



6. BoA is engaged in the business of collecting debts owed to others and incurred for personal, family or household purposes. BoA is a “debt collector” as defined in 15 U.S.C. § 1692a.

### **FACTS**

7. Plaintiff Melissa Hirthe owns a home at 327 West Armour Avenue, Milwaukee, Wisconsin (the “Property”).

8. At all times relevant to this complaint, the Property was Plaintiff’s primary residence.

9. Prior to August 1, 2016, the Property was encumbered by a note and mortgage with a lender other than BoA.

10. By March 2016 at the latest, Plaintiff had defaulted on the Loan. Upon information and belief, Plaintiff was more than five payments behind on August 1, 2016.

11. Prior to August 11, 2016, and after Plaintiff’s loan was in default, the previous creditor sold or otherwise assigned the ownership rights to Plaintiff’s loan to BoA.

12. A party like BoA who takes assignment of a loan that is in default is a debt collector under the FDCPA. 15 U.S.C. § 1692a(6)(F)(iii); *Schlosser v. Fairbanks Capital Corp.*, 323 F.3d 534, 536 (7th Cir. 2003).

13. On or about August 11, 2016, BoA mailed a debt collection letter to Plaintiff regarding the Loan. A copy of this letter is attached as Exhibit A.

14. Exhibit A was the first written communication containing any language relating to debt collection that Plaintiff received from BoA regarding the Loan.

15. Exhibit A states that the previous owner of the home loan, assigned, sold or transferred the Loan to BoA on August 1, 2016.

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

17. On or about August 17, 2016, BoA mailed a debt collection letter to Plaintiff regarding the Loan. A copy of this letter is attached as Exhibit B.

18. Exhibit B was the second written communication containing any language relating to debt collection that Plaintiff received from BoA regarding the Loan.

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

20. Exhibit B seeks to collect a debt.

21. Exhibit B states:

Payment due date	September 1, 2016
<b>Total amount due</b>	<b>\$4,911.72</b>
<i>If payment is received after 09/19/16, \$43.83 late fee will be charged.*</i>	

22. Exhibit B also states:

### Explanation of total amount due

Principal	\$220.45
Interest	\$471.17
Escrow (taxes and insurance)	\$404.27
<b>Regular monthly payment</b>	<b>\$1,095.89</b>
Current period fees and charges	\$43.83
Overdue payments, fees, and charges*	\$4,388.56
Payment advance*	\$43.72
Unapplied funds*	-\$660.28
<b>Total amount due</b>	<b>\$4,911.72</b>

*\*Please see the "Other important information" section of this statement.*

23. Exhibit B also states:

To mail a payment

PO Box 650070  
Dallas, TX 75265-0070

Payments can also be made by phone,  
online, or at any Bank of America  
financial center.

24. Exhibit B also states:

### Payment processing information

The following payment options are available to you:

**PayPlan** – With PayPlan, you can have your mortgage payments automatically drafted from your checking or savings account. If paying from a non-Bank of America account, there may be a fee up to \$4 per transaction. Call us at 1.866.767.4131 for more details or to enroll.

**Online Banking and Mobile Payments** – With these options, you can make your monthly mortgage payment at any time. Visit us online at bankofamerica.com for more details.

**Mortgage Pay on the Web (MPW)** – This service allows you to make your monthly mortgage payment through Online Banking. With MPW, there is no fee when paying from a Bank of America checking or savings account. If paying from a non-Bank of America account, there is no fee as long as you pay during the first half of your grace period; however, a \$6 fee will be charged if you pay during the second half of your grace period.

**Pay By Phone** – This service allows you to pay your monthly mortgage payments by phone either through our automated service or through a customer service representative. When using the automated service, there's no fee if paying from a Bank of America checking or savings account. If paying from a non-Bank of America account, there's a fee of up to \$15 for using the automated service. If you choose to process a payment through a customer service representative, there's a fee of up to \$20.

25. Exhibit B also states:

**Credit reporting notice:** We may report information about your account to credit bureaus. Late payments, missed payments or other defaults on your account may be reflected in your credit report.

26. Exhibit B states:

You can make your payment:

- By automatic draft payment using PayPlan
- Online at bankofamerica.com
- By phone - call 1.800.669.6607
- At any Bank of America financial center
- By mail using the enclosed envelope

**For checks or money orders**

- Make your check payable to Bank of America, N.A.
- Please write your loan number on the check or money order.
- Include this payment coupon with your check (do not staple your check to the coupon).
- Please do not send cash or include correspondence.

27. Exhibit B states on the payment slip attachment:

Additional principal \$

Additional escrow \$

**Total enclosed** \$

28. Exhibit B includes the notice that the debt collector must disclose in its initial written communication with the consumer, pursuant to the FDCPA, 15 U.S.C. § 1692e(11). Exhibit B (“Bank of America, N.A. is required by law to inform you that this communication is from a debt collector.”)

29. Exhibit B would not have been sent to Plaintiff for any purpose other than debt collection.

30. Upon information and belief, Exhibit B would not have been sent to any class member for any purpose other than debt collection for the same reason.

31. Neither Exhibit A nor Exhibit B includes the FDCPA debt validation notice, which requires:

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

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

(1) the amount of the debt;

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

(3) a statement that unless the consumer, within thirty days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector;

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

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

15 U.S.C. § 1692g(a) (the “Validation Notice”).

32. Plaintiff did not receive any other written communications from BoA containing the Validation Notice, either before or after receiving Exhibit A and Exhibit B.

