

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

SALLY CZARNECKI and JAMES MENEAR,) Case No.: 17-cv-1304
Individually and on Behalf of All Others)
Similarly Situated,) **CLASS ACTION COMPLAINT**
)
Plaintiff,)
vs.) **Jury Trial Demanded**
MESSERLI & KRAMER, P.A.,)
Defendant.)

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 Plaintiffs 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 Sally Czarnecki is an individual who resides in the Eastern District of Wisconsin (Milwaukee County).

4. Plaintiff James Menear 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 a debt allegedly incurred for personal, family or household purposes.

6. Plaintiff is also a “customer” as defined in the Wisconsin Consumer Act in that he engaged in a consumer transaction. Wis. Stat. § 421.301(17).

7. Defendant Messerli & Kramer, PA (“Messerli”) is a law firm with its principal place of business located at 100 S 5th Street, 1400 Fifth Street Towers, Minneapolis, MN 55402-5540.

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

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

FACTS

Czarnecki Fax Communication

10. On or about March 8, 2017, Messerli faxed an Employment Verification letter to Czarnecki's employer, U.S. Dept. of Housing and Urban Development-Milwaukee (“HUD”). A copy of this letter is attached to this Complaint as Exhibit A.

11. Exhibit A contains the following text:

IMPORTANT NOTICE

**This communication is from a debt collector and is an attempt to collect a debt.
Any information obtained will be used for that purpose.**

12. Upon information and belief, the alleged debt that Messerli was attempting to collect by sending Exhibit A to Plaintiff was allegedly incurred for personal, family or household purposes, namely, a personal credit card account.

13. Exhibit A is a form facsimile cover sheet, with the information specific to Czarnecki and this employment verification request inserted manually.

14. Exhibit A is printed on Messerli's attorney letterhead, which identifies the firm as "Attorneys At Law."

15. Exhibit A also states that the "the information in this facsimile message is attorney privileged and confidential information intended for the use of the individual or entity named above."

16. Exhibit A is addressed to "ATTN: HR/PAYROLL DEPT / U.S. Dept. of HUD-Milwaukee."

17. Any employer receiving a facsimile cover sheet from an organization identifying itself as "Attorneys at Law" that contains an "IMPORTANT NOTICE" that the "communication is from a debt collector and is an attempt to collect a debt," would understand that the employment verification was being made in connection with the collection of a debt.

18. Czarnecki never gave Messerli consent to disclose the existence of any alleged debt in communication with her employer in connection with the alleged debt.

19. Upon information and belief, Messerli did not have the express permission of a court of competent jurisdiction to disclose the existence of any alleged debt in communication with her employer in connection with the alleged debt.

20. On or about March 30, 2017, "Discover Bank c/o Messerli PA" filed 17-sc-9364, a small claims action against Czarnecki in Milwaukee County Circuit Court.

21. On or about June 20, 2017, the Court entered a default judgment in 17-sc-9364.

22. On or about July 10, 2017, the Court sent out an earnings garnishment notice in 17-sc-9364, with the US Department of Housing & Urban Development as the garnishee.

23. Exhibit A was sent to Plaintiff's employer before Case No. 17-sc-9364 was even filed and long before a judgment was entered or any postjudgment remedy could be effectuated.

24. Upon information and belief, Messerli would not have filed 17-sc-9364 without verification of Czarnecki's employment.

25. Plaintiff was emotionally distressed by Exhibit A.

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

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

Menear Letter

28. On or about June 15, 2017, Messerli mailed a debt collection letter to Menear. A copy of this letter is attached to this Complaint as Exhibit B.

29. Upon information and belief, the alleged debt referenced in Exhibit B is an alleged Capital One credit card account, used only for personal, family or household purposes.

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

31. Exhibit B was the first written communication that Messerli sent to Menear regarding the alleged debt identified in Exhibit B.

32. Also or about June 15, 2017, Messerli mailed a second debt collection letter to Plaintiff. A copy of this letter is attached to this Complaint as Exhibit C.

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

34. Exhibit C attempts to collect the same alleged debt as Exhibit B. The amounts are the same in both letters.

35. Sending a consumer multiple, identical letters on the same day without alerting the consumer that the letters are duplicates is misleading and confusing. The practice may, for example, lead the unsophisticated consumer to pay the same debt twice.

36. Failure to provide the correct validation notice within five days of the initial communication with Plaintiff and the class is a *per se* violation of the FDCPA. *Janetos v. Fulton Friedman & Gullace, LLP*, 825 F.3d 317, 324 (7th Cir. 2016) (“we have not extended the implicit materiality requirement of § 1692e to reach claims under § 1692g(a).”).

