

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

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DENNIS ROBBINS, on behalf of	:	Civil Action No.: 3:18-cv-654
himself and others similarly situated,	:	
	:	<u>COMPLAINT - - CLASS ACTION</u>
	:	
Plaintiff,	:	
	:	JURY TRIAL DEMANDED
v.	:	
	:	
MIDLAND CREDIT MANAGEMENT,	:	
INC.,	:	
	:	
Defendant.	x	
_____		

NATURE OF ACTION

1. This is a class action brought under the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692 *et seq.*, for the benefit of Pennsylvania consumers who have been the subject of debt collection efforts by Midland Credit Management, Inc. ("Defendant").

2. Congress enacted the FDCPA in 1977 to "eliminate abusive debt collection practices by debt collectors," 15 U.S.C. § 1692(e), and in response to "abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many debt collectors," which Congress found to have contributed "to the number of personal bankruptcies, to marital

instability, to the loss of jobs, and to invasions of individual privacy.” 15 U.S.C. § 1692(a).

3. As the Consumer Financial Protection Bureau (“CFPB”)—the federal agency tasked with enforcing the FDCPA—explained, “[h]armful debt collection practices remain a significant concern today. In fact, the CFPB receives more consumer complaints about debt collection practices than about any other issue.”<sup>1</sup>

4. And over one-third of those complaints received by the CFPB involved debt collectors’ attempts to collect debts that consumers did not owe.<sup>2</sup>

5. To combat this serious problem in the debt collection industry, the FDCPA requires debt collectors to send consumers “validation notices” containing certain information about their alleged debts and consumers’ rights. 15 U.S.C. § 1692g(a).

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<sup>1</sup> See Brief for the CFPB as Amicus Curiae, ECF No. 14, p. 2, *Hernandez v. Williams, Zinman, & Parham, P.C.*, No. 14-15672 (9th Cir. Aug. 20, 2014), [http://www.ftc.gov/system/files/documents/amicus\\_briefs/hernandez-v.williams-zinman-parham-p.c./140821briefhernandez1.pdf](http://www.ftc.gov/system/files/documents/amicus_briefs/hernandez-v.williams-zinman-parham-p.c./140821briefhernandez1.pdf)

<sup>2</sup> See Consumer Financial Protection Bureau, *Fair Debt Collection Practices Act—CFPB Annual Report 2016* at 16-17 (2016), <https://www.consumerfinance.gov/data-research/research-reports/fair-debt-collection-practices-act-annual-report-2016/>.

6. A debt collector must send this notice “[w]ithin five days after the initial communication with a consumer in connection with the collection of any debt,” unless the required information was “contained in the initial communication or the consumer has paid the debt.” *Id.*, § 1692g(a).

7. Congress adopted “the debt validation provisions of section 1692g” to guarantee that consumers would receive “adequate notice” of their rights under the FDCPA. *Wilson v. Quadramed Corp.*, 225 F.3d 350, 354 (3d Cir. 2000).

8. As noted by the CFPB and the Federal Trade Commission, the validation requirement was a “significant feature” of the law that aimed to “eliminate the recurring problem of debt collectors dunning the wrong person or attempting to collect debts which the consumer has already paid.” *Hernandez v. Williams, Zinman & Parham PC*, 829 F.3d 1068, 1070 (9th Cir. 2016) (citing S. Rep. No. 95-382, at 4 (1977)).

9. Pertinent here, the validation notice must advise the consumer 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. 15 U.S.C. § 1692g(a)(3).

10. In this Circuit, “any dispute, to be effective, must be in writing.” *Graziano v. Harrison*, 950 F.2d 107, 112 (3d Cir. 1991).

11. Further, “[i]n order to comply with the requirements of section 1692g, more is required than the mere inclusion of the statutory debt validation notice in the debt collection letter—the required notice must also be conveyed effectively to the debtor.” *Wilson*, 225 F.3d at 354 (3d Cir. 2000).

12. As a result, an initial debt collection letter sent to a consumer in Pennsylvania that would lead the least sophisticated consumer to reasonably believe that he could effectively dispute the validity of debt by making a telephone call is deceptive, and thus violates the FDCPA. *See Caprio v. Healthcare Recovery Group, LLC*, 709 F.3d 142, 152 (3d Cir. 2013) (“We therefore conclude that the Collection Letter was deceptive because it can be reasonably read to have two or more different meanings, one of which is inaccurate, i.e., that Caprio could dispute the debt by making a telephone call.”).<sup>3</sup>

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<sup>3</sup> Internal citations and quotations are omitted.