33. The Validation Notice was not printed on the envelope in which BoA mailed Exhibit A or Exhibit B to Plaintiff.

34. On or about October 14, 2016, BoA mailed another debt collection letter to Plaintiff regarding the Loan. A copy of this letter is attached as Exhibit C.

35. Exhibit C was the third written communication containing any language relating to debt collection that Plaintiff received from BoA regarding the Loan.

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

37. Exhibit C seeks to collect a debt.

38. Exhibit C is titled "Payoff Statement."

39. Plaintiff did not request a payoff statement from BoA. Plaintiff is preparing to file bankruptcy and has decided to allow the foreclosure and sale to occur. BoA sent Exhibit C to Plaintiff unsolicited, as she had no reason to request a payoff.

40. Exhibit C states:

**This loan is in Foreclosure.**

The expiration of this payoff statement is the sooner of the above Void After date or the foreclosure sale date.

41. The statement that the loan is "in Foreclosure" is false.

42. A review of CCAP shows that no foreclosure action has been filed against Plaintiff as of November 14, 2016.

43. Moreover, Exhibit C contains several additional statements that also mislead the consumer as to the status of non-existent foreclosure proceedings.

44. Exhibit A tells the consumer that the payoff statement is “good through” a “proposed closing date” of October 31, 2016:

<b>Good Through Date and/or Proposed Closing Date October 31, 2016</b>
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45. As noted above, Exhibit C also references a “foreclosure sale date” which does not exist.

46. By stating that the payoff expires on “the sooner of the above Void After date or the foreclosure sale date,” Exhibit C implies that the non-existent “foreclosure sale date” is approaching soon, possibly before October 31, 2016.

47. BoA’s misrepresentation is a material misrepresentation because it misleads the unsophisticated consumer about the status of legal action (foreclosure). *See Hahn v. Triumph P’ships LLC*, 557 F.3d 755, 757-58 (7th Cir. 2009).

48. Upon information and belief, the purpose of Exhibit C is to deceive consumers into believing that the foreclosure of their property would be complete within a much shorter period of time than it actually would.

49. Upon information and belief, BoA sends Exhibit C to consumers to attempt to intimidate consumers to move out of foreclosed properties before they must actually do so.

50. Exhibit C states and implies that a foreclosure action had commenced and the consumer may have to vacate the Property in one week. In reality, no foreclosure action had been filed. Moreover, Plaintiff has a minimum six month redemption period, during which time Plaintiff is entitled to remain in the Property. Wis. Stat. § 846.101; *Bank Mut. v. S.J. Boyer Constr., Inc.*, 785 N.W.2d 462, 469 (Wis. 2010). In reality, consumers normally may reside in

foreclosed properties for 9 to 12 months or more between the entry of a judgment of foreclosure and the confirmation of sale.

51. Letters such as Exhibit C contribute to the problem of “zombie properties,” which occur when the lender and its attorneys badger the homeowner to move out but subsequently refuse to sell or take possession of the property.

52. When the lender fails to sell the property or take possession of title, the title remains in the original property owner’s name. The homeowner, who generally has moved out and mistakenly believes that the lender has taken possession, can be socked with municipal fines and tax bills on a property that they have abandoned to the lender. Indeed, BoA has been a major contributor to the zombie property problem in Milwaukee. *See* “Milwaukee officials hail court ruling on 'zombie' properties,” Milwaukee Journal Sentinel, Feb. 18, 2015, (available at <http://www.jsonline.com/business/milwaukee-officials-hail-court-ruling-on-zombie-properties-b99447859z1-292503981.html>).

53. The false representations in Exhibit C were attempts to pester Plaintiff to vacate the Property prior to the transfer of title to a new owner and prior to even initiating a foreclosure action.

54. Plaintiff was confused by Exhibits A, B and C.

55. The unsophisticated consumer would be confused by Exhibits A, B and C.

56. Plaintiff had to spend time and money investigating Exhibits A, B and C.

57. 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, B and C.



58. The FDCPA creates substantive rights for consumers; violations cause injury to consumers, and such injuries are concrete and particularized. *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).

59. 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”).

60. As a result of BoA's actions, Plaintiff suffered emotional distress. Plaintiff did not understand Exhibit C, but was worried enough that it may mean that Plaintiff would have to shortly move out that she brought Exhibit C to her attorneys.

### **COUNT I – FDCPA**

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

62. BoA failed to provide to Plaintiff the required notice pursuant to 15 U.S.C. § 1692g(a).

63. BoA has thus failed to comply with the debt validation notice requirements pursuant to 15 U.S.C. § 1692g(a).

64. Failure to provide the 15 U.S.C. § 1692g(a) notice is also a false representation or deceptive means to collect a debt, in violation of 15 U.S.C. § 1692e(10).

65. The Defendant has violated 15 U.S.C. §§ 1692g(a) and 1692e(10).

### **COUNT II -- FDCPA**

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

67. Exhibit C falsely states or implies that a foreclosure action had been filed against Plaintiff when it had not.

68. Exhibit C falsely states or implies that Plaintiff would shortly have to move out of the Property, even though no foreclosure action had been filed.

69. At the time BoA mailed Exhibit C to Plaintiff, BoA had not filed a foreclosure action.

70. Plaintiff would have approximately 9-15 months to live in the property after a judgment of foreclosure is entered.

71. The false representations in Exhibit C were attempts to harass Plaintiff into vacating the Property many months before she may be required to do so.