37. 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).

38. 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”).

39. 15 U.S.C. § 1692c(b) prohibits debt collectors from communicating with third parties in connection with the debt unless the debt collector has received prior consent given directly to the debt collector, or the express permission of a court of competent jurisdiction, or the communication is reasonably necessary to effectuate a postjudgment judicial remedy.

40. 15 U.S.C. § 1692e provides, in relevant part: “A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt.”

41. 15 U.S.C. § 1692e(2)(a) specifically prohibits “The false representation of— the character, amount, or legal status of any debt.

42. 15 U.S.C. § 1692e(10) prohibits: “The use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer.

43. 15 U.S.C. § 1692f generally prohibits “unfair or unconscionable means to collect or attempt to collect any debt.”

44. Wis. Stat. § 427.104(1)(e) prohibits debt collectors from disclosing a customer's information affecting the customer's reputation, whether or not for credit worthiness, where the person does not have a legitimate business need for the information.

COUNT I – FDCPA

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

46. Count I is brought on behalf of Plaintiff Czarnecki.

47. Exhibit A unnecessarily disclosed the existence of Czarnecki's alleged debt to her employer without obtaining Czarnecki's prior consent or the express permission of a court of competent jurisdiction.

48. Exhibit A violates 15 U.S.C. §§ 1692c(b), 1692e, 1692e(10) and 15 U.S.C. § 1692f.

COUNT II -- FDCPA

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

50. Count II is brought on behalf of Plaintiff Menear.

51. Messerli mailed two debt collection letters to Plaintiff, seeking to collect the same debt, on the same day. Exhibits B and C.

52. Sending two initial collection letters on the same debt within two days of each other without alerting the consumer that the letters are duplicates is misleading and raises the risk of double-payment.

53. The unsophisticated consumer would be confused by the two letters in combination.

54. Exhibits B and C violate 15 U.S.C. §§ 1692e, 1692e(2)(a), 1692e(10), 1692f, and 1692g(a).

COUNT III -- WCA

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

56. Count III is brought on behalf of Plaintiff Czarnecki.

57. Exhibit A disclosed the existence of Plaintiff's alleged debt to her employer before the employer had any legitimate business need for the information.

58. Exhibit A violates Wis. Stat. § 427.104(1)(e).

CLASS ALLEGATIONS

59. Plaintiff brings this action on behalf of two Classes

60. Class 1 consists of (a) all natural persons in the State of Wisconsin (b) whose employers were sent Employment Verification communications in the form represented by Exhibit A to the complaint in this action, (c) seeking to collect a debt incurred for personal, family or household purposes, (d) Between September 26, 2016 and September 26, 2017, inclusive, (e) before a judgment for the underlying debt was entered.

61. Class 2 consists of (a) all natural persons in the State of Wisconsin (b) who were sent a collection letter in the form(s) represented by Exhibit B to the complaint in this action, and (c) also sent a collection letter in the form represented by Exhibit C to the complaint in this action, (d) within the 30-day validation period, (e) seeking to collect a debt for personal, family

or household purposes, (f) between the dates of September 26, 2016 and September 26, 2017, inclusive, (g) that was not returned by the postal service.

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

63. 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 question is whether Exhibits A-C violate the FDCPA or the WCA.

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

65. 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.

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

JURY DEMAND

67. Plaintiffs hereby demand a trial by jury.

PRAYER FOR RELIEF

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

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

Dated: September 26, 2017

ADEMI & O'REILLY, LLP

By: /s/ John D. Blythin
Shpetim Ademi (SBN 1026973)
John D. Blythin (SBN 1046105)
Mark A. Eldridge (SBN 1089944)
3620 East Layton Avenue
Cudahy, WI 53110
(414) 482-8000
(414) 482-8001 (fax)
sademi@ademilaw.com
jblythin@ademilaw.com
meldridge@ademilaw.com

EXHIBIT A

#518455 V1

**Messerli
&**

FAX COVER SHEET

**Kramer
professional association**

Attorneys at Law
3033 Campus Drive, Suite 250
Plymouth, MN 55441
Telephone: (763) 548-7900
Fax: (763) 548-7922

| | | | |
|-------|-----------|-------------------------------|---|
| DATE: | 3/8 /2017 | PAGES (INCLUDING COVER PAGE): | 1 |
|-------|-----------|-------------------------------|---|

TO: **ATTN: HR / PAYROLL DEPT**
 COMPANY: **U.S. Dept of HUD - Milwaukee**
 FAX: _____ PHONE NO.: _____

FROM: **414-935-6781**
Skip Trace Department DIRECT
 HX DEAL NO.: **763-548-7948**

