

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

RONALD UNTERSCHINE, Individually and on Behalf of All Others Similarly Situated,	)	Case No.: 18-cv-501
	)	
Plaintiff,	)	<b>CLASS ACTION COMPLAINT</b>
vs.	)	
	)	<b>Jury Trial Demanded</b>
PROFESSIONAL PLACEMENT SERVICES LLC and CAPITAL ONE N.A.,	)	
	)	
Defendants.	)	

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**INTRODUCTION**

1. This class action seeks redress for collection practices that violate the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (the “FDCPA”) and Wisconsin Consumer Act, Ch. 421-427, Wis. Stats. (“WCA”).

**JURISDICTION AND VENUE**

2. The court has jurisdiction to grant the relief sought by the Plaintiff pursuant to 15 U.S.C. § 1692k and 28 U.S.C. §§ 1331, 1337, and 1367. Venue in this District is proper in that Defendant directed its collection efforts into the District.

**PARTIES**

3. Plaintiff Ronald Unterschine is an individual who resides in the Eastern District of Wisconsin (Milwaukee County).

4. Plaintiff is a “consumer” as defined in the FDCPA, 15 U.S.C. § 1692a(3), in that Defendants sought to collect from Plaintiff a debt allegedly incurred for personal, family or household purposes, namely a personal credit card account.

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

6. Defendant Professional Placement Services LLC (“PPS”) is a domestic limited liability company with its principal place of business located at 272 North 12th Street, Milwaukee, Wisconsin 53233. Its registered agent in Wisconsin is Craig Johnson, 272 North 12th Street, Milwaukee, Wisconsin 53233.

7. PPS does substantial business in Wisconsin.

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

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

10. PPS is licensed as a “Collection Agency” pursuant to Wis. Stat. § 218.04 and Wis. Admin. Code Ch. DFI-BKG 74.

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

12. Upon information and belief, Defendant Capital One N.A. (“Capital One”) issues and administers Kohl’s brand credit card accounts. Capital One is a national bank with its principal place of business located at 1680 Capital One Drive, McLean, Virginia 22102.

13. Capital One does substantial business in Wisconsin.

14. Wis. Stat. § 427.103(3) defines debt collector as: “any person engaging, *directly or indirectly*, in debt collection, and includes any person who sells, or offers to sell, forms represented to be a collection system, device or scheme, intended or calculated to be used to

collect claims. The term does not include a printing company engaging in the printing and sale of forms.” (emphasis added).

15. Wis. Stat § 427.103(2) states: “Debt collection” means any action, conduct or practice of soliciting claims for collection or in the collection of claims owed or due or alleged to be owed or due a merchant by a customer.”

16. Capital One is a “debt collector” under Wisconsin law, in that it collects consumer debts owed to itself, both directly and indirectly through collection agencies.

17. Capital One is a “merchant” as defined in the WCA, as the alleged debt arose from use of Plaintiff’s consumer credit account. Wis. Stat. § 421.301(25) (“The term [merchant] includes but is not limited to a seller, lessor, manufacturer, creditor, arranger of credit and any assignee of or successor to such person.”)

18. The Western District of Wisconsin has noted: “Unlike the FDCPA, the Wisconsin Consumer Act does not provide exceptions to its general definition of a debt collector.” *Hartman v. Meridian Fin. Servs.*, 191 F. Supp. 2d 1031, 1048 (W.D. Wis. 2002).

19. The Wisconsin Department of Financial Institutions has likewise designated merchants and creditors as “Debt Collectors” under the WCA:

Anyone attempting to collect a debt arising from a consumer credit transaction in Wisconsin, whether a merchant doing its own debt collecting or a third-party debt collector, must follow Wisconsin’s debt collection law, Ch. 427, Wis. Stats. This is an important point because many merchants collecting debt owed directly to them mistakenly believe that they are exempt from Wisconsin’s debt collection law because they are not included within the definition of “debt collector” under the federal Fair Debt Collection Practices Act.

[https://www.wdfi.org/wca/business\\_guidance/creditors/debt\\_collection/](https://www.wdfi.org/wca/business_guidance/creditors/debt_collection/)

20. Capital One uses third-party debt collection agencies, including PPS, to collect consumer debts. Capital One, directly or indirectly, is a “debt collector” under this arrangement. Wis. Stat. § 427.103(3).

21. Any company meeting the definition of a “debt collector” (here, Capital One) is vicariously liable for the actions of a second company collecting debts on its behalf. *Janetos v. Fulton Friedman & Gullace, LLP*, 825 F.3d 317, 325-26 (7th Cir. 2016) (assignees who are “debt collectors” are responsible for the actions of those collecting on their behalf); *citing Pollice*, 225 F.3d at 404-05.

**FACTS**

22. On or about January 16, 2018, Capital One mailed an account statement to Plaintiff regarding an alleged debt, allegedly owed to Capital One and associated with Plaintiff’s “Kohl’s” store-brand credit card account with an account number ending in 8046. A copy of this account statement is attached to this complaint as Exhibit A.