72. Such conduct is false and misleading to the unsophisticated consumer.

73. Defendant's conduct also contributes to "zombie properties" by intimidating consumers to leave their properties before title is actually transferred to a new buyer.

74. Defendant violated 15 U.S.C. §§ 1692e, 1692e(2)(a), 1692e(10), 1692f and 1692f(6)(b).

### **COUNT III – UNJUST ENRIVHMENT**

75. Plaintiff incorporates the above numbered paragraphs by reference.

76. Plaintiff brings this claim individually, and on behalf of all similarly situated residents in and under the unjust enrichment laws.

77. As a direct and proximate result of BoA's misconduct as set forth above, BoA has been unjustly enriched.

78. Specifically, by their misconduct described herein, BoA has accepted a benefit (*i.e.*, payments from misled consumers attempting to stop the "foreclosure" and title to real property obtained months early due to Exhibit C's misrepresentations encouraging abandonment).

79. BoA's retention of the full amount of monies paid for the account and gaining possession and use of properties by deceiving the owners about the foreclosure process violate the fundamental principles of justice, equity, and good conscience.

80. BoA accepted the benefit based on their misrepresentations and omissions regarding the foreclosure process to the Plaintiff and the proposed Class members, and it would be inequitable for BoA to retain the benefit of those monies, as it was paid the money under false pretenses.

81. BoA has obtained money to which it is not entitled, and interest on that money, and under these circumstances equity and good conscience require that BoA return the money with interest to the Plaintiff and the proposed Class.

82. As a direct and proximate result of the foregoing, Plaintiff and the proposed Class have been damaged in an amount to be determined at trial.

### **CLASS ALLEGATIONS**

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

84. Class 1 consists of (a) all natural persons in the State of Wisconsin (b) who were sent an initial collection letter in the form represented by Exhibits A or B to the complaint in this action, (c) seeking to collect a debt for personal, family or household purposes, (d) on or after November 14, 2015 (e) that was not returned by the postal service.

85. Class 2 consists of (a) all natural persons in the State of Wisconsin (b) who were sent a collection letter in the form represented by Exhibit C to the complaint in this action, (c) when no foreclosure action was pending against the consumer or subject property, (d) seeking to collect a debt for personal, family or household purposes, (e) on or after November 14, 2015 (f) that was not returned by the postal service.

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

87. 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 or C violate the FDCPA.

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

89. 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.

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

**JURY DEMAND**

91. Plaintiff hereby demands a trial by jury.

**PRAYER FOR RELIEF**

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

- (a) actual damages;
- (b) statutory damages;
- (c) injunctive relief, including but not limited to enjoining BoA's use of Exhibit C;
- (d) attorneys' fees, litigation expenses and costs of suit; and
- (e) such other or further relief as the Court deems proper.

Dated: November 14, 2016

**ADEMI & O'REILLY, LLP**

By: /s/ John D. Blythin

Shpetim Ademi (SBN 1026973)  
John D. Blythin (SBN 1046105)  
Mark A. Eldridge (SBN 1089944)  
Denise L. Morris (SBN 1097911)  
3620 East Layton Avenue

Cudahy, WI 53110  
(414) 482-8000 | (414) 482-8001 (fax)  
sademi@ademilaw.com  
jblythin@ademilaw.com  
meldridge@ademilaw.com  
dmorris@ademilaw.com

# **EXHIBIT A**



PO Box 31785  
Tampa, FL 33631-3785



AB 0815 277 000 00932 #@01 SP 0.399

MELISSA HIRTHE  
327 W ARMOUR AVE  
MILWAUKEE WI 53207

Notice Date: August 11, 2016

Loan No.: [REDACTED] 3423

Property Address:  
327 W ARMOUR AVE  
MILWAUKEE, WI 53207

**NOTICE OF ASSIGNMENT, SALE, OR TRANSFER OF OWNERSHIP OF MORTGAGE LOAN**

The prior owner of your home loan has assigned, sold or transferred your loan to Bank of America, N.A. on 08/01/2016. Federal law requires that borrowers receive a written notice when ownership of a loan secured by their principal dwelling is assigned, sold or transferred to a new owner. This notice includes certain information about the change of ownership, which is provided in the "What You Need to Know" section below.

**LOAN OWNER VERSUS LOAN SERVICER**

It is important to understand the difference between the owner and the servicer of your loan:

- The owner owns your loan.
- The servicer collects your mortgage payments, sends you billing statements and provides the day-to-day administration of your loan on behalf of the owner.

**WHAT YOU NEED TO DO**

There are no actions for you to take at this time. Bank of America was the servicer of your loan on behalf of your prior owner and will continue to be your servicer.

The new owner's address is listed below for informational purposes only. Should you have any questions regarding where to send your loan payments, you can contact us directly at (800)669-6607. We are authorized to assist you with most routine inquiries and requests.

**WHAT YOU NEED TO KNOW**

1. New owner's name: Bank of America, N.A.  
New owner's mailing address:  
Attention: Customer Service Correspondence Unit, FL-1-908-01-49  
P.O. Box 31785  
Tampa, FL 33631-3785  
New owner's telephone number: (800)669-6607
2. Servicer's name: Bank of America, N.A.  
Servicer's telephone number: (800)669-6607



The transfer of your loan is recorded in our books and records. Additionally, the transfer of the lien associated with your loan may be reflected, or in the future be reflected, in the public records of the local County Recorder's office where your property is located.



