

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE IN NASHVILLE**

HEATHER VOSBURG and AUDREY SMITH, on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

FINKELSTEIN, KERN, STEINBERG, & CUNNINGHAM, P.C, MIDLAND FUNDING, LLC, and JOHN DOES 1-25,

Defendants.

CIVIL ACTION

**COMPLAINT--CLASS ACTION
AND
DEMAND FOR JURY TRIAL**

Civil Case No:

Plaintiffs HEATHER VOSBURG and AUDREY SMITH (hereinafter, "Plaintiffs"), Tennessee residents, brings this class action complaint by and through their attorney, William M. Kaludis, against Defendants FINKELSTEIN, KERN, STEINBERG, & CUNNINGHAM, P.C., (hereinafter "Defendant FKSC"), MIDLAND FUNDING, LLC (hereinafter "Defendant Midland"), and JOHN DOES 1-25 individually and on behalf of a class of all others similarly situated, pursuant to Rule 23 of the Federal Rules of Civil Procedure, based upon information and belief of Plaintiffs' counsel, except for allegations specifically pertaining to Plaintiffs, which are based upon Plaintiffs' personal knowledge.

INTRODUCTION/PRELIMINARY STATEMENT

1. Congress enacted the FDCPA in 1977 in response to the "abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many debt collectors." 15 U.S.C. § 1692(a). At that time, Congress was concerned that "abusive debt collection practices contribute to the number of personal bankruptcies, to material instability, to the loss of jobs, and to invasions of individual privacy." *Id.* Congress concluded that "existing laws . . . [we]re inadequate to protect consumers," and that "the effective collection of debts"

does not require “misrepresentation or other abusive debt collection practices.” 15 U.S.C. §§ 1692(b) & (c).

2. Congress explained that the purpose of the Act was not only to eliminate abusive debt collection practices, but also to “insure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged.” *Id.* § 1692(e). After determining that the existing consumer protection laws were inadequate, *id.* § 1692(b), Congress gave consumers a private cause of action against debt collectors who fail to comply with the Act. *Id.* § 1692k.

JURISDICTION AND VENUE

3. The Court has jurisdiction over this class action under 28 U.S.C. § 1331, 15 U.S.C. § 1692 *et seq.* and 28 U.S.C. § 2201. If applicable, the Court also has pendent jurisdiction over the state law claims in this action pursuant to 28 U.S.C. § 1367(a).
4. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2).

NATURE OF THE ACTION

5. Plaintiffs brings this class action on behalf of a class of Tennessee consumers seeking redress for Defendants’ actions of using an unfair and unconscionable means to collect a debt.
6. Defendants’ actions violated § 1692 *et seq.* of Title 15 of the United States Code, commonly referred to as the Fair Debt Collections Practices Act (“FDCPA”) which prohibits debt collectors from engaging in abusive, deceptive and unfair practices.
7. Plaintiffs are seeking damages, and declaratory and injunctive relief.

PARTIES

8. Plaintiff Audrey Smith (“Smith”) is a natural person and resident of the State of Tennessee, and is a “Consumer” as defined by 15 U.S.C. §1692(a)(3).
9. Plaintiff Heather Vosburg (“Vosburg”) is a natural person and resident of the State of Tennessee, and is a “Consumer” as defined by 15 U.S.C. §1692(a)(3).
10. Defendant Finkelstein is a legal professional corporation with its principal office located at 1810 Ailor Avenue, Knoxville, Tennessee 37921.
11. Upon information and belief, Defendant Finkelstein is a law office that uses the mail, telephone, and facsimile and regularly engages in business the principal purpose of which is to attempt to collect debts alleged to be due another.
12. Defendant Finkelstein is a “debt collector,” as defined under the FDCPA under 15 U.S.C. § 1692a(6).
13. Defendant Midland is a for-profit limited liability company and may be served through its agent for service of process at Corporation Service Company, 2908 Poston Ave., Nashville, TN 37203-1312 as its registered agent for service of process.
14. Upon information and belief, Defendant Midland is a company that purchases post charge-off delinquent accounts and hires third parties to attempt to collect them.
15. Defendant Midland is a “debt collector,” as defined under the FDCPA under 15 U.S.C. § 1692a(6).
16. All Defendants acted through their agents, employees, officers, members, directors, heirs, successors, assignees, principals, trustees, sureties, subrogees, representatives, and insurers.

