

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

ISRAEL BERNAL and MARCIA BERNAL,  
Individually and on Behalf of All Others Similarly  
Situated,

Plaintiffs,

v.

CONSUMER PORTFOLIO SERVICES, INC. and  
STATEWIDE RECOVERY SPECIALISTS, LLC,

Defendants.

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) Case No.: 18-cv-891

) **CLASS ACTION COMPLAINT**

) **Jury Trial Demanded**

**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 the Wisconsin Consumer Protection Act, Wis. Stat., Chs. 421-427, (the “WCA”).

**JURISDICTION AND VENUE**

2. The court has jurisdiction to grant the relief sought by the Plaintiffs 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. Plaintiffs Israel Bernal and Marcia Bernal are a married couple who reside in the Eastern District of Wisconsin (Milwaukee County).

4. Each Plaintiff is a “consumer” as defined in the FDCPA, 15 U.S.C. § 1692a(3), in that Defendant sought to collect from Plaintiffs a debt allegedly incurred for personal, family, or household purposes, namely to finance the purchase of an automobile.

5. Each Plaintiff is also a “customer” as defined in the Wisconsin Consumer Act, Wis. Stat. § 421.301(17), in that she engaged in a consumer transaction.

6. Defendant Consumer Portfolio Services, Inc. (“CPS”) is a foreign corporation with its primary offices located at 3800 Howard Hughes, Suite 1400, Las Vegas, NV 89169.

7. CPS does substantial business in Wisconsin and has designated its registered agent in Wisconsin for the service of process as C T Corporation System, 301 South Bedford Street Suite 1, Madison, Wisconsin 53703.

8. CPS provides consumer lending services to individuals. CPS issues, takes assignment of, and services loans to consumers to finance vehicle purchases and other consumer credit transactions.

9. CPS is both a “merchant,” as that term is defined in Wis. Stat. § 421.301(25), and a “lender,” as defined in Wis. Stat. § 421.301(22), because CPS regularly provides “consumer loans” (Wis. Stat. § 421.301(12)), including automobile loans, to individual customers.

10. CPS routinely conducts debt collection activities, including repossessions of automobiles, against Wisconsin citizens.

11. 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). On its face, Wis. Stat. § 427.103(3) applies to creditors collecting on their own behalf.

12. 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.”

13. 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).

14. 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/).

15. CPS is a debt collector as that term is defined in Wis. Stat. § 427.103.

16. Defendant Statewide Recovery Specialists, LLC (“SRS”) is a domestic limited liability company with its primary offices located at 1810 Cofrin Drive, Green Bay, WI 54302.

17. SRS is engaged in the business of a collection agency, using the instrumentality of interstate commerce for principal purpose of the business, which is the enforcement of security interests.

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

19. SRS is a debt collector as defined in 15 U.S.C. § 1692a and Wis. Stat. § 427.103.

## FACTS

20. At some point prior to October 13, 2017, Plaintiffs financed the purchase of an automobile with CPS. The automobile was a 2004 Kia Sorento (“Kia Sorento”).

21. The note obtained to finance the purchase of the Kia Sorento was secured by the automobile.

22. The loan was obtained for personal, family, or household purposes, namely, to finance Plaintiff’s personal vehicle.

23. The loan agreement was a “consumer credit transaction,” as that term is defined in the WCA, Wis. Stat. § 421.301(10).

24. At some point prior to October 13, 2017, Plaintiffs defaulted on the loan agreement.

25. On or about October 13, 2017, CPS mailed Plaintiffs a Billing Notice to Plaintiffs. A copy of the Billing Notice is attached to this Complaint as Exhibit A.

26. Exhibit A indicates that the “Principal balance” of the loan is \$9,433.50, the “Regularly Monthly Payment” is \$293.73, and the “Amount Past Due” is \$631.19.

27. On or about November 14, 2017, CPS mailed Plaintiffs another Billing Notice to Plaintiffs. A copy of the Billing Notice is attached to this Complaint as Exhibit B.

28. Exhibit B indicates that the “Principal balance” of the loan is \$9,433.50, the “Regularly Monthly Payment” is \$293.73, and the “Amount Past Due” is \$924.92.

29. After the receipt of Exhibit B, Plaintiffs received no further documents from CPS or any other party regarding the automobile loan at issue in this action.

30. On or about June 7, 2018, CPS contracted with SRS to repossess the Kia Sorento.

31. In the middle of the night between June 6, 2018 and June 7, 2018, SRS repossessed the Kia Sorento from the street near Plaintiffs' residence where it was parked.

32. Upon discovering the Kia Sorento had been repossessed, Plaintiffs called CPS. CPS confirmed that it had repossessed the automobile and is holding the automobile at an unknown location pending resale.

33. The repossession of the Kia Sorento violated the FDCPA as well as the WCA.

34. The FDCPA prohibits: "Taking or threatening to take any nonjudicial action to effect dispossession or disablement of property if— (A) there is no present right to possession of the property claimed as collateral through an enforceable security interest; [...] or (C) the property is exempt by law from such dispossession or disablement." 15 U.S.C. 1692f(6).