23. Plaintiff used the Kohl’s-brand Capital One credit card account only for personal, family, or household purposes.

24. Exhibit A states:

<b>ACCOUNT SUMMARY</b>		<b>PAYMENT INFORMATION</b>											
Previous Balance	\$ 3,479.26	New Balance	\$ 3,582.77										
Payments and Other Credits	- 0.00	Payment Due Date	02/11/2018										
Purchases	+ 0.00	Minimum Payment Due	971.00										
Fees	+ 37.00	Amount Past Due	833.00										
Interest Charges	+ 66.51	To Avoid Interest Charge Pay	\$ 3,582.77										
<b>New Balance</b>	<b>\$ 3,582.77</b>												
Opening/Closing Date 12/16/2017 - 01/16/2018		<b>Late Payment Warning:</b> If we do not receive your minimum payment by the date listed above, you may have to pay a late fee up to \$37.00											
Days in Billing Cycle 32		<b>Minimum Payment Warning:</b> If you make only the minimum payment each period, you will pay more in interest and it will take you longer to pay off your balance. For example:											
Total Credit Line \$3,000		<table border="1" style="width: 100%; border-collapse: collapse; font-size: small;"> <thead> <tr> <th style="width: 33%;">If you make no additional charges using this card and each month you pay...</th> <th style="width: 33%;">You will pay off the balance shown on this statement in about...</th> <th style="width: 33%;">And you will end up paying an estimated total of...</th> </tr> </thead> <tbody> <tr> <td style="padding: 2px;">Only the minimum payment</td> <td style="text-align: center; padding: 2px;">14 years</td> <td style="text-align: right; padding: 2px;">\$7,699.00</td> </tr> <tr> <td style="text-align: right; padding: 2px;">\$138.00</td> <td style="text-align: center; padding: 2px;">3 years</td> <td style="text-align: right; padding: 2px;">\$4,986.00 (Savings = \$2,713.00)</td> </tr> </tbody> </table>			If you make no additional charges using this card and each month you pay...	You will pay off the balance shown on this statement in about...	And you will end up paying an estimated total of...	Only the minimum payment	14 years	\$7,699.00	\$138.00	3 years	\$4,986.00 (Savings = \$2,713.00)
If you make no additional charges using this card and each month you pay...	You will pay off the balance shown on this statement in about...	And you will end up paying an estimated total of...											
Only the minimum payment	14 years	\$7,699.00											
\$138.00	3 years	\$4,986.00 (Savings = \$2,713.00)											
Available Credit None		If you would like information about credit counseling services, call 1-877-499-9467.											
<p style="text-align: center;"><b>Questions?</b>  Click on My Kohl’s Charge at Kohls.com or  Call Customer Service 1-800-564-5740  Sunday 8:00 AM to 9:00 PM (Central)  Monday-Saturday 7:00 AM to 9:00 PM (Central)  Automated service is available 24 hours.</p>													

Exhibit A.

25. Exhibit A states that, as of January 16, 2018, Plaintiff's account ending in 8046 had a "New Balance" of \$3,582.77, with an "Amount Past Due" of \$833.00, a "Payment Due Date" of February 11, 2018, and a "Minimum Payment Due" of \$971.00.

26. On or about, February 2, 2018 PPS mailed Plaintiff a debt collection letter regarding the same alleged debt, allegedly owed to Capital One and associated with Plaintiff's Kohl's-brand Capital One credit card account. A copy of this letter is attached to this complaint as Exhibit B.

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

28. Upon information and belief, Exhibit B is a form debt collection letter, generated by computer, and used by PPS to attempt to collect alleged debts.

29. The alleged debt referenced in Exhibit B is the same Plaintiff's Kohl's-brand Capital One credit card account referenced in Exhibit A.

30. Upon information and belief, Exhibit B is the first written communication PPS mailed to Plaintiff regarding the alleged debt referenced in Exhibit B.

31. Exhibit B contains the statutory debt validation notice that the FDCPA, 15 U.S.C. § 1692g, requires the debt collector mail the alleged debtor along with, or within five days of, the initial communication:

This is an attempt to collect a debt by a debt collector. Any information obtained will be used for that purpose. Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice that you dispute the validity of this debt or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor."

Exhibit B.

32. Exhibit B also contains the following:

Creditor: Capital One, N.A.  
Original Creditor: Capital One N.A.  
Re: Your Kohl's Credit Card Account XXXXXX8046  
PPS Account #: [REDACTED] 0728  
Balance: \$3582.77

1245-ONPPSV10-801-12/28/17



AMERICAN COLLECTORS  
association member

COLLECTION NOTICE

This letter will serve to inform you that your delinquent account has been placed with Professional Placement Services, LLC (PPS). PPS will help you resolve this debt!!

The records provided to us show that your account is delinquent.

Exhibit B.

33. Immediately below this information, Exhibit B contains the following:

Please call **888-828-5368** or **414-224-3581** to arrange payment or if any of the above information is incorrect.

Exhibit B.

34. The instruction in Exhibit B that the consumer should “Please call 888-828-5368 or 414-224-3581 . . . if any of the above information is incorrect,” is false, deceptive, misleading, and confusing to the unsophisticated consumer because it contradicts, overshadows, and confuses the debt validation notice and encourages the consumer to forego her verification rights by communicating disputes orally rather than in writing:

15 U.S.C. § 1692g(a)(4) states:

(a) Notice of debt; contents

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

...

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

35. To trigger verification rights, the debtor must provide the debt collector with written notification that there is a dispute. 15 U.S.C. § 1692g(a)(4); *see McCabe v. Crawford & Co.*, 272 F. Supp. 2d 736, 743 (N.D. Ill. July 8, 2003) (“If the debtor gives only *oral* notification of the dispute, the FDCPA imposes no requirement on the debt collector to obtain verification of the debt.”) (citing *Fasten v. Zager*, 49 F. Supp. 2d 144, 149 (E.D.N.Y. May 20, 1999)).

36. Upon receiving a *written* dispute from the consumer within the 30-day debt validation period, the FDCPA requires the debt collector to contact the creditor and obtain verification of the debt before conducting any further collection efforts. 15 U.S.C. § 1692g(b):

(b) Disputed debts

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.

37. Some reasons “any of the above information is incorrect” would be that PPS is attempting to collect the debt from the wrong person, the account has already been paid, or PPS is attempting portions of the balance that are not yet due.