17. John Does 1-25, are fictitious names of individuals and businesses alleged for the purpose of substituting names of Defendants whose identities will be disclosed in discovery and should be made parties to this action.

CLASS ALLEGATIONS

18. Plaintiffs bring this claim, pursuant to the Federal Rules of Civil Procedure (hereinafter “FRCP”) Rule 23, individually and on behalf of the following consumer class (the “Class”):

All consumers with an address in the state of Tennessee who received a collection letter from Defendant Finkelstein attempting to collect a debt or alleged debt for Defendant Midland, which charged a post charge-off fee that was not expressly authorized by the agreement creating the debt or permitted by law.

19. The Class period begins one year to the filing of this Action.

20. The identities of all class members are readily ascertainable from the records of Defendants and those companies and entities on whose behalf they attempt to collect and/or have purchased debts.

21. Excluded from the Plaintiff Classes are the Defendants and all officers, members, partners, managers, directors, and employees of the Defendants and their respective immediate families, and legal counsel for all parties to this action and all members of their immediate families.

22. There are questions of law and fact common to the Plaintiff Classes, which common issues predominate over any issues involving only individual class members. The principal issue is whether the Defendants’ written communications to consumers, in the forms attached as *Exhibits A* and *Exhibit B*, violate 15 U.S.C. §§ 1692e and 1692f.

23. The Plaintiffs’ claims are typical of the class members, as all are based upon the same facts and legal theories.

24. The Plaintiffs will fairly and adequately protect the interests of the Plaintiff Classes defined in this complaint. The Plaintiffs have retained counsel with experience in handling consumer lawsuits, complex legal issues, and class actions, and neither the Plaintiffs nor their attorneys have any interests, which might cause them not to vigorously pursue this action.

25. This action has been brought, and may properly be maintained, as a class action pursuant to the provisions of Rule 23 of the Federal Rules of Civil Procedure because there is a well-defined community interest in the litigation:

(a) **Numerosity:** The Plaintiffs are informed and believe, and on that basis allege, that the Plaintiff Classes defined above are so numerous that joinder of all members would be impractical.

(b) **Common Questions Predominate:** Common questions of law and fact exist as to all members of the Plaintiff Classes and those questions predominate over any questions or issues involving only individual class members. The principal issue is whether the Defendants' written communications to consumers, in the forms attached as *Exhibit A* and *Exhibit B*, violate 15 U.S.C. §§ 1692e and 1692f.

(c) **Typicality:** The Plaintiffs' claims are typical of the claims of the class members. The Plaintiffs and all members of the Plaintiff Classes have claims arising out of the Defendants' common uniform course of conduct complained of herein.

(d) **Adequacy:** The Plaintiffs will fairly and adequately protect the interests of the class members insofar as Plaintiffs have no interests that are adverse to the absent class members. The Plaintiffs are committed to vigorously litigating this matter. Plaintiffs have also retained counsel experienced in handling consumer lawsuits,

complex legal issues, and class actions. Neither the Plaintiffs nor their counsel have any interests which might cause them not to vigorously pursue the instant class action lawsuit.

- (e) **Superiority:** A class action is superior to the other available means for the fair and efficient adjudication of this controversy because individual joinder of all members would be impracticable. Class action treatment will permit a large number of similarly situated persons to prosecute their common claims in a single forum efficiently and without unnecessary duplication of effort and expense that individual actions would engender.

