



6. Each Plaintiff is also a “customer” as defined in the WCA, Wis. Stat. § 421.301(17), in that the alleged debts Defendants sought to collect from Plaintiffs were incurred as a result of a consumer transaction.

7. Defendant Americollect, Inc., (“Americollect”) is a debt collection agency with its principal place of business located at 1851 S Alverno Rd., Manitowoc, WI 54220.

8. Americollect is licensed as a “Collection Agency” under Wis. Stat. § 218.04 and Wis. Admin. Code Ch. DFI-BKG 74.

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

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

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

## **FACTS**

### **Facts Related to Plaintiff Kijek**

12. On or about March 15, 2018, Americollect mailed a debt collection letter to Plaintiff Kijek regarding an alleged debt owed to “WHEATON FRANCISCAN – SAINT FRANCIS” (hereinafter “WFHC”). A copy of this letter is attached as Exhibit A.

13. Upon information and belief, the alleged debts identified in Exhibit A were incurred as the result of a transaction for personal medical services in which payment was deferred by agreement. *See Tylke v. Advanced Pain Mgmt., S.C.*, Case No. 14cv5354 (Milwaukee Co. Cir. Ct., Dec. 11, 2014) (“Any time a merchant sends a bill for goods or services after a consumer transaction has taken place, there is an ‘agreement to defer payment’”).

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

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

16. Upon information and belief, prior to the mailing of Exhibit A, Kijek provided a check in the amount of \$52.00 to Americollect regarding Kijek's WFHC account.

17. Exhibit A states:

TOTAL AMOUNT RECEIVED:	=====	\$52.00
	=====	
PREVIOUS BALANCE ON ALL ACCOUNTS:		\$3,580.83
BALANCE REMAINING ON ALL ACCOUNTS:		\$3,528.83

18. Exhibit A further states:

If payment is made by check, this receipt is not valid until the check clears the bank.

19. Exhibit A is confusing to the unsophisticated consumer.

20. Exhibit A states that the "BALANCE REMAINING ON ALL ACCOUNTS" is "\$3,528.83," but also states that the amount stated "is not valid until the check clears the bank."

21. Exhibit A misstates the actual balance on the date the letter was sent, stating that the balance both is, and is not, \$3,528.83. *See, Chuway v. Nat'l Action Fin. Servs.*, 362 F.3d 944, 946 (7th Cir. 2004) ("The Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692 *et seq.*, requires that any dunning letter by a debt collector as defined by the Act state 'the amount of the debt' that the debt collector is trying to collect.").

22. Plaintiff Kijek was misled, deceived, and confused by Exhibit A.

23. The unsophisticated consumer would be misled, deceived, and confused by Exhibit A.

**Facts Related to Plaintiff Whalen**

24. On or about June 25, 2018, Americollect mailed a debt collection letter to Plaintiff Whalen regarding several alleged debts owed to various creditors. A copy of this letter is attached as Exhibit B.

25. Upon information and belief, the alleged debt identified in Exhibit B was incurred as the result of a transaction for personal medical services in which payment was deferred by agreement.

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

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

28. Exhibit B also provides itemized account details:

PROVIDER/ACCOUNT # ORTHOPAEDIC HOSPITAL OF WISCONSIN ██████████0370	PATIENT WHALEN, THOMAS PT DOB ██████████1984 DATE OF SERVICE: 11/20/2017	BALANCE PRIN: \$1800.00 INT: \$10.85 ACCT TOTAL: \$1810.85
. . .		
IHC WHEATON ANESTHESIA LLC ██████████7873 PROV: ██████████ LOC: WFH SPINE & HEART HOSPIT	WHALEN, THOMAS C PT DOB: ██████████1984 DATE OF SERVICE: 01/22/2016	ACCT TOTAL: \$0.00
COLUMBIA ST MARY COMMUNITY PHY-SMMC ██████████5354	THOMAS WHALEN DATE OF SERVICE: 08/23/2006	ACCT TOTAL: \$0.00

Exhibit B.