38. These are classic FDCPA disputes, and were the primary reasons Congress adopted the debt validation procedure specified in 15 U.S.C. § 1692g and the debt validation notice PPS provided in Exhibit B. *E.g. Majeski v. I.C. Sys.*, 2010 U.S. Dist. LEXIS 1830, at \*22 n.6 (“Congress enacted the FDPCA to ‘eliminate the recurring problem of debt collectors

dunning the wrong person or attempting to collect debts which the consumer has already paid.”) (quoting *Swanson v. Southern Oregon Credit Serv., Inc.*, 869 F.2d 1222, 1225 (9th Cir. 1988); *Machnik v. RSI Enters.*, 2017 U.S. Dist. LEXIS 160772, at \*6 (E.D. Wis. Sept. 29, 2017) (“In the context of a debt, ‘owing’ an amount is distinguishable from the amount ‘due.’ “).

39. Exhibit B confusingly directs the debtor to notify PPS about these disputes without informing the consumer that the dispute must be communicated in writing in order to trigger verification. See *Osborn v. Ekpsz, LLC*, 821 F.Supp.2d 859, 868, 870 (S.D. Tex. Sept. 26, 2011) (collecting cases and concluding that “[e]very district court to consider the issue has held that a debt collector violates §1692g(a) by failing to inform consumers that requests under subsections(a)(4) and (a)(5) must be made in writing.”); see also, *McCabe v. Crawford & Co.*, 272 F. Supp. 2d 736, 743-44 (N.D. Ill. July 8, 2003) (omitting the words “in writing” from the validation notice conflicted with and overshadowed the consumer’s statutory right to trigger verification); *Chandler v. Eichel*, 2017 U.S. Dist. LEXIS 156168, at \*9 (S.D. Ind. Sept. 25, 2017); *Crafton v. Law Firm of Levine*, 957 F.Supp.2d 992, 998 (E.D. Wis. July 9, 2013); *Bicking v. Law Offices of Rubenstein & Cogan*, 783 F.Supp.2d 841, 845 (E.D. Va. May 5, 2011); *Welker v. Law Office of Daniel J. Horowitz*, 699 F.Supp.2d 1164, 1170 (S.D. Cal. 2010); *Beasley v. Sessoms & Rogers, P.A.*, 2010 U.S. Dist. LEXIS 52010 (E.D. N.C. Mar. 1, 2010); *Nero v. Law Office of Sam Streeter, P.L.L.C.*, 655 F.Supp.2d 200, 206 (E.D.N.Y. Sept. 10, 2009); *Chan v. N. Am. Collectors, Inc.*, 2006 U.S. Dist. LEXIS 13353, at \*16 (N.D. Cal. Mar. 24, 2006); *Grief v. Wilson, Elser, Moskowitz, Edelman & Dicker, LLP*, 217 F.Supp.2d 336, 340 (E.D.N.Y. Aug. 19, 2002); *Carroll v. United Compucred Collections*, 2002 U.S. Dist. LEXIS 25032, at \*28 (M.D. Tenn. Nov. 15 2002); *Woolfolk v. Van Ru Credit Corp.*, 783 F. Supp. 724, 726 (D. Conn. Oct. 2, 1990); *Caprio v. Healthcare Revenue Recovery Group, LLC*, 709 F.3d 142, 151-152 (3d Cir. 2013); *Rhoades v. West Virginia Credit Bureau Reporting Servs.*, 96 F. Supp. 2d 528, (S.D. W.



Va. May 10, 2000); *O’Chaney v. Shapiro & Kreisman, LLC*, U.S. Dist. LEXIS 5116, at \*12-13 (Mar. 25, 2004); *Flowers v. Accelerated Bureau of Collections*, 1997 U.S. Dist. LEXIS 3354, at \*18-19 (N.D. Ill. Mar. 13, 1997).

40. PPS’ instruction, which is offset and easily read, would confuse and mislead consumers who wish to dispute debts to believe that a debtor who disputes her debt orally is entitled to the same protections as if she had communicated her dispute in writing, when she is not. *See Camacho v. Bridgeport Fin., Inc.*, 430 F.3d 1078, 1082 (9th Cir. 2005).

41. The overshadowing effect is compounded because Exhibit B does, in fact, attempt to collect portions of the balance that are not yet due. *See, e.g., Miller v. McCalla, Raymer, Padrick, Cobb, Nichols, & Clark, LLC*, 214 F.3d 872, 875 (7th Cir. 2000) (“to authorize debt collectors to comply orally would be just an invitation to the sort of fraudulent and coercive tactics in debt collection that the Act aimed (rightly or wrongly) to put an end to.”).

42. Exhibit B states:

Creditor:	Capital One, N.A.
Original Creditor:	Capital One N.A.
Re:	Your Kohl’s Credit Card Account XXXXXX8046
PPS Account #:	██████0728
Balance:	\$3582.77

Exhibit B.

43. Exhibit B states that, as of February 2, 2018, Plaintiff’s account, had a “Balance” of \$3,582.77 and does not state that Plaintiff could return her account to a current status by making a minimum payment.

44. Exhibit B, thus, represents that the debt had been accelerated and the full balance was due when Exhibit B was mailed.

45. PPS’ representation in Exhibit B that Plaintiff’s account had a “Balance” of \$3,582.77 is false, deceptive, misleading, and unconscionable.

46. Upon information and belief, as of February 2, 2018, when PPS mailed Exhibit B, the balance of Plaintiff's account had not been accelerated.