## PARTIES

13. Dennis Robbins (“Plaintiff”) is a natural person who at all relevant times resided in Wayne County, Pennsylvania.

14. Plaintiff is obligated, or allegedly obligated, to pay a debt owed or due, or asserted to be owed or due, a creditor other than Defendant.

15. Plaintiff’s obligation, or alleged obligation, owed or due, or asserted to be owed or due, arises from a transaction in which the money, property, insurance, or services that are the subject of the transaction were incurred primarily for personal, family, or household purposes—namely, a Synchrony Bank/Mytireshop account (the “Debt”).

16. Plaintiff is a “consumer” as defined by 15 U.S.C. § 1692a(3).

17. Defendant is a consumer debt collection agency based in San Diego, California.

18. Defendant is an entity that at all relevant times was engaged, by use of the mails and telephone, in the business of attempting to collect the Debt from Plaintiff, as defined by 15 U.S.C. § 1692a(5).

19. Upon information and belief, at the time Defendant attempted to collect the Debt from Plaintiff, the Debt was in default, or Defendant

treated the Debt as if it was in default from the time that Defendant acquired it for collection.

20. Defendant uses instrumentalities of interstate commerce or the mails in a business the principal purpose of which is the collection of any debts, and/or to regularly collect or attempt to collect, directly or indirectly, debts owed or due, or asserted to be owed or due, another.

21. Defendant is a “debt collector” as defined by the FDCPA, 15 U.S.C. § 1692a(6).

#### **JURISDICTION AND VENUE**

22. This Court has jurisdiction pursuant to 15 U.S.C. § 1692k(d) and 28 U.S.C. § 1331.

23. Venue is proper before this Court pursuant to 28 U.S.C. § 1391(b), where a substantial part of the events or omissions giving rise to the claim occurred in this district, and where Defendant conducts business in this district.

#### **FACTUAL ALLEGATIONS**

24. On or about October 25, 2017, Defendant sent an initial written communication to Plaintiff in connection with the collection of the Debt.

25. A true and correct copy of the October 25, 2017 written communication is attached as Exhibit A.

26. The October 25, 2017 communication was the first communication Plaintiff received from Defendant in connection with the Debt.

27. Plaintiff did not receive any additional written communications from Defendant within five days of the October 25, 2017 communication.

28. The October 25, 2017 communication advised Plaintiff that the Debt was sold to Midland Funding LLC, and that Defendant would be collecting, and servicing the Debt. *See Ex. A.*

29. The October 25, 2017 communication then advised Plaintiff that Defendant wanted the opportunity to discuss with Plaintiff flexible payments options to resolve the Debt. *Id.*

30. On the back of the October 25, 2017 communication, under a heading titled "Important Disclosure Information" and a subheading titled "Important Contact Information," Defendant advised Plaintiff:

Send disputes or an instrument tendered  
as full satisfaction of a debt to:  
Attn: Consumer Support Services  
2365 Northside Drive Suite 300  
San Diego, CA 92108  
You may also call (855) 977-1969

*Id.*

31. The October 25, 2017 communication also advised Plaintiff:

Unless you notify MCM within thirty (30) after receiving this notice that you dispute the validity of the debt, or any portion thereof, MCM will assume this debt to be valid. If you notify MCM, in writing, within thirty (30) days after receiving this notice that the debt, or any portion thereof, is disputed, MCM will obtain verification of the debt or a copy of a judgment (if there is a judgment) and MCM will mail you a copy of such verification or judgment. If you request, in writing, within thirty (30) after receipt of this notice, MCM will provide you the name and address of the original creditor.

*Id.*

### CLASS ACTION ALLEGATIONS

32. Plaintiff brings this action as a class action pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(3) on behalf of a class consisting of:

All persons (a) with a Pennsylvania address, (b) to whom Midland Credit Management, Inc., (c) within one year before the date of this complaint, (d) in connection with the collection of a consumer debt, (e) mailed an initial debt collection communication not returned to Midland Credit Management, Inc. as undeliverable (f) that stated “[s]end disputes or an instrument tendered as full satisfaction of a debt to: Attn: Consumer Support Services, 2365 Northside Drive Suite 300, San Diego, CA 92108, You may also call (855) 977-1969.