29. The reference to the zero-dollar account balances is confusing and misleading to the unsophisticated consumer, who would be unable to determine whether these balances were actually associated with a debt that Americollect was attempting to collect.

30. It is patently unclear from Exhibit B whether these “debts” have been paid in full, referred back to the creditor or some other debt collector, or potentially even written off as past the statute of limitations.

31. The reference is especially misleading and confusing because the “debt” associated with the account number ending in 5354 was allegedly incurred for medical services provided more than ten years ago, and the consumer would undoubtedly be confused about whether the debt had been paid in full and if so why Americollect was including it in Exhibit B.

32. Further, the payment remittance slip in Exhibit B specifically references the 5354 account number alongside a statement that the “AMOUNT DUE” is \$3,773.26:

NO FEES - IF PAYING BY CREDIT CARD, FILL OUT BELOW.		
WE ACCEPT:	<input type="checkbox"/> VISA	<input type="checkbox"/> DISC. VER
CARD NUMBER		EXP. DATE
PLEASE PRINT NAME		
SIGNATURE		
STATEMENT DATE		AMOUNT DUE
06/25/18	5354	\$3,773.26
SHOW AMOUNT PAID HERE	Pay online at: <a href="http://www.americollectpay.com">www.americollectpay.com</a>	
	User ID: z3t	Password: g9

Exhibit B.

33. Plaintiff Whalen was misled, deceived, and confused by Exhibit B.

34. The unsophisticated consumer would be misled, deceived, and confused by Exhibit B.

**The FDCPA**

35. The FDCPA creates substantive rights for consumers; violations cause injury to consumers, and such injuries are concrete and particularized. *Pogorzelski v. Patenaude & Felix APC*, No. 16-C-1330, 2017 U.S. Dist. LEXIS 89678 \*9 (E.D. Wis. June 12, 2017) (“A plaintiff who receives misinformation from a debt collector has suffered the type of injury the FDCPA was intended to protect against.”); *Spuhler v. State Collection Servs.*, No. 16-CV-1149, 2017

U.S. Dist. LEXIS 177631 (E.D. Wis. Oct. 26, 2017) (“As in Pogorzelski, the Spuhlers’ allegations that the debt collection letters sent by State Collection contained false representations of the character, amount, or legal status of a debt in violation of their rights under the FDCPA sufficiently pleads a concrete injury-in-fact for purposes of standing.”); *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).

36. 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”).

37. 15 U.S.C. § 1692e specifically prohibits “any false, deceptive, or misleading representation or means in connection with the collection of any debt.”

38. 15 U.S.C. § 1692e(10) specifically prohibits: “the use of any false representation or deceptive means to collect or attempt to collect any debt....”

### *The WCA*

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

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

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

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

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

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

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

46. Further, the Wisconsin Supreme Court has held that WCA claims relating to debt collection are to be analyzed under the “unsophisticated consumer” standard. *Brunton v. Nuwell Credit Corp.*, 785 N.W.2d 302, 314-15. In *Brunton*, the Wisconsin Supreme Court explicitly



adopted and followed the “unsophisticated consumer” standard, citing and discussing *Gammon v. GC Servs. Ltd. P’ship*, 27 F.3d 1254, 1257 (7th Cir. 1994). *Id.*

47. Wis. Stat. § 427.104(1)(g) states that a debt collector may not: “Communicate with the customer . . . in such a manner as can reasonably be expected to threaten or harass the customer.”

48. Wis. Stat. § 427.104(1)(h) states that a debt collector may not: “Engage in other conduct which can reasonably be expected to threaten or harass the customer . . . .”

49. Wis. Admin. Code § DFI-Bkg 74.16(9) defines such “other conduct” as “including conduct which violates the Federal Fair Debt Collection Practices Act.”

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

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

### **COUNT I - FDCPA**

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

53. Count I is brought on behalf of Plaintiff Kijek.

54. Exhibit A states that the “BALANCE REMAINING ON ALL ACCOUNTS” is “\$3,528.83,” but also states that the amount stated “is not valid until the check clears the bank.”

55. Exhibit A misstates the actual balance on the date the letter was sent, stating that the balance is, and is not, \$3,528.83.

