

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN**

Autumn Thillen, individually and on	)	
behalf of all others similarly situated,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 3:18-cv-1022
	)	
Professional Recovery Personnel, Inc.,	)	
a Minnesota corporation,	)	
	)	
Defendant.	)	<u>Jury Demanded</u>

**CLASS ACTION COMPLAINT**

Plaintiff, Autumn Thillen, individually and on behalf of all others similarly situated, brings this action under the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA"), for a finding that Defendant's form debt collection letter violated the FDCPA, and to recover damages, and alleges:

**JURISDICTION AND VENUE**

1. This Court has jurisdiction pursuant to § 1692k(d) of the FDCPA, and 28 U.S.C. § 1331.
2. Venue is proper in this District because: a) the acts and transactions occurred here; and, b) Plaintiff and Defendant reside here.

**PARTIES**

3. Plaintiff, Autumn Thillen ("Thillen"), is a citizen of the State of Wisconsin, residing in the Western District of Wisconsin, from whom Defendant attempted to collect a defaulted consumer debt, which she allegedly owed for a defaulted consumer debt.
4. Defendant, Professional Recovery Personnel, Inc. ("PRP"), is Minnesota

that acts as a debt collector, as defined by § 1692a of the FDCPA, because it regularly uses the mails and/or the telephone to collect, or attempt to collect, defaulted consumer debts. Defendant PRP operates a defaulted debt collection business and attempts to collect debts from consumers in several states, including consumers in the State of Wisconsin. In fact, Defendant PRP was acting as a debt collector as to the defaulted consumer debt it attempted to collect from Plaintiff.

5. Although Defendant PRP is not authorized to conduct business in Wisconsin, it conducts business in Wisconsin by sending Wisconsin consumers collection letters.

#### **FACTUAL ALLEGATIONS**

6. Defendant PRP sent Ms. Thillen an initial form collection letter, dated December 13, 2017, demanding payment of a defaulted consumer debt. This letter stated, in pertinent part:

\* \* \*

This debt will be assumed to be valid by the collector unless the consumer, within thirty-days after receipt of this notice, disputes the validity of the debt, or any portion thereof. If the consumer notifies collector within the thirty-day period that the debt, or any portion thereof, is disputed, 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 collector. Upon the consumer's request within the thirty-day period, collector will provide the consumer with the name and address of the original creditor, if different from the current creditor.

\* \* \*

Nowhere in Defendant's letter did they advise Ms. Thillen that disputes had to be in writing, to be effective, and so that she could require Defendant PRP to provide validation of the debt. Moreover, nowhere in Defendant PRP's letter did it advise Ms.

Thillen that disputes had to be in writing, to be effective, so that she could require Defendant to advise her as to the name of the creditor to whom the debt is owed. A copy of this letter is attached as Exhibit A.

7. Violations of the FDCPA which could lead a consumer to alter his or her course of action as to whether to pay or whether to dispute a debt, or which would be a factor in the consumer's decision making process, are material, see, Lox v. CDA, 689 F.3d 818, 827 (7th Cir. 2012). Whether disputing a debt could be done orally, by simply picking up the phone, or whether a consumer needs to make a written dispute, is material information that would play a role in a consumer's decision of whether to dispute a debt. Moreover, disclosure of the information is mandatorily required by the plain language of the FDCPA and is therefore material, see, Janetos v. Fulton, Friedman & Gullace, 825 F.3d 317, 324 (7th Cir. 2016).

8. Defendant's collection actions complained of herein occurred within one year of the date of this Complaint.

9. Defendant's collection communications are to be interpreted under the "unsophisticated consumer" standard, see, Gammon v. GC Services, Ltd. Partnership, 27 F.3d 1254, 1257 (7th Cir. 1994).

**COUNT I**  
**Violation Of § 1692g**  
**Ineffective Validation Notice**

10. Plaintiff adopts and realleges ¶¶ 1-9.

11. Section 1692g of the FDCPA requires that, within 5 days of Defendant's first communication to a consumer, they had to provide the consumer with an effective validation notice, containing, among other disclosures, "(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” see, 15 U.S.C. § 1692g(a)(4); “(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” see, 15 U.S.C. § 1692g(a)(5).