33. Excluded from the class is Defendant, its officers and directors, members of their immediate families and their legal representatives, heirs,



successors, or assigns, and any entity in which Defendant has or had controlling interests.

34. The proposed class satisfies Rule 23(a)(1) because, upon information and belief, it is so numerous that joinder of all members is impracticable.

35. The exact number of class members is unknown to Plaintiff at this time and can only be determined through appropriate discovery.

36. The proposed class is ascertainable because it is defined by reference to objective criteria.

37. In addition, and upon information and belief, the names and addresses of all members of the proposed class can be identified in business records maintained by Defendant.

38. The proposed class satisfies Rules 23(a)(2) and 23(a)(3) because Plaintiff's claims are typical of the claims of the members of the class.

39. To be sure, the claims of Plaintiff and all members of the class originate from the same conduct, practice and procedure on the part of Defendant, and Plaintiff possesses the same interests and has suffered the same injuries as each member of the proposed class.

40. Plaintiff satisfies Rule 23(a)(4) because he will fairly and adequately protect the interests of the members of the class and has retained counsel experienced and competent in class action litigation.

41. Plaintiff has no interests that are irrevocably contrary to or in conflict with the members of the class that he seeks to represent.

42. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy, since joinder of all members is impracticable.

43. Furthermore, as the damages suffered by individual members of the class may be relatively small, the expense and burden of individual litigation make it impracticable for the members of the class to individually redress the wrongs done to them.

44. There will be no extraordinary difficulty in the management of this action as a class action.

45. Issues of law and fact common to the members of the class predominate over any questions that may affect only individual members, in that Defendant has acted on grounds generally applicable to the class. Among the issues of law and fact common to the class are:

- a. Defendant's violations of the FDCPA as alleged herein;

- b. Whether Defendant is a debt collector as defined by the FDCPA;
- c. the availability of statutory penalties; and
- d. the availability of attorneys' fees and costs.

**COUNT I: VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT, 15 U.S.C. § 1692g(b)**

46. Plaintiff repeats and re-alleges each and every factual allegation contained in paragraphs 1 through 45.

47. The FDCPA at 15 U.S.C. § 1692g(b) provides, in pertinent part:

If the consumer notifies the debt collector in writing within the thirty-day period described in subsection (a) that the debt, or any portion thereof, is disputed, or that the consumer requests the name and address of the original creditor, the debt collector shall cease collection of the debt, or any disputed portion thereof, until the debt collector obtains verification of the debt or a copy of a judgment, or the name and address of the original creditor, and a copy of such verification or judgment, or name and address of the original creditor, is mailed to the consumer by the debt collector. Collection activities and communications that do not otherwise violate this subchapter may continue during the 30-day period referred to in subsection (a) unless the consumer has notified the debt collector in writing that the debt, or any portion of the debt, is disputed or that the consumer requests the name and address of the original creditor. *Any collection activities and communication during the 30-day period may not overshadow or be inconsistent with the disclosure of the consumer's right to dispute the debt or request the name and address of the original creditor.*

(emphasis added).

48. “For example, a collection letter will not meet the requirements of the Act where the validation notice is printed on the back and the front of the letter does not contain any reference to the notice, or one in which the validation notice is overshadowed or contradicted by accompanying messages or notices from the debt collector.” *Wilson*, 225 F.3d at 355.

49. Moreover, a collection letter “is deceptive when it can be reasonably read to have two or more different meanings, one of which is inaccurate.” *Russell v. Equifax A.R.S.*, 74 F.3d 30, 35 (2d Cir. 1996).

50. Here, on the back of the October 25, 2017 communication, under a heading titled “Important Disclosure Information” and a subheading titled “Important Contact Information,” Defendant advised Plaintiff:

Send disputes or an instrument tendered  
as full satisfaction of a debt to:  
Attn: Consumer Support Services  
2365 Northside Drive Suite 300  
San Diego, CA 92108  
You may also call (855) 977-1969

51. As a result, the October 25, 2017 communication can be reasonably read two have two different meanings: (1) that Plaintiff could dispute the Debt in writing by mailing his dispute to the address provided, or

(2) that Plaintiff could call telephone number (855) 977-1969 to dispute the Debt.