26. Certification of a class under Rule 23(b)(3) of the Federal Rules of Civil Procedure is also appropriate in that the questions of law and fact common to members of the Plaintiff Classes predominate over any questions affecting an individual member, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

27. Depending on the outcome of further investigation and discovery, Plaintiffs may, at the time of class certification motion, seek to certify a class(es) only as to particular issues pursuant to Fed. R. Civ. P. 23(c)(4).

ALLEGATIONS OF FACT
(As to Audrey Smith)

28. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs above herein with the same force and effect as if the same were set forth at length herein.

29. Some time prior to February 23, 2016, obligations were allegedly incurred to Household Financial Corporation (“HFC”).

30. The HFC obligation arose out of a transaction in which money, property, insurance or

services, which are the subject of the transaction, are primarily for personal, family or household purposes.

31. The HFC obligation is a "debt" as defined by 15 U.S.C. § 1692a(5).
32. Sometime prior to February 2016, Plaintiffs' debts were consigned, sold or otherwise transferred to Defendant Midland.
33. Midland is a "creditor" as defined by 15 U.S.C. § 1692a(4).
34. Defendants contend that the debt is past due.
35. Defendants collect and attempt to collect debts incurred or alleged to have been incurred for personal, family or household purposes on behalf of creditors using the United States Postal Services, telephone, and internet.
36. Defendants Midland hired Defendants Finkelstein to collect on the alleged debt.
37. On or about February 23, 2016, Defendant Finkelstein caused to be delivered to Plaintiff Smith a collection letter ("Letter A") in an attempt to collect the alleged debt. *See Exhibit A*
38. Letter A was sent or caused to be sent by persons employed by Defendants Finkelstein as a "debt collector" as defined by 15 U.S.C. § 1692a(6).
39. Letter A is a "communication" as defined by 15 U.S.C. § 1692a(2).
40. The front portion of the letter to Plaintiff Smith states:

"Original Creditor: Household Financial Corporation
Original Account Number: XXXX-XXXX-XXXX-8211
Current Owner: MIDLAND FUNDING, LLC
Account Number: 14-13175
Balance: \$10,866.00
Charge-Off Balance: \$10,639.50
Post Charge-Off Interest: \$0.00
Post Charge-Off Fees Accrued: \$226.50
Post Charge-Off Payments & Credits: \$0.00
Current Balance: \$10,866.00"

41. Upon information and belief, there is no legal or contractual right for Defendants to charge the "Post Charge-Off Fees Accrued."
42. On or about April 22, 2015, Defendant Midland filed suit against Smith regarding the alleged debt.
43. On or about December 21, 2016, the Honorable Judge Andre signed an Order of Non Suit, dismissing the case.

(As to Heather Vosburg)

44. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs above herein with the same force and effect as if the same were set forth at length herein.
45. Some time prior to February 25, 2016, obligations were allegedly incurred to Citibank, N.A. ("Citi")
46. The Citi obligation arose out of a transaction in which money, property, insurance or services, which are the subject of the transaction, are primarily for personal, family or household purposes.
47. The Citi obligation is a "debt" as defined by 15 U.S.C. § 1692a(5).
48. Sometime prior to February 25, 2016, Plaintiffs' debts were consigned, sold or otherwise transferred to Defendant Midland.
49. Midland is a "creditor" as defined by 15 U.S.C. § 1692a(4).
50. Defendants contend that the debt is past due.
51. Defendants collect and attempt to collect debts incurred or alleged to have been incurred for personal, family or household purposes on behalf of creditors using the United States Postal Services, telephone, and internet.

52. Defendants Midland hired Defendants Finkelstein to collect on the alleged debt.
53. On or about February 25, 2016, Defendant Finkelstein caused to be delivered to Plaintiff Smith a collection letter (“Letter B”) in an attempt to collect the alleged debt. *See Exhibit B.*
54. Letter B was sent or caused to be sent by persons employed by Defendants Finkelstein as a “debt collector” as defined by 15 U.S.C. §1692a(6).
55. Letter A is a “communication” as defined by 15 U.S.C. §1692a(2).
56. The front portion of the letter to Plaintiff Vosburg states:

“Original Creditor: Citibank, N.A.
Original Account Number: XXXX-XXXX-XXXX-8407
Current Owner: MIDLAND FUNDING, LLC
Account Number: 15-24228
Balance: \$4, 285.90
Charge-Off Balance: \$4,102.90
Post Charge-Off Interest: \$0.00
Post Charge-Off Fees Accrued: \$183.00
Post Charge-Off Payments & Credits: \$0.00
Current Balance: \$4, 285.90”

57. Upon information and belief, there is no legal or contractual right for Defendants to charge the “Post Charge-Off Fees Accrued.”

