Eastern District of Wisconsin

MANDY CERVENY

Plaintiff(s)

v.

WEBCOLLEX LLC d/b/a CKS FINANCIAL and
VELOCITY INVESTMENTS LLC,

Defendant(s)

Civil Action No. 17-cv-1486

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Velocity Investments, LLC
c/o Corporation Service Company
8040 Excelsior Drive, Suite 400
Madison, Wisconsin 53717

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

Civil Action No. 17-cv-1486

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.:

Print

Save As...

Case 1:17-cv-01188 Filed 10/27/17 Page 2 of 2 Document 1-1

Reset

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [CKS Financial, Velocity Investments Facing Debt Collection Class Action in Wisconsin](#)