52. But in this Circuit, to be effective, a dispute of a debt must be made in writing. *Graziano*, 950 F.2d at 112.

53. As a result, Defendant's October 25, 2017 communication was deceptive because it could be reasonably read to have two or more different meanings, one of which is inaccurate—to wit, that Plaintiff could legally dispute the debt by making a telephone call. *See Caprio*, 709 F.3d at 152.

54. The risk that a consumer will make a telephone call to Defendant to dispute a debt is heightened by the front of the October 25, 2017 communication, which advised Plaintiff that Defendant wanted the opportunity to discuss with Plaintiff flexible payments options to resolve the Debt.

55. Therefore, Defendant violated 15 U.S.C. § 1692g(b)

56. The harm suffered by Plaintiff is particularized in that the violative October 25, 2017 communication was sent to him personally, regarded his personal obligation, and failed to give him statutorily-mandated disclosures to which he was entitled.

57. “Section 1692g furthers th[e] purpose [of protecting debtors from abusive debt collection activity] by requiring a debt collector who solicits payment from a consumer to provide that consumer with a detailed validation notice, which allows a consumer to confirm that he owes the debt sought by the collector before paying it.” *Papetti v. Does 1-25*, 691 F. App’x 24, 26 (2d Cir. 2017).

58. And the content of the October 25, 2017 communication created a material risk of harm to the concrete interest Congress was trying to protect in enacting the FDCPA. *See, e.g., Ziogiannis v. Seterus, Inc.*, No. 17-140-cv, 2017 WL 4005008, at \*2 (2d Cir. Sep. 12, 2017) (concluding “that the specific procedural violation alleged in the amended complaint presents a material risk of harm to the underlying concrete interest Congress sought to protect with the FDCPA”).

59. Specifically, 15 U.S.C. § 1692g(b) provides that:

If the consumer notifies the debt collector in writing within the thirty-day period described in subsection (a) that the debt, or any portion thereof, is disputed, or that the consumer requests the name and address of the original creditor, the debt collector shall cease collection of the debt, or any disputed portion thereof, until the debt collector obtains verification of the debt or a copy of a judgment, or the name and address of the original creditor, and a copy of such verification or judgment, or name and address of the original creditor, is mailed to the consumer by the debt collector.

60. But where a debt collector implies that a dispute can be made by telephone—as Defendant did here—the least sophisticated consumer will be unaware that such an oral dispute will be ineffective in this Circuit and would then be unlikely to avail himself of the protections afforded by subsection 1692g(b) by disputing the debt in writing.

61. The October 25, 2017 communication therefore created a material risk that Plaintiff would understand, incorrectly, that he could invoke his federal rights to dispute a debt by making a telephone call. *See Hartman v. Medicredit, Inc.*, Civil Action No. 15-1596, 2016 WL 7669858, at \*3 (W.D. Pa. Dec. 20, 2016), report and recommendation adopted, 2017 WL 90383 (W.D. Pa. Jan. 10, 2017) (ruling that the plaintiff had standing because a violation of substantive FDCPA right was a concrete and particularized injury, as required under *Spokeo*); *Daubert v. Nra Grp., LLC*, Civil Action No. 3:15-CV-00718, 2016 WL 4245560, at \*4 (M.D. Pa. Aug. 11, 2016) (indicating that plaintiff's allegation of a FDCPA violation presented a concrete and particularized injury following *Spokeo*)

62. In addition, Defendant's actions invaded a specific private right created by Congress, and the invasion of said right creates the risk of real

harm. *See Church v. Accretive Health, Inc.*, 654 F. App'x 990, 995 (11th Cir. 2016).