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**PARTIAL PAYMENT DISCLOSURE**

In general, your lender accepts payments that are less than the full amount due (i.e. partial payments) and holds such partial payments in a separate account until you pay the remainder of the full periodic payment due and, at such time, applies the full periodic payment due to your loan. However, if the interest on your loan is calculated by a daily simple interest method, your lender will accept and apply partial payments to your loan at the time of receipt, without limitations. Also, if your loan is in default, foreclosure, bankruptcy or other special statuses, your lender may not accept partial payments. If your loan is sold, the new lender may have a different policy.

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**THANK YOU**

We're pleased to have the opportunity to serve your home loan needs. If you have questions about this notice or need assistance, please call us at 800.669.6607, Monday through Friday, 7 a.m. to 7 p.m. local time.

Bank of America is required by law to inform you that this communication is from a debt collector. If you are currently in a bankruptcy proceeding or have previously obtained a discharge of this debt under bankruptcy law, this notice is for informational purposes only and is not an attempt to collect a debt, a demand for payment or an attempt to impose personal liability for a discharged debt.

# Exhibit B



# Bank of America Home Loans

PO Box 31785  
Tampa, FL 33631-3785

0023020 01 AT 0.396 \*\*AUTO 6 1 0875 53207-582727 -C01-P23043-11 BLMWORKD  
MSR A2D00101 0411000000000000 ~ MLENVCRE  
MELISSA HIRTHE  
327 W ARMOUR AVE  
MILWAUKEE WI 53207-5827



## Customer service information

 Customer service: 1.800.669.6607  
TDD/TTY users only: 1.800.300.6407  
En Español: 1.800.295.0025  
Monday-Friday 7a.m. to 7p.m. Local Time  
 bankofamerica.com

Account number	██████████ 3423
Payment due date	September 1, 2016
<b>Total amount due</b>	<b>\$4,911.72</b>
<i>If payment is received after 09/19/16, \$43.83 late fee will be charged.*</i>	

## Your Home Loan Account

Statement date: August 17, 2016



If you and Bank of America, N.A. have entered into an agreement to address your monthly payments, please make payments in accordance with this agreement. If you have further questions regarding this matter, please contact your Customer Relationship Manager at 1.800.669.6650. You can also call this number if you haven't been assigned a Customer Relationship Manager yet.

### Account information

Property address	327 W ARMOUR AVE
Loan type	30 Yr FHA
Contractual remaining term	24 Years, 06 Months
Principal balance	\$119,906.12
Escrow balance	\$1,878.81
Interest rate	4.750%
Prepayment penalty	No

### Past payments breakdown

	Paid since last statement	Paid year to date*
Principal	\$0.00	\$859.32
Interest	\$0.00	\$1,863.44
Escrow (taxes and insurance)	\$0.00	\$1,606.08
Fees, charges, and advances	\$0.00	\$6.00
Unapplied funds*	\$0.00	\$660.28
<b>Total</b>	<b>\$0.00</b>	<b>\$4,995.12</b>

### Explanation of total amount due


Principal	\$220.45
Interest	\$471.17
Escrow (taxes and insurance)	\$404.27
<b>Regular monthly payment</b>	<b>\$1,095.89</b>
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Overdue payments, fees, and charges*	\$4,388.56
Payment advance*	\$43.72
Unapplied funds*	-\$660.28
<b>Total amount due</b>	<b>\$4,911.72</b>

\*Please see the "Other important information" section of this statement

### Transaction activity (07/19/16 to 08/17/16)

Date	Description	Charges	Payments
08/04/16	FHA MIP PMT		-53.85
08/17/16	Late Fees (full payment not received by 08/01/2016)	43.83	


### Additional contact information

 **Housing counselor information:** If you would like counseling or assistance, you can contact the U.S. Department of Housing and Urban Development (HUD). For a list of homeownership counselors or counseling organizations in your area, go to [hud.gov/offices/hsg/sfh/hcc/hcs.cfm](http://hud.gov/offices/hsg/sfh/hcc/hcs.cfm) or call 1.800.569.4287.

General Inquiries	To mail a payment	Overnight mail	Insurance matters
PO Box 31785 Tampa, FL 33631-3785	PO Box 650070 Dallas, TX 75265-0070  Payments can also be made by phone, online, or at any Bank of America financial center.	Retail Payment Services, TX1-160-06-01 Dallas InfoMart, STE 6020 1950 N Stemmons FWY Dallas, TX 75207-3134  Accepts overnight mail only. In-person payments are not accepted at this address.	Insurance Dept. PO Box 961291 Fort Worth, TX 76161-0291

Notice of Error, Requests for Information and Qualified Written Requests (as defined in RESPA) must be sent to: PO Box 942019, Simi Valley, CA 93094-2019. You have certain rights under federal law to resolve errors and request information related to your account. For more information about these rights, you can go to [bankofamerica.com](http://bankofamerica.com) or contact us.

### Payment processing information

 The following payment options are available to you:

**PayPlan** – With PayPlan, you can have your mortgage payments automatically drafted from your checking or savings account. If paying from a non-Bank of America account, there may be a fee up to \$4 per transaction. Call us at 1.866.767.4131 for more details or to enroll.

**Online Banking and Mobile Payments** – With these options, you can make your monthly mortgage payment at any time. Visit us online at [bankofamerica.com](http://bankofamerica.com) for more details.