RE: **Employment Verification**

WHO IS THE EMPLOYMENT STATUS FOR: _____ REFERENCE # **[REDACTED] 1015**
 NAME **Sally A Czarnecki** SS# **XXX-XX-[REDACTED]**

FOR EMPLOYER TO FILL OUT:

CIRCLE ONE:

CURRENT EMPLOYEE PREVIOUS EMPLOYEE NO RECORD OF EMPLOYEE

NAME AND PHONE OF CONTACT PERSON: _____

PAYROLL ADDRESS: _____

If you do not receive all pages, or are experiencing other problems in transmission, please call Lorraine at 763-548-7900. Thank you.

ATTENTION:

The information contained in this facsimile message is attorney privileged and confidential information intended for the use of the individual or entity named above. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this fax in error, please immediately notify us by telephone, and return the original message to us at the above address via the U.S. Postal Service at our expense.

IMPORTANT NOTICE

This communication is from a debt collector and is an attempt to collect a debt.

Exhibit B

MESSERLI & KRAMER

ATTORNEYS AT LAW

Messerli & Kramer P.A.
ATTORNEYS AT LAW
3033 Campus Drive
Suite 250
Plymouth, Minnesota 55441-2662

main (763) 548-7900
fax 763-548-7922
toll free 844-841-0510

Date: June 15, 2017
Our Client: Capital One Bank (USA), N.A.
Consumer: James R Menear
Balance: \$4,271.65
Our File Number: [REDACTED]97
Account Number: XXXXXXXXXXXXX3446

Dear James R Menear:

This office represents Capital One Bank (USA), N.A. regarding the collection of the above balance.

Very truly yours,

MESSERLI & KRAMER PA

IMPORTANT NOTICE CONCERNING YOUR RIGHTS

This communication is from a debt collector and is an attempt to collect a debt. Any information obtained will be used for that purpose. Unless you notify us within 30 days after receipt of this letter that the validity of this debt, or any portion of it, is disputed, we will assume that the debt is valid. If you notify us in writing within thirty days after receipt of this notice that the debt, or any portion thereof, is disputed, we will obtain verification of the debt or a copy of a judgment against you and mail a copy of such verification or judgment to you. Also, upon your written request within 30 days after receipt of this letter, we will provide you with the name and address of the original creditor if different from the current creditor.

To receive proper credit on your account return this portion with your payment in the enclosed envelope.

**PO Box 101928 Dept. 5033
Birmingham, AL 35210**

00037

Balance: \$4,271.65
Our File Number: 17-125097
HC_0200



[REDACTED] 5A*1
James R Menear
S85W18600 Jean Dr
Muskego WI 53150-9100



Messerli & Kramer PA
3033 Campus Drive, Ste. 250
Plymouth MN 55441

Exhibit C

MESSERLI & KRAMER
ATTORNEYS AT LAW

Messerli & Kramer P.A.
ATTORNEYS AT LAW
3033 Campus Drive
Suite 250
Plymouth, Minnesota 55441-2662
main (763) 548-7900
fax 763-548-7922
toll free 844-841-0510

Date: June 15, 2017
Our Client: Capital One Bank (USA), N.A.
Consumer: James R Menear
Balance: \$4,271.65
Our File Number: [REDACTED] 97
Account Number: XXXXXXXXXXXXXXX3446

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To receive proper credit on your account return this portion with your payment in the enclosed envelope.

PO Box 101928 Dept. 5033
Birmingham, AL 35210

00036

Balance: \$4,271.65
Our File Number: 17-125097
HC_0200



[REDACTED] SA*1
James R Menear
S85W18600 Jean Dr
Muskego WI 53150-9100



Messerli & Kramer PA
3033 Campus Drive, Ste. 250
Plymouth MN 55441

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
SALLY CZARNECKI and JAMES MENEAR

DEFENDANTS
MESSERLI & KRAMER, P.A.

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

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.

(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

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 \$** _____ **JURY DEMAND:** Yes No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE _____ DOCKET NUMBER _____

DATE: September 26, 2017 SIGNATURE OF ATTORNEY OF RECORD: s/ John D. Blythin

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

SALLY CZARNECKI and JAMES MENEAR

Plaintiff(s)

v.

MESSERLI & KRAMER, P.A.

Defendant(s)

Civil Action No. 17-cv-1304

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) MESSERLI & KRAMER, P.A. 100 South 5th Street, 1400 Fifth Street Towers Minneapolis, Minn. 55402

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-1304

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: [Messerli & Kramer Hit with Multiple-Count FDCPA Lawsuit](#)