**WHEREFORE**, Plaintiff respectfully requests relief and judgment as follows:

a. Determining that this action is a proper class action under Rule 23 of the Federal Rules of Civil Procedure;

b. Adjudging and declaring that Defendant violated 15 U.S.C. § 1692g(b).

c. Awarding Plaintiff and members of the class statutory damages pursuant to 15 U.S.C. § 1692k;

d. Awarding members of the class any actual damages incurred, as applicable, pursuant to 15 U.S.C. § 1692k;

e. Awarding Plaintiff and members of the class their reasonable costs and attorneys' fees incurred in this action, including expert fees, pursuant to 15 U.S.C. § 1692k and Rule 23 of the Federal Rules of Civil Procedure;

f. Awarding Plaintiff and members of the class any pre-judgment and post-judgment interest as may be allowed under the law; and



g. Awarding other and further relief as the Court may deem just and proper.

**TRIAL BY JURY**

Plaintiff is entitled to and hereby demands a trial by jury.

Dated: March 23, 2018

Respectfully submitted,

/s/ James L. Davidson

James L. Davidson\*

FL Bar No. 723371

Greenwald Davidson Radbil PLLC

5550 Glades Road, Suite 500

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Tel: (561) 826-5477

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Counsel for Plaintiff and the proposed class

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druggieroesq@hotmail.com

Associate Counsel for Plaintiff and the proposed class

\* to seek admission pro hac vice

**EXHIBIT "A"**

EXHIBIT "A"


# Welcome,

Your account has a new home.

**mcm** Midland Credit Management, Inc.  
2365 Northside Drive, Suite 300  
San Diego, CA 92108

0-25-2017

Dennis Robbins  
[Redacted]

P0T1:9 010 



## Account Transfer Details

Original Creditor	Synchrony Bank
Original Account Number	[Redacted]
Current Servicer	Midland Credit Management, Inc.
MCM Account Number	[Redacted]
Current Owner	Midland Funding LLC
Current Balance	\$741.96

Flexible Payment Options Available  
(855) 977-1969

RE Synchrony Bank Mytireshop

Dear Dennis,

Welcome! On 08-28-2017, your Synchrony Bank/Mytireshop account was sold to Midland Funding LLC, which is now the sole owner of this debt. Midland Credit Management, Inc. ("MCM"), a debt collection company, will be collecting on, and servicing your account, on behalf of Midland Funding LLC.

To welcome you to MCM, we'd like to offer you an opportunity to discuss flexible payment options to resolve this account.

- MCM is a different kind of debt collector. Here is what to expect:
- A dedicated Account Manager will be assigned to your account
  - We will reach out to you by phone and mail over the months to come.
  - Useful tools and resources online at [midlandcreditonline.com](http://midlandcreditonline.com)



MCM, a partner you can trust.

We value your experience and understand that managing debt can be a difficult process!

That is why we set standards for how you are to be treated while working with us. Visit [www.midlandcreditonline.com](http://www.midlandcreditonline.com) to learn about our Consumer Bill of Rights or call (855) 977-1969 to experience the difference for yourself.

Sincerely,  
*Tim Bolin*  
Tim Bolin, Division Manager

P.S. Any discounts or repayment options do not alter your validation rights as described on the reverse side.

### Account at a Glance

Current Balance  
**\$741.96**

Flexible Payment Options  
Available

Receive Personalized Service

Reply by

**12-09-2017**

Call (855) 977-1969

Sun-Th: 5am-9pm PT;

Fri-Sat: 5am-4:30pm PT;

[midlandcreditonline.com](http://midlandcreditonline.com)

the  
not pr.  
any other.

**Important Disclosure Information:**

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

Calls to and/or from the company may be monitored or recorded.

**Basic Information**

Original Creditor	Synchrony Bank	Current Creditor	Midland Funding LLC
Original Account Number	[REDACTED]	Current Servicer	Midland Credit Management, Inc.
Charge-Off Date	07-02-2017	MCM Account Number	[REDACTED]

**Important Contact Information**

<p><u>Send Payments to:</u> Midland Credit Management, Inc P.O. Box 60578 Los Angeles, CA 90060-0578</p>	<p><u>Send disputes or an instrument tendered as full satisfaction of a debt to:</u> Attn: Consumer Support Services 2365 Northside Drive Suite 300 San Diego, CA 92108 You may also call (855) 977-1969</p>	<p><u>Physical Payments for Colorado Residents:</u> 80 Garden Center Suite 3 Broomfield, CO 80020 Phone (303) 920-4763</p>
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The records associated with the Synchrony Bank account purchased by Midland Funding LLC, reflect that you are obligated on this account, which is in default. As the owner of this account, but subject to the rights described below, Midland Funding LLC is entitled to payment of this account. All communication regarding this account should be addressed to MCM and not the previous owner.