(As to All Plaintiff)

58. A debt collector is obligated under the FDCPA to correctly represent the amount of the debt.
59. Furthermore, a debt collector is prohibited from seeking any amount not authorized by the agreement creating the debt or permitted by law.
60. By falsely representing a charge-off fee, to which the Defendants are not entitled, the Defendant caused the Plaintiff real harm.

61. Defendant's actions caused the risk of harm that the Plaintiffs would pay hundreds of dollars more than they actually owed and more than could legally be collected.

62. Defendant's violations of the FDCPA further harmed the Plaintiff by subjecting the Plaintiff to improper and deceptive collection practices, in violation of the Plaintiff's statutorily created substantive rights to be free from such a debt collector's inappropriate attempts to collect a debt, and from being subjected to false, deceptive, unfair, or unconscionable means to collect a debt.

63. Defendant's actions as described herein are part of a pattern and practice used to collect consumer debts.

COUNT I

VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT 15 U.S.C. §1692e et seq.

64. Plaintiffs repeat, reiterate and incorporate the allegations contained in paragraphs above herein with the same force and effect as if the same were set forth at length herein.

65. Defendants' debt collection efforts attempted and/or directed towards the Plaintiff violated various provisions of the FDCPA, including but not limited to 15 U.S.C. § 1692e(2),

66. Pursuant to 15 U.S.C. § 1692e, a debt collector may not use any false, misleading and/or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer.

67. The Defendants violated said section by:

- Falsely representing the amount of the debt in violation of 15 U.S.C. §1692e(2)(B);
- Falsely representing that they were entitled to collect an amount they were not legally entitled to collect in violation of 15 U.S.C. §1692e(5); and
- Using a false representation or deceptive means to collect or attempt to collect a

debt in violation of 15 U.S.C. §1692e(10).

68. By reason thereof, Defendants are liable to Plaintiffs for judgment that Defendants' conduct violated Section 1692e *et seq.* of the FDCPA, actual damages, statutory damages, costs and attorneys' fees.

COUNT II

VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT 15 U.S.C. §1692f *et seq.*

69. Plaintiffs repeat, reiterate and incorporate the allegations contained in paragraphs above herein with the same force and effect as if the same were set forth at length herein.

70. Defendants' debt collection efforts attempted and/or directed towards the Plaintiffs violated 15 U.S.C. § 1692(f)1 of the FDCPA.

71. Pursuant to 15 U.S.C. § 1692(f), a debt collector may not use unfair or unconscionable means to collect or attempt to collect any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section: (1) The collection of any amount (including 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.

72. Defendants violated said section by charging a fee not expressly authorized by the agreement creating the debt or permitted by law.

73. By reason thereof, Defendant is liable to Plaintiff for judgment that Defendant's conduct violated Section 1692f *et seq.* of the FDCPA, actual damages, statutory damages, costs and attorneys' fees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against Defendants as follows:

- (a) Declaring that this action is properly maintainable as a Class Action and certifying Plaintiff as Class representative, and William M. Kaludis as Class Counsel;
- (b) Awarding Plaintiffs and the Class statutory damages;
- (c) Awarding Plaintiffs and the Class actual damages;
- (d) Awarding Plaintiffs costs of this Action, including reasonable attorneys' fees and expenses;
- (e) Awarding pre-judgment interest and post-judgment interest; and
- (f) Awarding Plaintiffs and the Class such other and further relief as this Court may deem just and proper.