47. The unsophisticated consumer cannot determine whether the debt had been accelerated or not, or how much debt is actually due as of the date of Exhibits A and B. Exhibit A states that Plaintiff could return the account to a current status by making a minimum payment of \$971.00 on or before February 11, 2018. However, Exhibit B, mailed to Plaintiff more than a week before that payment due date, states that the "Balance" is \$3,582.77 without stating an amount "due." See *Chuway v. Nat'l Action Fin. Servs.*, 362 F.3d 944, 948 (7th Cir. 2004) (debt collector misleads the consumer if it states the "balance" when only a portion of that balance is actually due); *Barnes v. Advanced Call Ctr. Techs., LLC*, 493 F.3d 838, 840 (7th Cir. 2007) ("Only the past due amount, the amount owed [the debt collector] can be the 'amount of the debt' under § 809(a)(1).").

48. PPS and Capital One both represented the amount of the debt in a way that was confusing to the unsophisticated consumer and misrepresented the amount of the debt.

49. Upon information and belief, PPS and Capital One work in a scripted process to collect Capital One debts such as Plaintiff's.

50. Upon information and belief, PPS is fully aware of the contents and representations in Exhibit A.

51. Upon information and belief, PPS is fully aware that Capital One sends account statements like Exhibit A to consumers around the same time PPS letters in the form of Exhibit B.

52. Upon information and belief, PPS is fully aware that its letter is sent during account billing cycles wherein Capital One has sent a statement to consumers seeking a “minimum payment” and not representing that the entire balance is due.

53. Plaintiff was confused by Exhibits A and B.

54. The unsophisticated consumer would be confused by Exhibits A and B.

55. Plaintiff had to spend time and money investigating Exhibits A and B.

56. Plaintiff had to take time to obtain and meet with counsel, including traveling to counsel’s office by car and its related expenses, including but not limited to the cost of gasoline and mileage, to advise Plaintiff on the consequences of Exhibits A and B.

### ***The FDCPA***

57. The FDCPA states that its purpose, in part, is “to eliminate abusive debt collection practices by debt collectors.” 15 U.S.C. § 1692(e). It is designed to protect consumers from unscrupulous collectors, whether or not there is a valid debt. *Mace v. Van Ru Credit Corp.*, 109 F.3d 338 (7th Cir. 1997); *Baker v. G.C. Services Corp.*, 677 F.2d 775, 777 (9th Cir. 1982); *McCartney v. First City Bank*, 970 F.2d 45, 47 (5th Cir. 1992). The FDCPA broadly prohibits unfair or unconscionable collection methods; conduct which harasses, oppresses or abuses any debtor; and any false, deceptive or misleading statements in connection with the collection of a debt; it also requires debt collectors to give debtors certain information. 15 U.S.C. §§ 1692d, 1692e, 1692f and 1692g.

58. The Seventh Circuit has held that whether a debt collector’s conduct violates the FDCPA should be judged from the standpoint of an “unsophisticated consumer.” *Avila v. Rubin*, 84 F.3d 222, 227 (7th Cir. 1996); *Gammon v. GC Services, LP*, 27 F.3d 1254, 1257 (7th Cir. 1994). The standard is an objective one—whether the plaintiffs or any class members were misled is not an element of a cause of action. *Bartlett v. Heibl*, 128 F.3d 497, 499 (7th Cir.

1997). “The question is not whether these plaintiffs were deceived or misled, but rather whether an unsophisticated consumer would have been misled.” *Beattie v. D.M. Collections Inc.*, 754 F. Supp. 383, 392 (D. Del. 1991).

59. Because it is part of the Consumer Credit Protection Act, 15 U.S.C. §§ 1601 *et seq.*, the FDCPA should be liberally construed in favor of the consumer to effectuate its purposes. *Cirkot v. Diversified Fin. Services, Inc.*, 839 F. Supp. 941, 944 (D. Conn. 1993).

The [Consumer Credit Protection] Act is remedial in nature, designed to remedy what Congressional hearings revealed to be unscrupulous and predatory creditor practices throughout the nation. Since the statute is remedial in nature, its terms must be construed in liberal fashion if the underlying Congressional purpose is to be effectuated.

*N.C. Freed Co. v. Board of Governors*, 473 F.2d 1210, 1214 (2d Cir. 1973).

60. Statutory damages are recoverable for violations, whether or not the consumer proves actual damages. *Baker*, 677 F.2d at 780-1; *Woolfolk v. Van Ru Credit Corp.*, 783 F. Supp. 724, 727 and n. 3 (D. Conn. 1990); *Riveria v. MAB Collections, Inc.*, 682 F. Supp. 174, 177 (W.D.N.Y. 1988); *Kuhn v. Account Control Tech.*, 865 F. Supp. 1443, 1450 (D. Nev. 1994); *In re Scrimpsheer*, 17 B.R. 999, 1016-7 (Bankr. N.D.N.Y. 1982); *In re Littles*, 90 B.R. 669, 680 (Bankr. E.D. Pa. 1988), *aff'd as modified sub nom. Crossley v. Lieberman*, 90 B.R. 682 (E.D. Pa. 1988), *aff'd*, 868 F.2d 566 (3d Cir. 1989).

61. 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.”); *Lorang v. Ditech Fin. LLC*, 2017 U.S. Dist. LEXIS 169286, at \*6 (W.D. Wis. Oct. 13, 2017) (“the weight of authority in this circuit is that a misrepresentation about a debt is a sufficient injury for standing because a primary purpose of the FDCPA is to protect consumers from receiving false and misleading information.”); *Qualls v. T-H Prof'l & Med. Collections, Ltd.*, 2017 U.S. Dist. LEXIS 113037, at \*8 (C.D. Ill. July 20, 2017) (“Courts in this Circuit, both before and after *Spokeo*, have rejected similar challenges to standing in FDCPA cases.”) (citing “*Hayes v. Convergent Healthcare Recoveries, Inc.*, 2016 U.S. Dist. LEXIS 139743 (C.D. Ill. 2016)); *Long v. Fenton & McGarvey Law Firm P.S.C.*, 223 F. Supp. 3d 773, 777 (S.D. Ind. Dec. 9, 2016) (“While courts have found that violations of other statutes . . . do not create concrete injuries in fact, violations of the FDCPA are distinguishable from these other statutes and have been repeatedly found to establish concrete injuries.”); *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).