**Mortgage Pay on the Web (MPW)** – This service allows you to make your monthly mortgage payment through Online Banking. With MPW, there is no fee when paying from a Bank of America checking or savings account. If paying from a non-Bank of America account, there is no fee as long as you pay during the first half of your grace period; however, a \$6 fee will be charged if you pay during the second half of your grace period.

**Pay By Phone** – This service allows you to pay your monthly mortgage payments by phone either through our automated service or through a customer service representative. When using the automated service, there's no fee if paying from a Bank of America checking or savings account. If paying from a non-Bank of America account, there's a fee of up to \$15 for using the automated service. If you choose to process a payment through a customer service representative, there's a fee of up to \$20.

**Crediting of Payments:** We credit mailed payments as of the date received, if the payment is: (1) paid with a check payable to Bank of America, N.A., and drawn in U.S. dollars on a U.S. financial institution or a U.S. dollar money order that includes your loan number on the check or money order; (2) sent with the payment coupon; and (3) received at the payment address on the payment coupon or another acceptable payment address designated on this statement by 5 p.m., Monday through Friday, excluding federal holidays, in the time zone of the payment address. Payments received through means other than mail, such as PayPlan, Online Banking and Pay By Phone, will be credited to your account in accordance with the terms and conditions of those services. Payments that fail to meet applicable requirements may result in crediting delays or may be returned. If your loan is in default, bankruptcy or foreclosure, this may impact our ability to credit your payments. In addition, one or more payment services may be unavailable and you may be required to pay with certified funds or other forms of payment.

**Payments Made by Check:** We process most payment checks electronically by using information found on your check. Each check authorizes us to create a one-time electronic funds transfer (or process it as a check or paper draft). We will not return your check to you. If your check does not clear upon initial presentment, we may attempt to withdraw funds from your account electronically one or more times. Postdated checks will be processed on the date received, unless we agree to honor the date written on the check as a condition of a repayment plan. We may charge you a fee of up to \$40 for any payment returned or rejected by your financial institution, subject to your loan documents and applicable law.

**Application of Payments:** In general, payments will be applied as described in your loan documents (including any loan modifications), subject to applicable law and any other requirements, such as investor and insurer/guarantor requirements. Periodic payments received and accepted will first be applied to the longest outstanding periodic payment due. If your loan is not current and you submit additional amounts with a periodic payment, the additional amounts will be applied to your outstanding periodic payments until your periodic payments are paid current and then applied to fees or other amounts owed on your account before applying the remaining additional amounts as you instructed. If your loan is not current and the additional amounts you submit with a periodic payment are insufficient to bring your outstanding periodic payments current, then the remaining additional amounts will be posted to your unapplied funds account. If your loan is current and you submit additional amounts with your current periodic payment due, the additional amounts will be applied to fees or other amounts owed on your account before applying the remaining additional amounts as you instructed, or, if no instructions are provided, they will be applied to the principal balance of your loan.

Paying Your Loan Ahead: We allow you to prepay your periodic payments one month in advance. If you want to prepay more than one periodic payment, please contact us. Without written instructions from you, any attempt to prepay more than one periodic payment on your loan will result in your payments being applied to the principal balance of your loan.

Fees: In addition to the fees described herein, there may be fees for certain services requested by you and related to the servicing of your loan. These fees are either listed on our website or will be disclosed in connection with the service you request. All fees are subject to change without prior notice.

Partial payment policy: A partial payment is a payment that is less than your periodic payment amount due. Depending on a number of factors including the requirements of your loan documents, applicable law and the delinquency status of your loan, a partial payment may be (1) returned to you, (2) applied to your loan, or (3) accepted but held in a non-interest-bearing unapplied funds account for a period of time until you send us additional funds sufficient to equal a full periodic payment due. If your periodic payments are paid current and you submit a partial payment, the partial payment will be applied as you instructed, and, if not instructed, it will be applied first to fees or other amounts owed on your account and the remainder will be applied to the principal balance of your loan. If, for any reason, we're unable to apply a partial payment to your loan as you instructed, we may return the payment. If your loan is not current and your loan documents permit us to hold a partial payment in a non-interest-bearing account, we'll do so until you send us additional funds to equal a periodic payment. If your loan is in default and declared due and payable or your loan is in foreclosure, we may be unable to apply a partial payment to your loan and may hold it in a non-interest-bearing unapplied funds account or return it.

### Other important information

**Debt Collection Notice:** Bank of America, N.A. is required by law to inform you that this communication is from a debt collector.

**Bankruptcy Notice:** If you are currently in a bankruptcy proceeding or have previously received a discharge of this debt under bankruptcy law, this notice is being sent to you for informational purposes only and is not an attempt to collect a debt, a demand for payment, a request on an obligation or an attempt to impose personal liability upon you for a discharged debt.

**Amount to bring your account current:** The total amount in this section represents the total of (1) all periodic principal, interest and escrow (if applicable) payments now due under your loan documents, including past due payments and (2) the periodic principal, interest and escrow (if applicable) payment of the current payment due under your loan documents as indicated on this statement. If you submit funds sufficient to cover this total amount, your loan will be considered current with respect to the periodic principal, interest and escrow (if applicable) payments due under your loan. Please note, if you only submit this total amount, you may still owe additional amounts on your account, such as late payment fees and other fees as well as amounts for any optional products you may have elected to purchase. If you want to pay those amounts as well, please include additional funds as shown in explanation of total amount due. In addition, the calculation of this total amount does not include any unapplied funds related to your account, if applicable.

**Credit reporting notice:** We may report information about your account to credit bureaus. Late payments, missed payments or other defaults on your account may be reflected in your credit report.