12. Nowhere in Defendant PRP’s December 13, 2017 initial collection letter to Plaintiff (Exhibit A) does it state that Plaintiff’s dispute to Defendant PRP had to be in writing to protect her right to obtain validation of the debt, or to demand the name of the original creditor, thus, Defendant PRP has violated § 1692g(a)(4) and (5) of the FDCPA, see, Bishop v. Ross Earle & Bonan, 817 F.3d 1268, 1274 (11th Cir. 2016); Clark v. Absolute Collection Serv., 741 F.3d 487, 491 (4th Cir. 2014); Hooks v. Forman, Holt, Eliades & Ravin, 717 F.3d 282, 286, (2d Cir. 2013); and Camacho v. Bridgeport Financial, 430 F.3d 1078, 1082 (9th Cir. 2005).

13. Defendant PRP’s violations of § 1692g of the FDCPA render it liable for statutory damages, costs, and reasonable attorneys’ fees. See, 15 U.S.C. § 1692k.

**COUNT II**  
**Violation Of § 1692f Of The FDCPA --**  
**Unfair Or Unconscionable Collection Actions**

14. Plaintiff adopts and realleges ¶¶ 1-9.

15. Section 1692f of the FDCPA prohibits a debt collector from using any unfair or unconscionable means to collect or attempt to collect a debt, see, 15 U.S.C. § 1692f.

16. Defendant PRP, by failing to advise Plaintiff that her dispute must be in

writing to protect her right to obtain validation of the debt, and to obtain the name of the original creditor, used unfair or unconscionable means to collect a debt, in violation of § 1692f of the FDCPA.

17. Defendant PRP's violation of § 1692f of the FDCPA renders it liable for actual and statutory damages, costs, and reasonable attorneys' fees. See, 15 U.S.C. § 1692k.

### **CLASS ALLEGATIONS**

18. Plaintiff, Autumn Thillen, brings this action individually and as a class action on behalf of all persons similarly situated in the State of Wisconsin from whom Defendant PRP attempted to collect a defaulted consumer debt, via the same form collection letter (Exhibit A), that Defendant PRP sent to Plaintiff, from one year before the date of this Complaint to the present. This action seeks a finding that Defendant PRP's form letter violates the FDCPA, and asks that the Court award damages as authorized by § 1692k(a)(2) of the FDCPA.

19. Defendant PRP regularly engages in debt collection, using the same form collection letter they sent Plaintiff Thillen, in its attempts to collect defaulted consumer debts from other persons.

20. The Class consists of more than 35 persons from whom Defendant PRP attempted to collect defaulted consumer debts, by sending other consumers the same form collection letter they sent Plaintiff Thillen.

21. Plaintiff Thillen's claims are typical of the claims of the Class. Common questions of law or fact raised by this class action complaint affect all members of the Class and predominate over any individual issues. Common relief is therefore sought

on behalf of all members of the Class. This class action is superior to other available methods for the fair and efficient adjudication of this controversy.

22. The prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications with respect to the individual members of the Class, and a risk that any adjudications with respect to individual members of the Class would, as a practical matter, either be dispositive of the interests of other members of the Class not party to the adjudication, or substantially impair or impede their ability to protect their interests. Defendant PRP has acted in a manner applicable to the Class as a whole such that declaratory relief is warranted.

23. Plaintiff Thillen will fairly and adequately protect and represent the interests of the Class. The management of the class action proposed is not extraordinarily difficult, and the factual and legal issues raised by this class action complaint will not require extended contact with the members of the Class, because Defendant PRP's conduct was perpetrated on all members of the Class and will be established by common proof. Moreover, Plaintiff Thillen has retained counsel experienced in class action litigation, including class actions brought under the FDCPA.

#### **PRAYER FOR RELIEF**

Plaintiff, Autumn Thillen, individually and on behalf of all others similarly situated, prays that this Court:

1. Certify this action as a class action;
2. Appoint Plaintiff Thillen as Class Representative of the Class, and her attorneys as Class Counsel;
3. Find that Defendant PRP's form collection letter violated the FDCPA;

4. Enter judgment in favor of Plaintiff Thillen and the Class, and against Defendant PRP, for statutory damages, costs, and reasonable attorneys' fees as provided by § 1692k(a) of the FDCPA; and,

5. Grant such further relief as deemed just.

**JURY DEMAND**

Plaintiff, Autumn Thillen, individually and on behalf of all others similarly situated, demands trial by jury.