62. 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”).

63. 15 U.S.C. § 1692e prohibits “any false, deceptive, or misleading representation or means in connection with the collection of any debt.”

64. 15 U.S.C. § 1692e(2)(a) specifically prohibits: “The false representation of — the character, amount, or legal status of any debt.”

65. 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.”

66. 15 U.S.C. § 1692f generally prohibits a debt collector from using “unfair or unconscionable means to collect or attempt to collect any debt.”

67. 15 U.S.C. § 1692f(1) specifically prohibits the “collection of any amount (including any interest, fee, charge, or expense incidental to the principal obligation) unless such amount is expressly authorized by the agreement creating the debt or permitted by law.”

68. 15 U.S.C. § 1692g(a) states:

**a) Notice of debt; contents**

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

(1) the amount of the debt;

...

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

69. 15 U.S.C. § 1692g(b) requires that these disclosures must be made in a non-confusing manner and prohibits debt collectors from communicating with the debtor in ways that overshadow or are inconsistent with the validation notice. *Bartlett v. Heibl*, 128 F.3d 497, 500 (7th Cir. 1997); *Miller v. McCalla, Raymer, Padrick, Cobb, Nichols, & Clark, L.L.C.*, 214 F.3d 872, 875 (7th Cir. 2000); *Janetos v. Fulton Friedman & Gullace, LLP*, 825 F.3d 317, 317-18 (7th Cir. 2016).

70. The failure to make these disclosures in a non-confusing manner *per se* violates the FDCPA. No additional materiality inquiry is necessary. *Janetos*, 825 F.3d at 324.

### *The WCA*

71. 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).

72. 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).

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

74. “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.

75. 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.

76. 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).

77. 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).

78. 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.*

79. 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.”

80. 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 . . . .”

81. The Wisconsin Department of Financial Institutions, which is tasked with regulating licensed collection agencies, has found that “conduct which violates the Federal Fair Debt Collection Practices Act” can reasonably be expected to threaten or harass the customer. *See* Wis. Admin. Code DFI-Bkg 74.16(9) (“Oppressive and deceptive practices prohibited.”).

82. 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.”

83. 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.”

84. The failure to effectively convey a customer’s validation rights can reasonably be expected to harass the customer. *See* Wis. Admin. Code DFI-Bkg § 74.16(9) (“Oppressive and deceptive practices prohibited.”) (prohibiting licensed Collection Agencies from engaging in conduct that “can reasonably be expected to threaten or harass the customer, including conduct which violates the Federal Fair Debt Collection Practices Act”); *see also Flood v. Mercantile Adjustment Bureau, LLC*, 176 P.3d 769, 776 (Colo. Jan. 22, 2008) (communicating that a consumer’s rights would be preserved through oral communication effectively misleads the consumer into delaying the transmission of the consumer’s written request for the verifying documentation, thereby causing the loss of valuable consumer rights violated state statute forbidding harassing, abusive, misleading, and unfair debt collection practices).

#### **COUNT I – FDCPA**

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

86. Count I is brought against Defendant PPS.

87. Exhibit B directs the consumer to contact PPS by telephone “if any of the above information is incorrect.”

88. Exhibit B is misleading to the unsophisticated consumer because a consumer who wishes to trigger her verification rights must communicate her dispute in writing, whereas Exhibit B instructs the consumer to communicate her dispute by telephone.

89. PPS violated 15 U.S.C. §§ 1692e, 1692e(10), 1692f, 1692g(a)(4)(, 1692g(a)(5), and 1692g(b).

### **COUNT II – FDCPA**

90. Count II is brought against Defendant PPS.

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

92. Prior to sending Exhibit B, PPS was aware that Capital One had sent Plaintiff Exhibit A, which stated that the balance of Plaintiff’s account had not yet been accelerated.

93. PPS represented to Plaintiff that Plaintiff’s Capital One account had been accelerated by seeking to collect the entire balance and not just the amount actually due.

94. PPS misrepresented the amount, character, and legal status of the debt it was collecting.

95. PPS represented to Plaintiff that he could not prevent acceleration of the balance by making a minimum payment.

96. PPS’ attempts to collect the entire balance of class members’ Capital One accounts were false, misleading and confusing representations, and were also an unfair and unconscionable means of collecting a debt.

97. Defendant violated 15 U.S.C. §§ 1692e, 1692e(2)(A), 1692e(6)(A), 1692e(10), 1692(f), 1692f(1), and 1692g(a)(1).

### **COUNT III -- WCA**

98. Count III is brought against both Defendants.

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

100. In Exhibit A, Capital One represented to Plaintiff that the balance of her account had not yet been accelerated.

101. Nonetheless, Capital One contracted with PPS to send Exhibit B, which stated the whole of Plaintiff's account was past due and attempted to collect the entire balance as though it had been properly accelerated.

102. In fact, when PPS sent Exhibit B, PPS knew that Capital One had just sent Plaintiff an account statement representing that her Capital One debt had not been accelerated.

103. Defendants violated Wis. Stat. §§ 427.104(1)(g), 427.104(1)(h), 427.104(1)(j), and 427.104(1)(L).

### **CLASS ALLEGATIONS**

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

105. Class I ("Nationwide Class") consists of (a) all natural persons in the State of Wisconsin (b) who were sent an account statement by Capital One in the form of Exhibit A, (c) and subsequently were sent a letter in the form of Exhibit B, (d) where the letter in the form of Exhibit B was mailed before the payment due date stated in the account statement in the form of Exhibit A, (e) where the alleged debt was allegedly incurred for personal, family or household purposes, (f) and the letter in the form of Exhibit B was mailed between March 29, 2017 and March 29, 2018, inclusive, (f) and the account statement and debt collection letter were not returned by the postal service.