**Escrow refunds:** We process and mail escrow refunds within (14) business days after payoff to your mailing address on our loan servicing system.

- You can update your mailing address on our loan servicing system by calling customer service or through Bank of America's Online Banking service available on our website at bankofamerica.com.
- Please review the escrow section to review escrow items currently due and unpaid.
- If a bill is received for payment of an escrow item during the pending payoff process, we are responsible for payment of such bill. The bills are typically paid between the due date and delinquency date. If loan payoff occurs prior to disbursement of payment of a bill, your escrow funds will be

Account number:  3423

MELISSA HIRTHE

Property address:

327 W ARMOUR AVE  
MILWAUKEE, WI 53207


Bank of America, N.A.  
PO Box 650070  
Dallas, TX 75265-0070

Additional principal \$

Additional escrow \$

**Total enclosed** \$



 3423200000109589000113972

refunded to you.

**Late Fee:** The Late Fee shown on this statement may not be charged in limited circumstances, such as changes to your account relating to loan modification trial plans, foreclosure, bankruptcy, natural disaster, and special forbearance on your loan, or due to applicable State or Federal law requirements.

**Overdue payments, fees, and charges:** If your loan is delinquent, this amount may include unpaid amounts for optional products. If the loan is not delinquent, the amount will not include unpaid amounts for optional products. Failure to pay amounts due on optional products may result in cancellation of your product. You have the right to cancel your optional product(s) at any time. For questions regarding your optional product, please contact the product provider directly using the phone number appearing in the "Optional products" section of your statement.

**Paid year-to-date:** Balances in the "Past payments breakdown" section shouldn't be used for year-end tax reporting. Please use the information on IRS Form 1098, which will be provided during tax season, for reporting purposes. Balances for loans that have been service-transferred or have undergone modification may reflect activity that has occurred since the date of transfer or modification only.

**Payment advance:** If you submitted a payment that was within \$50 dollars of your full periodic payment due, we may have accepted your payment and advanced funds on your behalf to make up the difference between what you paid and what was due. Optional products were not paid as part of this advance. Please note that this amount is still owed on your loan.

**Payoff:** You can request a payoff quote by calling 1.800.669.5833. If a third party will be requesting a payoff quote on your behalf, you must authorize the third party to make the request. A fax fee may apply if you or a third party want the payoff quote faxed. If so, the amount of the fee will be disclosed at the time the expedited delivery is requested. If we receive payoff funds greater than the amount required to pay off your loan, we'll process and mail a refund of the overage to your mailing address on our loan servicing system within 20 business days of the payoff. You can update your mailing address on our loan servicing system by calling customer service or through Bank of America's Online Banking service available on our website at [bankofamerica.com](http://bankofamerica.com).

**Unapplied funds:** Depending on the specific requirements of your loan or applicable law, funds you send us cannot be applied to your loan and we hold these funds in a non-interest-bearing account until they can be applied. For example, if you send us a partial payment (i.e. a payment less than your full periodic payment due), we may be unable to apply the payment to your loan and will hold the funds in the non-interest-bearing account for a period of time until you send us additional funds sufficient to equal a full periodic payment due. If you don't send us additional funds, subject to your loan documents, we may apply some or all of the unapplied funds to amounts owed on your account and return the balance of the unapplied funds to you. This balance represents the amount of your funds being held in the non-interest-bearing account, as of the date of this statement.

**Statement information:** The information contained in this statement is accurate as of the date of this statement but may not contain all information related to your loan. For the most up to date and complete information regarding your loan, please contact customer service.




### You can make your payment:

- By automatic draft payment using PayPlan
- Online at [bankofamerica.com](http://bankofamerica.com)
- By phone - call 1.800.669.6607
- At any Bank of America financial center
- By mail using the enclosed envelope

#### **For checks or money orders**

- Make your check payable to Bank of America, N.A.
- Please write your loan number on the check or money order.
- Include this payment coupon with your check (do not staple your check to the coupon).
- Please do not send cash or include correspondence.

**Delinquency notice**

 Your mortgage payment(s) are late. If you don't bring your account current, it may result in fees and foreclosure (the loss of your home). As of August 17, 2016, you are 108 days delinquent on your mortgage loan. If you're experiencing financial difficulty, please refer to the **Additional contact information** section in your statement for information on mortgage counseling or assistance.

**Recent account history**

Payment due date	Payment amount due	Unpaid balance due	Outstanding balance due
04/01/16	\$0.00	Fully paid on 06/16/16	\$0.00
05/01/16	\$1,095.89	\$435.61	\$435.61
06/01/16	\$1,095.89	\$1,095.89	\$1,531.50
07/01/16	\$1,095.89	\$1,095.89	\$2,627.39
08/01/16	\$1,095.89	\$1,095.89	\$3,723.28
09/01/16	\$1,095.89	\$1,095.89	\$4,819.17

This represents the total outstanding and current principal, interest and escrow (if applicable) due. \$4,819.17 is due to bring your account current. \*For all amounts due on your loan, please refer to the **Total amount due** on the first page of this statement.