Autumn Thillen, individually and on behalf of all others similarly situated,

By: /s/ David J. Philipps  
One of Plaintiff's Attorneys

Dated: December 10, 2018

David J. Philipps (Ill. Bar No. 06196285)  
Mary E. Philipps (Ill. Bar No. 06197113)  
Angie K. Robertson (Ill. Bar No. 06302858)  
Philipps & Philipps, Ltd.  
9760 S. Roberts Road, Suite One  
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(708) 974-2900  
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15692 Highway 63 North  
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(715) 634-5051 (FAX)  
mlein@leinlawoffices.com



*Professional Recovery Personnel, Inc.*

December 13, 2017

Autumn D Thillen

[REDACTED]  
[REDACTED] WI [REDACTED]

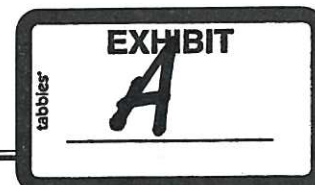
Regarding [REDACTED]  
Balanced Owed: \$295.00  
Account#: [REDACTED]

Dear Autumn D Thillen:

THE INDICATED ACCOUNT HAS BEEN REFERRED TO THIS AGENCY FOR COLLECTION. OUR CLIENT HAS ASKED US TO REVIEW THIS ACCOUNT TO MAKE A DETERMINATION OF WHAT STEPS TO TAKE NEXT TO COLLECT THE OUTSTANDING BALANCE. IF YOU WISH TO CLEAR THIS DEBT VOLUNTARILY, IT WILL BE NECESSARY FOR YOU TO CONTACT THIS OFFICE TO MAKE ARRANGEMENTS FOR PAYMENT. FAILURE TO MAKE ARRANGEMENTS WITH OUR OFFICE COULD RESULT IN THE NEXT STAGE OF COLLECTIONS.

This debt will be assumed to be valid by the collector unless the consumer, within thirty-days after receipt of this notice, disputes the validity of the debt, or any portion thereof. If the consumer notifies collector within the thirty-day period that the debt, or any portion thereof, is disputed, 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 collector. Upon the consumer's request within the thirty-day period, collector will provide the consumer with the name and address of the original creditor, if different from the current creditor. YOUR BALANCE MAY INCREASE DUE TO INTEREST AND FEES DEPENDING ON YOUR ORIGINAL AGREEMENT WITH THIS CREDITOR.

**THIS IS AN ATTEMPT TO COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.**





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 NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Autumn Thiller, individually and on behalf of all others similarly situated,

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

(c) Attorneys (Firm Name, Address, and Telephone Number) Philipps & Philipps, Ltd. 9760 S. Roberts Road, Suite One Palos Hills, Illinois 60465 (708) 974-2900

DEFENDANTS

Professional Recovery Personnel, Inc., a Minnesota corporation,

County of Residence of First Listed Defendant (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, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 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)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship and business location (Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation).

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

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

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): Fair Debt Collection Practices Act; U.S.C. Section 1692 et seq. Brief description of cause:

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 12/10/2018 SIGNATURE OF ATTORNEY OF RECORD /s/ David J. Philipps

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

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## 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.

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Western District of Wisconsin

Autumn Thillen, individually and on behalf of all others similarly situated,

Plaintiff(s)

v.

Professional Recovery Personnel, Inc., a Minnesota corporation,

Defendant(s)

Civil Action No. 3:18-cv-1022

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Professional Recovery Personnel, Inc. c/o Steven Charles Rutt, as registered agent 6282 Douglas Court North Champlin, Minnesota 55316

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: Philipps & Philipps, Ltd. 9760 S. Roberts Road, Suite One Palos Hills, Illinois 60465 (708) 974-2900

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. 3:18-cv-1022

**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:

Print

Save As...

Reset

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Professional Recovery Personnel Failed to Disclose Consumer's Debt Dispute Rights, Lawsuit Says](#)

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