106. Class II ("Wisconsin Class") consists of (a) all natural persons in the State of Wisconsin (b) who were sent an account statement by Capital One in the form of Exhibit A, (c) and subsequently were sent a letter in the form of Exhibit B, (d) where the letter in the form of Exhibit B was mailed before the payment due date stated in the account statement in the form of

Exhibit A, (e) where the alleged debt was allegedly incurred for personal, family or household purposes, (f) and the letter in the form of Exhibit B was mailed between March 29, 2017 and March 29, 2018, inclusive, (f) and the account statement and debt collection letter were not returned by the postal service.

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

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

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

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

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

#### **JURY DEMAND**

112. Plaintiff hereby demands a trial by jury.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff requests that the Court enter judgment in favor of Plaintiff and the Class and against Defendants 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: March 29, 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**

### ACCOUNT SUMMARY

Previous Balance	\$	3,479.26
Payments and Other Credits	-	0.00
Purchases	+	0.00
Fees	+	37.00
Interest Charges	+	66.51
New Balance	\$	3,582.77

Opening/Closing Date 12/16/2017 - 01/16/2018  
 Days in Billing Cycle 32  
 Total Credit Line \$3,000  
 Available Credit None

**Questions?**  
 Click on My Kohl's Charge at Kohls.com or  
 Call Customer Service 1-800-564-5740  
 Sunday 8:00 AM to 9:00 PM (Central)  
 Monday-Saturday 7:00 AM to 9:00 PM (Central)  
 Automated service is available 24 hours.

### PAYMENT INFORMATION

New Balance	\$	3,582.77
Payment Due Date		02/11/2018
Minimum Payment Due		971.00
Amount Past Due		833.00
To Avoid Interest Charge Pay	\$	3,582.77

**Late Payment Warning:** If we do not receive your minimum payment by the date listed above, you may have to pay a late fee up to \$37.00

**Minimum Payment Warning:** If you make only the minimum payment each period, you will pay more in interest and it will take you longer to pay off your balance. For example:

If you make no additional charges using this card and each month you pay...	You will pay off the balance shown on this statement in about...	And you will end up paying an estimated total of...
Only the minimum payment	14 years	\$7,699.00
\$138.00	3 years	\$4,986.00 (Savings = \$2,713.00)

If you would like information about credit counseling services, call 1-877-499-9467.

### ACCOUNT ACTIVITY

Transaction Date	Transaction Description	Amount
<b>Fees</b>		
01/11	LATE FEE	\$37.00
<b>TOTAL FEES FOR THIS PERIOD</b>		<b>\$37.00</b>
<b>Interest Charged</b>		
01/16	INTEREST CHARGE ON PURCHASES	\$66.51
<b>TOTAL INTEREST CHARGED FOR THIS PERIOD</b>		<b>\$66.51</b>

2018 Totals Year-To-Date	
Total fees charged in 2018	\$37.00
Total interest charged in 2018	\$66.51

### INTEREST CHARGES

Your Annual Percentage Rate (APR) is the annual interest rate on your account.

Type of Balance	Annual Percentage Rate (APR)	Balance Subject to Interest Rate	Interest Charges
Purchases	22.90%(V)	\$3,486.19	\$66.51

(V) = Variable Rate

### KOHL'S MVC SUMMARY

Current Kohl's Purchases \$0.00

Keep the savings coming!  
 Spend \$600 by December 31, 2018 to keep your Most Valued Customer (MVC) status and you'll continue to receive exclusive offers!

### IMPORTANT NEWS

YOU MUST CALL US IMMEDIATELY AT 888-768-5741 REGARDING YOUR ACCOUNT. FAILURE TO DO SO MAY RESULT IN YOUR ACCOUNT BEING TURNED OVER TO A COLLECTION AGENCY.

YOUR ACCOUNT IS CURRENTLY CLOSED.

NOTICE: SEE REVERSE SIDE FOR IMPORTANT INFORMATION

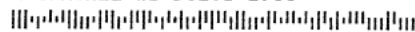
Name or Address Change?  
 Would you like to receive e-mail sales notification?  
 Check box and write information on reverse side.



Account Number	[REDACTED] 8-046
Due Date	Feb 11, 2018
New Balance	\$3,582.77
Total Payment Now Due	\$971.00

Mail this portion with your payment.

Kohl's Payment Center  
 PO BOX 2983  
 MILWAUKEE WI 53201-2983



Amount Paid

\$

NOTE: Do not mail cash or gift cards.  
 Please make check payable to Kohl's in US Dollars

000256670 01 AB 0.403 106481406263341 P Y  
 RONALD A UNTERSHINE  
 143 E PINE HOLLOW LN APT 6  
 OAK CREEK WI 53154-7714





**Information About Your Account**

Your Kohl's credit card account is issued by Capital One, N.A. and is governed by the Cardmember Agreement. You may obtain a copy of the Cardmember Agreement by contacting us at the customer service number on the back of your card or at the number on the front of this statement.

**1. Crediting of Payments:** You may make payments by any of the options listed below. The amount of your payment should be at least your minimum payment due, payable in U.S. dollars and drawn or payable through a U.S. financial institution or the U.S. branch of a foreign financial institution.