Respectfully submitted on behalf of,

Dated January 23, 2017

/s/ William M. Kaludis
William M. Kaludis, Atty.
SHIELD LAW GROUP
BPR #017433
1230 2nd Ave. S.
Nashville, TN 37210-4110
Phone: (615) 742-8020
Fax: (615) 255-6037
bill@shieldlawgroup.com

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff hereby requests a trial by jury on all issues so triable.

Dated January 23, 2017

/s/ William M. Kaludis
William M. Kaludis, Atty.

FINKELSTEIN, KERN, STEINBERG & CUNNINGHAM

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

1810 AILOR AVENUE
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* Admitted in Tennessee and Mississippi
** TN Supreme Court Rule 31 Listed Mediator (General Civil)
*** Admitted in Alabama
**** Admitted in Arkansas
***** Admitted in Kentucky

February 23, 2016

AUDREY SMITH
PO BOX 680822
FRANKLIN TN 37068

Original Creditor	Household Financial Corporation
Original Account Number	XX-XXXX-XXXX-8211
Current Owner	MIDLAND FUNDING, LLC
Account Number	14-13175
Balance	\$10,866.00

Dear AUDREY SMITH:

As you are aware, your Household Financial Corporation account is being serviced by Finkelstein, Kern, Steinberg, & Cunningham, P.C.. Midland Funding, LLC is the current owner of this account. We are required to provide some additional information pertaining to this account. Please keep this information for your records.

Account Number at Charge-Off: XX-XXXX-XXXX-8211
Name of Creditor at Charge-Off: Household Financial Corporation

ADDITIONAL ACCOUNT INFORMATION:

Charge-Off Balance:	\$10,639.50
Post Charge-Off Interest Accrued:	\$0.00
Post Charge-Off Fees Accrued:	\$226.50
Post Charge-Off Payments & Credits:	\$0.00
Current Balance:	\$10,866.00

Sincerely,

Legal Assistant
FINKELSTEIN, KERN, STEINBERG & CUNNINGHAM, P.C.
888-200-6501

Hours of Operation:
8:30 a.m. and 7:00 p.m. (EST) Monday through Friday

Important Disclosure Information:

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

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

You may request the following information by writing us at 1810 Ailor Avenue Knoxville TN 37921:

*1) An account statement or complete transactional history, as applicable, reflecting your name, the last four digits of the account number at the time of charge-off, and the charge-off balance and/or claimed balance, excluding any post charge off payments; 2) A listing of all prior owners of this account and transfer information; 3) Documentation evidencing the transfer of ownership of the account to Midland Funding; 4) An account statement reflecting purchase, payment or other actual use of the account or a signed document reflecting the opening of the account at issue; and 5) an explanation of how any amount we are seeking to collect in excess of charge-off was calculated 6) **if applicable, the terms and conditions applicable to the account.***

8407

FINKELSTEIN, KERN, STEINBERG & CUNNINGHAM

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ATTORNEYS AT LAW

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* Admitted in Tennessee and Mississippi
** TN Supreme Court Rule 31 Listed Mediator (General Civil)
*** Admitted in Alabama
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***** Admitted in Kentucky

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ANGELA D. SIMMONS **
MICHAEL D. BEACH ***
MARK B. CUNNINGHAM
DANIEL J. CHUNG
PETER D. VAN DE VATE
SHARON H. KIM

February 25, 2016

HEATHER VOSBURG
1542 RICHLAWN DR
BRENTWOOD TN 37027

Original Creditor	Citibank, N.A.
Original Account Number	XXXX-XXXX-XXXX-8407
Current Owner	MIDLAND FUNDING, LLC
Account Number	15-24228
Balance	\$4,285.90

Citibank

Dear HEATHER VOSBURG:

As you are aware, your Citibank, N.A. account is being serviced by Finkelstein, Kern, Steinberg, & Cunningham, P.C.. Midland Funding, LLC is the current owner of this account. We are required to provide some additional information pertaining to this account. Please keep this information for your records.