There has been a payment default or other default on your loan that could result in acceleration of all sums due under the note. As a result, Bank of America, N.A. will use companies, including but not limited to its affiliate ReconTrust Company, N.A., to provide services required to protect the note holder's interest and rights in the property and under the note and security instrument, including any remedies thereunder -- the Default-Related Services. Bank of America, N.A. will assess fees to your loan account for the Default Related Services, including those provided by its affiliate. A schedule of fees that may be charged to your account for Default Related Services is available at the following Web address: <http://www.bankofamerica.com/defaultfees>. If you do not have Internet access, please contact us at 1.800.669.6607 Monday-Friday 7a.m. to 7p.m. Local Time to have a fee schedule mailed to you. The fee schedule contains a list of the common non-state specific Default-Related Services you could be charged, however it does not include a complete list of all fees or charges that could be assessed on your loan account.

As long as your loan remains delinquent, Bank of America, N.A. will conduct inspections of your property on a periodic basis. Our right to conduct these inspections and assess the costs to you is described in your loan documents.



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# Exhibit C

Bank of America



Home Loans

Payoff Department  
Tampa Mail Services  
PO Box 31785  
Tampa, FL 33631-3785



AB 1028 418 000 00068 #01 SP 0.399

MELISSA HIRTHE  
327 W ARMOUR AVE  
MILWAUKEE, WI 53207

## PAYOFF STATEMENT

**Good Through Date and/or  
Proposed Closing Date  
October 31, 2016**

Statement Date  
October 24, 2016

**Bank of America, N.A.**  
Loan No.: [REDACTED] 423-2  
FHA Case# [REDACTED] 9703

**Name & Property Address:**  
Melissa Hirthe  
327 W Armour Ave  
Milwaukee, WI 53207

Escrow # [REDACTED] 8063

**This loan is in Foreclosure.**

The expiration of this payoff statement is the sooner of the above Void After date or the foreclosure sale date.

(FHA)

## PAYOFF CALCULATION

Principal Balance as of 04/01/2016	\$119,906.12
Interest from 04/01/2016 to 10/31/2016	3,322.41
Uncollected Late Charges	87.66
Mortgage Insurance Premium	52.66
Other Amounts Due <sup>2</sup>	368.72
Less: Partial Payment Balance	660.28
<b>Total Amount Required to Release Lien (As of October 31, 2016)</b>	<b>\$123,077.29</b>

<sup>2</sup> Other Amounts Due details can be found in the "Other Amounts Due" table below.**Amended Payoff Statements are sent automatically if the total amount due increases before OCTOBER 31, 2016.**

To provide you with the convenience of an extended 'Statement Void After' date, the Total Amount Due may include estimated fees, costs, additional payments and/or escrow disbursements that will become due prior to the 'Statement Void After' date, but which are not yet due as of the date this Payoff Statement is issued. You will receive a refund if you pay the Total Amount Due and those anticipated fees, expenses, or payments have not been incurred.

## PAYOFF INSTRUCTIONS

Payoff funds must be made payable to **Bank of America, N.A.** and will be accepted by **wire or certified funds only**. They must reference the **Bank of America, N.A. loan number, property address and borrower's name** in the Originator Beneficiary Information (OBI) field of the wire transfer or on the face of the check and must be sent per the instructions below. Failure to do so may cause delays resulting in additional interest due or the return of the funds to the remitter. Certified Funds received after 2 p.m. Central time may be posted the following business day, with the appropriate effective date. **Please submit all payoff funds for CEMA/CO-OP loans via wire payment only, to prevent delays to loan payoff.**

**Send Wire Funds to:**

Beneficiary Bank: Bank of America  
ABA Routing #: 0260-0959-3  
Beneficiary Acct Name: MRC  
MRC Account #12356-19173  
Reference: Melissa Hirthe  
Loan Number: [REDACTED] 423-2

**Mail Certified Funds to:**

Bank of America  
Attention: Payoff Department, Mail Stop TX1-160-06-19  
1950 N Stemmons Fwy, Suite 6020, Dallas InfoMart  
Dallas TX 75207

**Please do not send certified funds to the wire funds instructions above as certified funds must be processed in our Payoff Department.**

The following escrow items may be disbursed prior to our receipt of payoff funds:

ESCROW ACCOUNT INFORMATION	Escrow Item	Last Pmt Date	Last Pmt Amt	Next Due Date
	City Tax	12/16/2015	3,230.39	12/01/2016
	S/T FHA MIP			11/01/2016
	Hzd:Erie Insurance Exchange	12/10/2015	971.00	12/18/2016

Please call 1-800-669-5833 for updated payoff information within 24 hours of submitting funds.

Bank of America, N.A. is required by law to inform you that this communication is from a debt collector. If you are currently in a bankruptcy proceeding or have previously obtained a discharge of this debt under bankruptcy law, **Case 2:16-cv-01517-DEJ Filed 11/14/16 Page 2 of 4 Document 1-3** demand for payment or an attempt to impose personal liability for a discharged debt.

See following page for important information.

Bank of America, N.A.  
Loan No: [REDACTED] 423-2

Statement Date:  
October 24, 2016

Statement Void After:  
October 31, 2016

**YOUR CURRENT ESCROW BALANCE IS \$1,771.11 AND MAY NOT BE USED AS A CREDIT TOWARD PAYOFF. BANK OF AMERICA, N.A. AUTOMATICALLY PROCESSES ESCROW REFUNDS 20 BUSINESS DAYS AFTER PAYOFF IN ORDER TO ENSURE ALL OUTSTANDING FUNDS HAVE CLEARED.**

#### OTHER AMOUNTS DUE DETAILS TABLE<sup>2</sup>

Itemized Fee Description	Total by Itemized Fee Description
Title Fee	325.00
Short Pmt Advance - Interest	43.72
<b>Total Other Amounts Due</b>	<b>\$368.72</b>

**Other Amounts Due Credit Balance** - Due to the occasional timing differences between when transactions are posted to your account and when the payoff statement is generated, a credit may appear on your statement. This credit may or may not be due to you as additional transactions may be posted to your account that will offset this credit. Any such overpayment will be refunded within the required 20 days after the loan is paid in full, if applicable.