Unless you notify MCM within thirty (30) days after receiving this notice that you dispute the validity of the debt, or any portion hereof, MCM will assume this debt to be valid. If you notify MCM, in writing, within thirty (30) days after receiving this notice that the debt, or any portion thereof, is disputed, MCM will obtain verification of the debt or a copy of a judgment (if there is a judgment) and MCM will mail you a copy of such verification or judgment. If you request, in writing, within thirty (30) days after receiving this notice, MCM will provide you with the name and address of the original creditor.

If an attorney represents you with regard to this debt, please refer this letter to your attorney. Likewise, if you are involved in an active bankruptcy case, or if this debt has been discharged in a bankruptcy case, please refer this letter to your bankruptcy attorney so that we may be notified.

Please remember, even if you make a payment within thirty (30) days after receiving this notice, you still have the remainder of the thirty (30) days to exercise the rights described above.

If your payment method is a credit or debit card, it may be processed through our international card processor. Although our policy is to not charge consumers fees based upon their payment method, your card issuer may elect to do so due to the location of the card processor. If an international transaction fee has been charged by your card issuer, that fee is eligible for reimbursement. You may contact your Account Manager to modify your payment method to avoid these charges in the future and for information to initiate your reimbursement.

You are hereby notified that a negative report on your credit record may be submitted to a credit reporting agency if you fail to meet the terms of your credit obligations.

You are required under state law to notify consumers of the following additional rights. This list does not contain a complete list of the rights consumers have under applicable law:

**IF YOU LIVE IN CALIFORNIA, THIS APPLIES TO YOU: PLEASE SEE ATTACHED SHEET FOR IMPORTANT DISCLOSURE INFORMATION.**

**IF YOU LIVE IN MINNESOTA, THIS APPLIES TO YOU:** This collection agency is licensed by the Minnesota Department of Commerce.

**IF YOU LIVE IN COLORADO, THIS APPLIES TO YOU:** For more 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 prohibit the debt collector or collection agency from taking further action.

**IF YOU LIVE IN NEW YORK CITY, THIS APPLIES TO YOU:** New York City Department of Consumer Affairs License Number 1140603, 1207829, 1207820, 1227728, 2022587, 2023151, 2023152, 2027429, 2027430, 2027431

**IF YOU LIVE IN NORTH CAROLINA, THIS APPLIES TO YOU:**

**CIVIL COVER SHEET**

3:18-cv-654

JS 44 (Rev. 06/17)

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 NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

Dennis Robbins

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

(c) Attorneys (Firm Name, Address, and Telephone Number)

James L. Davidson, Greenwald Davidson Radbil PLLC, 5550 Glades Road, Suite 500, Boca Raton, FL 33431, (561) 826-5477

**DEFENDANTS**

Midland Credit Management, Inc.

County of Residence of First Listed Defendant San Diego County  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF 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 or 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 and 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)

Click here for: Nature of Suit Code Descriptions.

<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability		<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 720 Labor/Management Relations	<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 751 Family and Medical Leave Act		<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability		<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL PROPERTY</b>	<input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>HABES CORPUS:</b>		<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 865 RSI (405(g))	<input checked="" type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 530 General		<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 535 Death Penalty		<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<b>Other:</b>			<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 540 Mandamus & Other			<input type="checkbox"/> 896 Arbitration
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 448 Education	<input type="checkbox"/> 550 Civil Rights			<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
<input type="checkbox"/> 290 All Other Real Property		<input type="checkbox"/> 555 Prison Condition			<input type="checkbox"/> 950 Constitutionality of State Statutes
		<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**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 - Transfer
- 8 Multidistrict Litigation - Direct File

**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

Brief description of cause:

Violation of the Fair Debt Collection Practices Act

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint:  
JURY DEMAND:  Yes  No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

03/23/2018

/s/ James L. Davidson

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

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

## Authority For Civil Cover Sheet

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

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.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; NOTE: 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 there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- 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 – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- 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 actual dollar amount 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.

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [MCM Accused of Miscommunicating Consumer's Debt Dispute Rights](#)

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