56. Defendant violated 15 U.S.C. §§ 1692e, 1692e(5), 1692e(10), and 1692f.

## **COUNT II - FDCPA**

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

58. Count II is brought on behalf of Plaintiff Whelan.

59. The references to zero-dollar account balances in Exhibit B are patently confusing and misleading to the unsophisticated consumer as to the amount, character, and legal status of the “debt.”

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

## **COUNT III - WCA**

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

62. Count III is brought on behalf of both Plaintiffs.

63. Americollect is licensed as a “Collection Agency” under Wis. Stat. § 218.04 and Wis. Admin. Code Ch. DFI-Bkg. 74.

64. Exhibits A and B violate the FDCPA.

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

## **CLASS ALLEGATIONS**

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

67. Class I 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 A to the complaint in this action, (c) seeking to collect a debt owed to WFHC for personal, family, or household purposes, (d)

between the dates of September 12, 2017 and September 12, 2018, inclusive, (e) that was not returned by the postal service. Plaintiff Kijec is the designated representative for Class I.

68. Class II 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, (c) which sought to collect a debt incurred for personal, family, or household purposes, (d) which stated that the amount of the debt was “\$0.00,” (e) between the dates of September 12, 2017 and September 12, 2018, inclusive, (f) that was not returned by the postal service. Plaintiff Whalen is the designated representative for Class II.

69. The class is so numerous that joinder is impracticable. On information and belief, there are more than 50 members of the class.

70. There are questions of law and fact common to the members of the class, which common questions predominate over any questions that affect only individual class members. The predominant common question is whether Exhibit A and Exhibit B violate the FDCPA and / or the WCA.

71. Plaintiffs’ claims are typical of the claims of the class members. All are based on the same factual and legal theories.

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

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

### **JURY DEMAND**

74. Plaintiffs hereby demand a trial by jury.

**PRAYER FOR RELIEF**

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

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

Dated: September 12, 2018

**ADEMI & O'REILLY, LLP**

By: /s/ Mark A. Eldridge  
John D. Blythin (SBN 1046105)  
Mark A. Eldridge (SBN 1089944)  
Jesse Fruchter (SBN 1097673)  
Ben J. Slatky (SBN 1106892)  
3620 East Layton Avenue  
Cudahy, WI 53110  
(414) 482-8000  
(414) 482-8001 (fax)  
jblythin@ademilaw.com  
meldridge@ademilaw.com  
jfruchter@ademilaw.com  
bslatky@ademilaw.com

# **EXHIBIT A**

Americollect Inc.  
PO Box 1566, Manitowoc WI 54221-1566  
Phone 920-682-0311 info@americollectpay.com  
MasterCard, Discover and Visa Accepted  
This is a communication from a debt collector.

RECEIVED FROM:

D #: [REDACTED] 3270  
DATE: 03/15/2018

DONNA KIJEK  
1501 W CUDAHY AVE  
MILWAUKEE WI 53221

CREDITOR / ACCOUNT CODE	PAYMENT TYPE	RECEIPT	PRSN	AMOUNT
WHEATON FRANCISCAN - SAINT FRANCIS 40001338601 -- BAL:	Check	5191636	LLS	\$52.00
				\$0.68

TOTAL AMOUNT RECEIVED: \$52.00

PREVIOUS BALANCE ON ALL ACCOUNTS: \$3,580.83

BALANCE REMAINING ON ALL ACCOUNTS: \$3,528.83

\*\*\* THANK YOU FOR YOUR PAYMENT \*\*\*

If payment is made by check, this receipt is not valid until the check clears the bank.

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

This list does not contain a complete list of the rights consumers have under state and federal law.

For residents of California: As required by law, you are hereby notified that a negative credit report reflecting on your credit record may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit obligations. The state Rosenthal Fair Debt Collection Practices Act and the federal Fair Debt Collection Practices Act require that, except under unusual circumstances, collectors may not contact you before 8:00a.m. or after 9:00 p.m. They may not harass you by using threats of violence or arrest or by using obscene language. Collectors may not use false or misleading statements or call you at work if they know or have reason to know that you may not receive personal calls at work. For the most part, collectors may not tell another person, other than your attorney or spouse, about your debt. Collectors may contact another person to confirm your location or enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission at 1-877-FTC-HELP or [www.ftc.gov](http://www.ftc.gov). Non profit credit counseling services may be available in the area.