#### PAYOFF OVERAGES

If Bank of America, N.A. receives funds greater than the amount required to pay off your loan, we will automatically process the overage within 20 business days after payoff and return the excess amount to you. **If an address change is being submitted on behalf of the borrower, the form must be signed by the borrower for the address change to take effect.**

#### BANKRUPTCY DISCHARGE

If you have received a discharge of this debt in a bankruptcy, you have no personal obligation to repay this debt. However, the lender may still foreclose on your property if the debt is not paid as required by the loan documents. This payoff statement is provided at your request and for your convenience. This is not an attempt to collect a debt that has been discharged, nor a demand for payment.

#### HOMESAVER ADVANCE (HSA) NOTES

For borrowers with a HomeSaver (HSA) Note, please refer to these specific disclosures:

- The HSA note is due and payable in full in the event of a sale or transfer of ownership of the property.
- Payoff of the HSA note is not required to release the first-lien mortgage loan.
- The HSA note must continue to be paid in the event of a refinance.

#### IF YOUR LOAN HAS BEEN MODIFIED UNDER THE HAMP PROGRAM:

Please note that certain modification agreements included a "principal reduction" component, which means that the principal balance of the loan may be reduced if it remained in "good standing" (i.e., less than three months delinquent) at all times during the first three years after the date of the modification (or a proportionate amount for each yearly period of good standing). If: (I) your modification agreement included a principal reduction component **and** (II) you maintained good standing as required under the terms of your modification agreement, your payoff balance has been adjusted to reflect the reduced principal amount you are entitled to. If your payment status changes before the expiration of this payoff statement, and you are no longer in good standing, you will no longer be qualified to receive all of or a portion of the principal reduction amount we have credited you for and your payoff amount will increase. If this occurs, please call us at the number below for an updated payoff figure. After this payoff statement expires, please be sure to request an updated payoff statement. If you have questions, please review the terms of your modification agreement or contact us at 800.451.6362.

#### Prepayment Regulatory Amendment Notice for FHA Insured Mortgages

#### IMPORTANT MESSAGE ABOUT YOUR LOAN

Your October 26, 2016 request for payoff figures or offer to tender an amount to prepay in full your FHA-insured mortgage, which Bank of America, N.A. is servicing was received.

We want to explain the procedure which we will follow to accomplish a full prepayment of your mortgage.

#### WHAT THIS MEANS

We will accept prepayment of your mortgage on any business day of the month. If prepayment is tendered on any day other than the first day of the month, Bank of America, N.A. will charge interest to the first day of the next month.

Unlike principal, which is paid in the current month's mortgage payment, interest earned by the mortgagee the previous month must be paid in the next month's mortgage payment since the interest must be earned by the mortgagee before it is owed by the mortgagor.

The interest being charged to the next installment due date with regard to prepayments is in fact interest that was earned the previous month and has yet to be paid by the mortgagor.

Bank of America, N.A.  
Loan No: [REDACTED] 423-2

Statement Date:  
October 24, 2016

Statement Void After:  
October 31, 2016

Notice: It is to your advantage to arrange the closing or prepayment of your loan so that the prepayment reaches us on the first business day of the month, or as close to the end of the previous month as possible.

#### WHAT YOU NEED TO DO

We review and reconcile each account after payoff and promptly refund any amounts collected in excess of your payoff obligation. FHA/HUD will send any refund or share, to your mailing address on file, once your loan is paid in full. If you need to make alternate arrangements or have any questions regarding this notice, please call us at 800-669-6607.

#### ADDITIONAL INFORMATION

The payoff amount indicated in this statement is subject to change for various reasons, including but not limited to the following:

- We may not have posted a recently submitted payment; **Note:** Please **do not** place a stop payment on any check.
- A fee may be assessed if a payment is returned unpaid by your financial institution for any reason.
- Additional or anticipated fees and costs may be incurred relating to collection, foreclosure, bankruptcy, or other defaults on your loan.
- Adjustments may be required to reflect disbursements made by, or payments owed to, your prior lender if the servicing of your loan was transferred to Bank of America, N.A..
- Late charges may be assessed for delinquent payments received after: 11/16/2016.
- Funds may be deducted from your escrow account to pay taxes, insurance or other escrow items that become due.

# 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**  
**MELISSA HIRTHE**

**(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**  
**BANK OF AMERICA, N.A.**

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

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

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

**VI. CAUSE OF ACTION**

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

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

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

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

DATE: **November 14, 2016** 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

MELISSA HIRTHE

Plaintiff

v.

BANK OF AMERICA, N.A.

Defendant

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Civil Action No. 16-cv-1517

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) BANK OF AMERICA, N.A.
800 Samoset Dr.
Newark, DE 19713

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received 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 plaintiff's attorney, whose name and address are:

John D. Blythin
ADEMI & O'REILLY, LLP
3620 E. LAYTON AVE.
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.

CLERK OF COURT

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

Signature of Clerk or Deputy Clerk

Civil Action No. 16-cv-1517

**PROOF OF SERVICE**

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

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

I left the summons 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 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: [Class Action: Bank of America Breached FDICPA with Collection Letters](#)

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