Account Number at Charge-Off: XXXX-XXXX-XXXX-8407
Name of Creditor at Charge-Off: Citibank, N.A.

8407

ADDITIONAL ACCOUNT INFORMATION:

Charge-Off Balance:	\$4,102.90
Post Charge-Off Interest Accrued:	\$0.00
Post Charge-Off Fees Accrued:	\$183.00
Post Charge-Off Payments & Credits:	\$0.00
Current Balance:	\$4,285.90

Sincerely,

Legal Assistant
FINKELSTEIN, KERN, STEINBERG & CUNNINGHAM, P.C.
888-200-6501

Hours of Operation:
8:30 a.m. and 7:00 p.m. (EST) Monday through Friday

Important Disclosure Information:

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

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

You may request the following information by writing us at 1810 Ailor Avenue Knoxville TN 37921:

*1) An account statement or complete transactional history, as applicable, reflecting your name, the last four digits of the account number at the time of charge-off, and the charge-off balance and/or claimed balance, excluding any post charge off payments; 2) A listing of all prior owners of this account and transfer information; 3) Documentation evidencing the transfer of ownership of the account to Midland Funding; 4) An account statement reflecting purchase, payment or other actual use of the account or a signed document reflecting the opening of the account at issue; and 5) an explanation of how any amount we are seeking to collect in excess of charge-off was calculated 6) **if applicable, the terms and conditions applicable to the account.***

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.)

I. (a) PLAINTIFFS

HEATHER VOSBURG and AUDREY SMITH

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

(c) Attorney's (Firm Name, Address, and Telephone Number)

Bill Kaludis, Shield Law Group, 1230 2nd Ave S., Nashville, TN 37210, (615) 742-8020

DEFENDANTS

FINKELSTEIN, KERN, STEINBERG, & CUNNINGHAM, P.C., MIDLAND FUNDING, LLC and JOHN DOES 1-25

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

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

Attorneys (If Known)

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

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

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

	PTF	DEF		PTF	DEF
Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input checked="" 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 <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	

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

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

VI. CAUSE OF ACTION

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

Brief description of cause:
FDCPA

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 _____

01/23/2017 /s/ William M. Kaludis

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.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

Middle District of Tennessee

HEATHER VOSBURG and AUDREY SMITH, on behalf of themselves and all others similarly situated,

Plaintiff

v.

FINKELSTEIN, KERN, STEINBERG, & CUNNINGHAM, P.C., et al

Defendant

Civil Action No. 3:17-0159

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) MIDLAND FUNDING, LLC C/O CORPORATION SERVICE CO. 2908 POSTON AVE. NASHVILLE, TN 37203-1312

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:

William M. Kaludis Attorney-at-Law Shield Law Group 1230 2nd Ave. S. Nashville, TN 37210-4110

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

[Handwritten Signature]

Signature of Clerk or Deputy Clerk

Date: 01/23/2017

Civil Action No. 3:17-0159

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:

UNITED STATES DISTRICT COURT

for the

Middle District of Tennessee

HEATHER VOSBURG and AUDREY SMITH, on behalf of themselves and all others similarly situated,

Plaintiff

v.

FINKELSTEIN, KERN, STEINBERG, & CUNNINGHAM, P.C., et al

Defendant

Civil Action No. 3:17-0159

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) FINKELSTEIN, KERN, STEINBERG, & CUNNINGHAM, P.C. C/O RON CUNNINGHAM 1810 AILOR AVENUE KNOXVILLE, TN 37921-5802

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:

William M. Kaludis Attorney-at-Law Shield Law Group 1230 2nd Ave. S. Nashville, TN 37210-4110

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

[Handwritten Signature]

Signature of Clerk or Deputy Clerk

Date: 01/23/2017

Civil Action No. 3:17-0159

PROOF OF SERVICE

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

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

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

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

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*:

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

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

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Midland Funding, TN Law Firm Hit with Debt Collection Class Action](#)