For residents of Colorado: FOR INFORMATION ABOUT THE COLORADO FAIR DEBT COLLECTION PRACTICES ACT, SEE [www.coag.gov/car](http://www.coag.gov/car). A consumer has the right to request in writing that a debt collector or collection agency cease further communication with the consumer. A written request to cease communication will not prohibit the debt collector or collection agency from taking any other action authorized by law to collect the debt. Toll Free Phone Number: 1-800-838-0100 Local Office Information: 950 Spruce Street #1A Louisville, CO 80027 Phone: 1-855-238-8524

For residents of Maine: Toll Free Phone Number: 1-800-838-0100 Business Hours Mon- Fri 7am - 11pm, Sat 8am-5pm CST.

For residents of Massachusetts: NOTICE OF IMPORTANT RIGHTS you have the right to make a written or oral request that telephone calls regarding your debt not be made to you at your place of employment. Any such oral request will be valid for only ten days unless you provide written confirmation of the request postmarked or delivered within seven days of such request. You may terminate this request by writing to the debt collector. Business Hours Mon- Fri 7am - 11pm, Sat 8am-5pm CST.

For residents of Minnesota: This collection agency is licensed by the Minnesota Department of Commerce. If this debt is healthcare related and you feel that your concerns have not been addressed, please contact Americollect, Inc. and allow us the opportunity to try and address your concerns. Or, you have the option to address any concerns with the Minnesota Attorney Generals Office, which can be reached at 651-296-3353 or 1-800-657-3787.

For Residents of New York City: New York City Department of Consumer Affairs License Number 1427504.

For residents of North Carolina: Our permit number is 107992 Americollect Inc 1851 S. Alverno RD PO Box 1566 Manitowoc WI 54221.

For Residents of Tennessee: This collection agency is licensed by the Collection Service Board of the Department of Commerce and Insurance.

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

For residents of Wisconsin: This collection agency is licensed by the Division of Banking in the Wisconsin Department of Financial Institutions, [www.wdfi.org](http://www.wdfi.org)

Please mail your written disputes to Americollect, Inc., Attn: Dispute Resolutions Team, PO BOX 1596, Manitowoc WI 54221-1596.


# Exhibit B



PO BOX 1690  
MANITOWOC, WI 54221-1690

CHECK BY  
PHONE  
NO FEES  
LiveChat

**NO FEES - IF PAYING BY CREDIT CARD, FILL OUT BELOW.**

WE ACCEPT:  VISA    DISC. VER.

CARD NUMBER: \_\_\_\_\_ EXP. DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_

PLEASE PRINT NAME: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

STATEMENT DATE: 06/25/18 AMOUNT DUE: \$3,773.26

SHOW AMOUNT PAID HERE: \_\_\_\_\_

Pay online at: [www.americollectpay.com](http://www.americollectpay.com)  
User ID: [redacted]z3t Password: [redacted]kg9

**PLEASE MAKE CHECKS PAYABLE AND SEND TO:**

**ADDRESSEE**

06/25/18 - 41HV



Thomas Whalen  
7631 W Morgan Ave Apt 1  
Milwaukee, WI 53220-1173



AMERICOLLECT, INC  
PO BOX 1566  
MANITOWOC, WI 54221-1566

Please check box if address or phone number has changed and indicate on back.

Detach upper portion and return with payment

**YOUR BALANCE IS PAST DUE**

Please call us toll free at: 1-855-385-0585  
We accept checks over the phone or pay by credit card!  
No processing fees for checks or credit cards.



Previously you were sent a validation notice.

Call our direct line 920-686-8891 or 1-855-385-0585 if you have any questions.