You may make payments by regular U.S. mail. Send your payment to the Payments address shown on this statement. Your payments by mail must comply with the instructions on this statement. Do not send cash. Write your account number on your check or money order. Payments must be accompanied by the payment coupon and cannot contain more than one payment or coupon; and there can be no staples, paper clips, tape or correspondence included with your payment. If your payment is in accordance with our payment instructions and is made available to us on any day by 5:00 p.m. local time at our Payments address on this statement, we will credit the payment to your account as of that day. If your payment is in accordance with our payment instructions, but is made available to us after 5:00 p.m. local time at Payments address on this statement, we will credit it to your account as of the next calendar day. You may make payments electronically through our website shown on this statement.

If we receive your completed request on our website by 7 p.m. Central time, we will credit your payment as of that day unless you specify a future date in your request. If we receive your request after 7 p.m. Central time, we will credit your payment as of the next calendar day.

You can also make a payment utilizing our telephone voice response system by dialing 1-800-564-5740 and following the voice prompts. When you make a phone payment through our voice response system, you authorize us to initiate an ACH or electronic payment that will be debited from your bank account. Funds may be withdrawn from your bank account as soon as the same day we process your payment.

As a courtesy, we may allow you to make a payment by telephone with the assistance of our customer service advisors.

For all other payments or for any type payment above for which you do not follow our payment instructions, crediting of your payments may be delayed for up to 5 days.

**2. How to Avoid Paying Interest on Purchases:** We begin assessing periodic interest charges on a transaction, fee, or interest charge from the date it is added to your daily balance as described in the Cardmember Agreement until your Account is paid in full. Your due date will be a minimum of 25 days following the close of each billing cycle. You can avoid periodic interest charges on new purchases when they are first billed to a statement, as follows. If you receive a current monthly statement that includes new purchases, and then make a payment that we receive by the date and time the Minimum Payment is due for that statement, we will not charge periodic interest on any portion of the new purchases, so long as your current statement also shows that we received payment of the ending balance for your previous month's statement by the date and time its Minimum Payment was due or that the ending balance for your previous month's statement was zero.

In accordance with the terms specific to your account, a minimum interest charge will be assessed for each billing period your account is subject to a finance charge.

**3. Calculation of Balance Subject to Interest Rate—Average Daily Balance (Including New Purchases):** We figure the periodic interest charges for each billing period using the average daily balance (including current transactions) method. For an explanation of this method, and questions about a particular interest charge calculation on your statement, please call us toll free at the customer service phone number listed on this statement. Periodic interest charges are determined by applying the monthly periodic rate shown on this statement to the average daily balance of your account. There is a minimum interest charge in any billing cycle in which you owe any periodic interest charges.

**4. Account Information Reported to Credit Bureaus:** We may report information about your account to credit bureaus. Late payments, missed payments or other defaults on your account may be reflected in your credit report. If you think we have reported inaccurate information to a credit bureau, you may write to us at P.O. Box 3115, Milwaukee, WI 53201-3115.

**5. Notice About Electronic Check Conversion:** When you pay by check, you authorize us either to use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction. When we use information from your check to make an electronic fund transfer, funds may be withdrawn from your account as soon as the same day we receive your payment, and you will not receive your check back from your financial institution.

**6. Conditional Payments:** Any payment check or other form of payment that you send us for less than the full balance due that is marked "paid in full" or contains a similar notation, or that you otherwise tender in full satisfaction of a disputed amount, must be sent to us at Kohl's, P.O. Box 3043, Milwaukee, WI 53201-3043. We reserve all our rights regarding these payments (e.g., if it is determined there is no valid dispute or if any such check is received at any other address, we may accept the check and you will still owe any remaining balance). We may refuse to accept any such payment by returning it to you, not cashing it or destroying it. All other payments that you make should be sent to the regular Payment address shown on this statement.

**7. Lost or Stolen Credit Card:** If you lose or someone steals your card or any other means to access your account, or if you think someone has used your account without your permission, you must tell us immediately by calling the number on the front of this statement.

**8. Send Inquiries To:** Kohl's, P.O. Box 3043, Milwaukee, WI 53201-3043

**9. Bankruptcy:** If you are entitled to bankruptcy protection, this communication is for information only, it is not an attempt to collect, assess or recover a debt or claim. Do not send us payments without speaking to your bankruptcy attorney or the Bankruptcy Court.

**What To Do If You Think You Find A Mistake On Your Statement**

If you think there is an error on your statement, write to Capital One, N.A. through our servicer at Kohl's, P.O. Box 3043, Milwaukee, WI 53201-3043. In your letter, give us the following information:

- Account information: Your name and account number.
- Dollar amount: The dollar amount of the suspected error.
- Description of Problem: If you think there is an error on your bill, describe what you believe is wrong and why you believe it is a mistake.

You must contact us within 60 days after the error appeared on your statement. You must notify us of any potential errors in writing. You may call us, but if you do we are not required to investigate any potential errors and you may have to pay the amount in question. While we investigate whether or not there has been an error, the following are true:

- We cannot try to collect the amount in question, or report you as delinquent on that amount.
- The charge in question may remain on your statement, and we may continue to charge you interest on that amount. But, if we determine that we made a mistake, you will not have to pay the amount in question or any interest or other fees related to that amount.
- While you do not have to pay the amount in question, you are responsible for the remainder of your balance.
- We can apply any unpaid amount against your credit limit.

**Your Rights If You Are Dissatisfied With Your Credit Card Purchases**

If you are dissatisfied with the goods or services that you have purchased with your credit card, and you have tried in good faith to correct the problem with the merchant, you may have the right not to pay the remaining amount due on the purchase.

To use this right, all of the following must be true.