PROVIDER/ACCOUNT #	PATIENT	BALANCE
ORTHOPAEDIC HOSPITAL OF WISCONSIN [redacted]0370	WHALEN, THOMAS PT DOB: [redacted]1984 DATE OF SERVICE: 11/20/2017	PRIN: \$1800.00 INT: \$10.85 ACCT TOTAL: \$1810.85
ORTHOPAEDIC HOSPITAL OF WISCONSIN [redacted]9852	WHALEN, THOMAS PT DOB: [redacted]1984 DATE OF SERVICE: 09/21/2017	PRIN: \$397.32 INT: \$5.39 ACCT TOTAL: \$402.71
FROEDTERT MEMORIAL LUTHERAN HOSP [redacted]3010 PROV: [redacted] LOC: FH - FROEDTERT HOSPITAL	WHALEN THOMAS, C PT DOB: [redacted]1984 DATE OF SERVICE: 05/27/2017	PRIN: \$542.36 ACCT TOTAL: \$542.36
AURORA HEALTH CARE [redacted]0294 AURORA ADVANCED HEALTHCARE GOOD HOPE ROAD CLINIC	WHALEN, THOMAS C PT DOB: [redacted]1984 DATE OF SERVICE: 08/02/2017	PRIN: \$33.88 ACCT TOTAL: \$33.88
AURORA HEALTH CARE [redacted]5603 PB AURORA ST LUKES MEDICAL CENTER	WHALEN, THOMAS C PT DOB: [redacted]1984 DATE OF SERVICE: 08/18/2017	PRIN: \$23.15 ACCT TOTAL: \$23.15

This is a communication from a debt collector.

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

To report complaints about Americollect please email [complaint@americollectpay.com](mailto:complaint@americollectpay.com) or call 1-855-238-8524.

**\*\* NOTICE - SEE REVERSE SIDE FOR IMPORTANT INFORMATION \*\***

AMERICOLLECT, INC  
1851 S ALVERNO RD  
MANITOWOC, WI 54221-1566 | 1-855-385-0585  
[info@americollectpay.com](mailto:info@americollectpay.com)  
Call us CST Mon-Fri 7AM-11PM, Sat 8AM-5PM  
Hablamos Español 877-563-5741

**AMOUNT DUE** **\$3,773.26**

LiveChat Pay online at: [www.americollectpay.com](http://www.americollectpay.com)  
User ID: [redacted]z3t Password: [redacted]kg9

Name \_\_\_\_\_  
Address \_\_\_\_\_  
City/State/Zip \_\_\_\_\_  
Phone (1) \_\_\_\_\_  
Phone (2) \_\_\_\_\_  
Email \_\_\_\_\_

We are required under state law to notify consumers of the following rights. This list does not contain a complete list of the rights consumers have under state and federal law.

If you are sending a written dispute, please mail it to Americollect, Inc., Attn: Dispute Resolution Team, PO Box 1596, Manitowoc WI 54221.

**For residents of Wisconsin:** This collection agency is licensed by the Division of Banking in the Wisconsin Department of Financial Institutions, [www.wdfi.org](http://www.wdfi.org).

PROVIDER/ACCOUNT #	PATIENT	BALANCE
AURORA HEALTH CARE [REDACTED] 1472 AURORA MEDICAL GROUP WEST ALLIS WOMEN'S PAVILION	WHALEN, THOMAS C PT DOB: [REDACTED] 1984 DATE OF SERVICE: 09/20/2017	PRIN: \$22.25 ACCT \$22.25 TOTAL:
AURORA HEALTH CARE [REDACTED] 9604 PB AURORA WEST ALLIS MEDICAL CENTER	WHALEN, THOMAS C PT DOB: [REDACTED] 1984 DATE OF SERVICE: 10/02/2017	PRIN: \$73.94 ACCT \$73.94 TOTAL:
AURORA HEALTH CARE [REDACTED] 7473 AURORA MEDICAL GROUP WA FIREHOUSE SQUARE	WHALEN, THOMAS C PT DOB: [REDACTED] 1984 DATE OF SERVICE: 10/02/2017	PRIN: \$125.23 ACCT \$125.23 TOTAL:
AURORA HEALTH CARE [REDACTED] 2924 PROV: [REDACTED] AURORA ST LUKES MEDICAL CENTER	WHALEN, THOMAS C PT DOB: [REDACTED] 1984 DATE OF SERVICE: 08/18/2017	PRIN: \$96.19 ACCT \$96.19 TOTAL:
AURORA HEALTH CARE [REDACTED] 7308 PROV: [REDACTED] AURORA WEST ALLIS MEDICAL CENTER	WHALEN, THOMAS C PT DOB: [REDACTED] 1984 DATE OF SERVICE: 10/02/2017	PRIN: \$642.70 ACCT \$642.70 TOTAL:
IHC WHEATON ANESTHESIA LLC [REDACTED] 7873 PROV: [REDACTED] LOC: WFH SPINE & HEART HOSPIT	WHALEN, THOMAS C PT DOB: [REDACTED] 1984 DATE OF SERVICE: 01/22/2016	ACCT \$0.00 TOTAL:
COLUMBIA ST MARY COMMUNITY PHY-SMMC [REDACTED] 5354	THOMAS WHALEN DATE OF SERVICE: 08/23/2006	ACCT \$0.00 TOTAL:

This is a communication from a debt collector.

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

To report complaints about Americollect please email [complaint@americollectpay.com](mailto:complaint@americollectpay.com) or call 1-855-238-8524.

AMERICOLLECT, INC  
1851 S ALVERNO RD  
MANITOWOC, WI 54221-1566 | 1-855-385-0585  
[info@americollectpay.com](mailto:info@americollectpay.com)  
Call us CST Mon-Fri 7AM-11PM, Sat 8AM-5PM  
**Hablamos Español 877-563-5741**

**AMOUNT DUE \$3,773.26**

LiveChat

Pay online at: [www.americollectpay.com](http://www.americollectpay.com)  
User ID: [REDACTED]z3t Password: [REDACTED]kg9

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# 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**  
**DONNA KIJEK and THOMAS WHALEN**

**(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**  
**AMERICOLLECT, INC.**

County of Residence of First Listed Defendant \_\_\_\_\_  
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

1 U.S. Government Plaintiff  3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant  4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated <i>or</i> Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated <i>and</i> Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	

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

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

**VI. CAUSE OF ACTION**

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

Brief description of cause:  
 Violation of Fair Debt Collection Practices Act and Wisconsin Consumer Act

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

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

DATE: September 12, 2018 SIGNATURE OF ATTORNEY OF RECORD: /s/ Mark A. Eldridge



## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

### Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

**I. (a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

**II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

**III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

**IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

**V. Origin.** Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

**VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553

Brief Description: Unauthorized reception of cable service

**VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

**VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

UNITED STATES DISTRICT COURT
for the
Eastern District of Wisconsin

DONNA KIJECK and THOMAS WHALEN

Plaintiff(s)

v.

AMERICOLLECT, INC.

Defendant(s)

Civil Action No. 18-cv-1428

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) AMERICOLLECT, INC.
c/o KENLYN T GRETZ
1851 S ALVERNO RD
PO BOX 1566
MANITOWOC, WI 54221-1566

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you receive it) – or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12(a)(2) or (3) – you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or the plaintiff's attorney, whose name and address are:

John D. Blythin
Ademi & O'Reilly, LLP
3620 East Layton Avenue
Cudahy, WI 53110

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

STEPHEN C. DRIES, CLERK OF COURT

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

Signature of Clerk or Deputy Clerk

**PROOF OF SERVICE**

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

This summons and the attached complaint for *(name of individual and title, if any)*:

\_\_\_\_\_ were received by me on *(date)* \_\_\_\_\_.

I personally served the summons and the attached complaint on the individual at *(place)*:

\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons and the attached complaint at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_, a person of suitable age and discretion who resides there, on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons and the attached complaint on *(name of individual)* \_\_\_\_\_ who is designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify)*: \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00

I declare under penalty of perjury that this information is true.

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

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.:



# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Americollect Sued Over Allegedly Misleading Letters Indicating Multiple Debt Balances](#)

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