- The purchase must have been made in your home state or within 100 miles of your current mailing address, and the purchase price must have been more than \$50. (Note: Neither of these are necessary if your purchase was based on an advertisement we mailed to you, or if we own the company that sold you the goods or services.)
- You must have used your credit card for the purchase. Purchases made with cash advances from an ATM or with a check that accesses your credit card account do not qualify.
- You must not yet have fully paid for the purchase. If all of the criteria above are met and you are still dissatisfied with the purchase, contact Capital One, N.A. in writing through our servicer at Kohl's, P.O. Box 3043, Milwaukee, WI 53201-3043. While we investigate, the same rules apply to the disputed amount as discussed above. After we finish our investigation, we will tell you our decision. At that point, if we think you owe an amount and you do not pay we may report you as delinquent.

Current as of 06/16/17

PROVIDE US WITH YOUR E-MAIL ADDRESS AND WE'LL DELIVER NEWS ABOUT KOHL'S SALES DIRECTLY TO YOUR DESKTOP!

E-MAIL ADDRESS:

NAME / ADDRESS CHANGE:

Name

Street

Case 2:18-cv-00501 Filed 03/29/18  
Phone Number

Page 3 of 3 Document 1-1  
City  State  Zip Code

To add an authorized user, please call 1-800-564-5740

# Exhibit B

Y1FCA50254



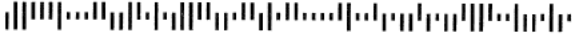
PO Box 612  
Milwaukee WI 53201-0621  
ADDRESS SERVICE REQUESTED



PROFESSIONAL  
PLACEMENT  
SERVICES, LLC  
888-828-5368

February 2, 2018

PPS Account #: [REDACTED] 0728  
Balance: \$3582.77



0008120024006207633953154771406-1YA1--Y1FCA50254 1245

801 - 1245  
RONALD A UNTERSCHINE  
143 E Pine Hollow Ln Apt 6  
Oak Creek WI 53154-7714



Professional Placement Services, LLC  
PO Box 612  
Milwaukee WI 53201-0612

**\*\*\* Detach Upper Portion And Return With Payment \*\*\***

Creditor: Capital One, N.A.  
Original Creditor: Capital One N.A.  
Re: Your Kohl's Credit Card Account XXXXXX8046  
PPS Account #: [REDACTED] 0728  
Balance: \$3582.77

1245-ONPPSV10-801-12/28/17

MEMBER



AMERICAN COLLECTORS

association member

**COLLECTION NOTICE**

This letter will serve to inform you that your delinquent account has been placed with Professional Placement Services, LLC (PPS). PPS will help you resolve this debt!!

The records provided to us show that your account is delinquent.

Please call **888-828-5368** or **414-224-3581** to arrange payment or if any of the above information is incorrect.

This is an attempt to collect a debt by a debt collector. Any information obtained will be used for that purpose. Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice that you dispute the validity of this debt or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor."

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

Professional Placement Services, LLC • Collection Services Division  
272 N 12th Street • PO Box 612 • Milwaukee WI 53201-0612 • 888-828-5368 • 414-224-3581  
Office Hours: M-Th 8AM-8PM, Fri 8AM-5PM, Sat 8AM-Noon

- To make a payment by mail, tear off the top portion of this letter and place it in the envelope with a check or money order payable to Professional Placement Services, LLC. Do not remit cash. Put your account number [REDACTED] 0728 on the front of your money order. Stamp and return to the address listed.

12345678-001245-01-1-AA



# 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

Ronald Untersshine

(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

Professional Placement Services LLC, et al.

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)

- |   |                            |                            |  |                            |                            |
|---|----------------------------|----------------------------|--|----------------------------|----------------------------|
|   | <b>PTF</b>                 | <b>DEF</b>                 |  | <b>PTF</b>                 | <b>DEF</b>                 |
| 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"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<b>PROPERTY RIGHTS</b>	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 650 Airline Regs.	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 660 Occupational Safety/Health	<b>SOCIAL SECURITY</b>	<input checked="" type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<b>LABOR</b>	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 495 Selective Service
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 195 Contract Product Liability	<b>PRISONER PETITIONS</b>	<input type="checkbox"/> 720 Labor/Mgmt. Relations & Disclosure Act	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 890 Other Statutory Actions
<b>REAL PROPERTY</b>	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 740 Railway Labor Act	<b>FEDERAL TAX SUITS</b>	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<b>IMMIGRATION</b>		<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 462 Naturalization Application		<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 463 Habeas Corpus - Alien Detainee		<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 290 All Other Real Property		<input type="checkbox"/> 465 Other Immigration Actions		<input type="checkbox"/> 950 Constitutionality of State 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
- 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 \_\_\_\_\_ SIGNATURE OF ATTORNEY OF RECORD \_\_\_\_\_

March 29, 2018 /s/ Mark A. Eldridge

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFF \_\_\_\_\_ 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.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

RONALD UNTERSCHINE,

Plaintiff(s)

v.

PROFESSIONAL PLACEMENT SERVICES LLC and
CAPITAL ONE N.A.

Defendant(s)

Civil Action No. 18-cv-501

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) PROFESSIONAL PLACEMENT SERVICES LLC
c/o CRAIG JOHNSON
272 North 12th Street
Milwaukee, WI 53233

A lawsuit has been filed against you.

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

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

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

STEPHEN C. DRIES, CLERK OF COURT

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

Signature of Clerk or Deputy Clerk

Civil Action No. 18-cv-501

**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.:

UNITED STATES DISTRICT COURT
for the
Eastern District of Wisconsin

RONALD UNTERS SHINE,

Plaintiff(s)

v.

PROFESSIONAL PLACEMENT SERVICES LLC and
CAPITAL ONE N.A.

Defendant(s)

Civil Action No. 18-cv-501

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) CAPITAL ONE, N.A.
1680 Capital One Drive
McLean, VA 22102

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: [Professional Placement Services, Capital One Hit with Wisconsin Man's Debt Collection Suit](#)

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