35. At the time CPS and SRS repossessed Plaintiff's Kia Sorento, Wisconsin law expressly prohibited the repossession.

36. Wisconsin law generally prohibits creditors from engaging in self-help repossession without the creditor following a specific, multi-step statutory notice procedure or first obtaining a judgment of replevin.

37. Once the creditor believes that the customer is in default under the terms of the vehicle purchase contract, the creditor must provide the customer with a Notice of the customer's right to cure the default. Wis. Stat. § 425.104.

**425.104 Notice of customer's right to cure default.**

(1) A merchant who believes that a customer is in default may give the customer written notice of the alleged default and, if applicable, of the customer's right to cure any such default (s. 425.105).

(2) Any notice given under this section shall contain . . . a statement of the nature of the alleged default and a clear statement of the total payment, including an itemization of any delinquency charges, or other performance necessary to cure

the alleged default, [and] the exact date by which the amount must be paid or performance tendered . . . .

38. The WCA specifically prohibits a merchant from accelerating the balance of a consumer credit transaction or seeking to recover collateral until after the customer's right to cure the default has expired. Wis. Stat. § 425.105 states:

**425.105 Cure of default.**

(1) A merchant may not accelerate the maturity of a consumer credit transaction, commence any action except as provided in s. 425.205(6) or demand or take possession of collateral or goods subject to a consumer lease other than by accepting a voluntary surrender thereof (s. 425.204), unless the merchant believes the customer to be in default (s. 425.103), and then only upon the expiration of 15 days after a notice is given pursuant to s. 425.104 if the customer has the right to cure under this section.

(2) Except as provided in subs. (3) and (3m), for 15 days after such notice is given, a customer may cure a default under a consumer credit transaction by tendering the amount of all unpaid installments due at the time of the tender, without acceleration, plus any unpaid delinquency or deferral charges, and by tendering performance necessary to cure any default other than nonpayment of amounts due. The act of curing a default restores to the customer the customer's rights under the agreement as though no default had occurred.

(3) A right to cure shall not exist if the following occurred twice during the preceding 12 months

(a) The customer was in default on the same transaction or open-end credit plan;

(b) The creditor gave the customer notice of the right to cure such previous default in accordance with s. 425.104; and

(c) The customer cured the previous default.

39. If a merchant intends to repossess collateral that serves as the security for a consumer credit transaction, the merchant must also either obtain a judgment of replevin, obtain a truly voluntary surrender of the collateral, be able to show that the collateral has been

abandoned, or provide the statutory Notice of Intent to Repossess Collateral described in Wis. Stat. § 425.206(1g):

**425.206 Nonjudicial enforcement limited.**

(1) Notwithstanding any other provision of law, no merchant may take possession of collateral or goods subject to a consumer lease in this state except when any of the following apply:

(a) The customer has surrendered the collateral or leased goods.

(b) Judgment for the merchant has been entered in a proceeding for recovery of collateral or leased goods under s. 425.205, or for possession of the collateral or leased goods under s. 425.203 (2).

(c) The merchant has taken possession of collateral or leased goods pursuant to s. 425.207 (2).

(d) For motor vehicle collateral or goods subject to a motor vehicle consumer lease, the customer has not made a demand as specified in s. 425.205 (1g) (a) 3. and, no sooner than 15 days after the merchant gives the notice specified in s. 425.205 (1g) (a), the merchant has taken possession of the collateral or goods in accordance with sub. (2).

(3) A violation of this section is subject to s. 425.305.

40. At all times relevant to this action, Plaintiffs have refused, and continue to refuse, to voluntarily surrender the Kia Sorento.

41. The statute governing voluntary surrender of collateral, Wis. Stat. § 425.204(3), states that a surrender of collateral is not “voluntary” when it is pursuant to any demand, other than a specific statutory notice. See Wis. Stat. § 425.204.

42. CPS never filed a replevin action against Plaintiffs. A search of CCAP reflects that no replevin action was filed against either Plaintiff or both Plaintiffs in Milwaukee County.

43. Plaintiffs have resided at the same address in Milwaukee County at all times relevant to this action.

44. If CPS filed a replevin action against Plaintiff in any other Wisconsin county or in any other state, such judgment would be void pursuant to Wis. Stat. § 421.401(2)(b). *Kett v. Community Credit Plan, Inc.*, 228 Wis. 2d 1, 14, 596 N.W.2d 786, 792 (1999) (“The legislature’s use of the words ‘for lack of jurisdiction’ makes clear that a default replevin judgment entered by a circuit court in the face of improper venue is invalid for purposes of Wis. Stat. § 425.206(1)(b) when entered.”)

45. Further, there is no evidence that a replevin judgment was obtained in any other county prior to the repossession, as Plaintiff was never served with such action and no such judgment was docketed in Milwaukee County prior to the repossession. CCAP also does not indicate that any replevin action was ever brought against Plaintiffs or either Plaintiff in any Wisconsin county.

46. No reasonable person could believe that the Kia Sorento was “abandoned property” within the meaning of Wis. Stat. § 425.207(2). Plaintiffs were regularly using the vehicle, which was registered with the State of Wisconsin Department of Transportation and insured.

47. CPS did not provide Plaintiff with the statutorily required notice of right to take possession, required by Wis. Stat. § 425.205(1g), which reads:

**(1g)**

(a) A merchant may not take possession of motor vehicle collateral or goods subject to a motor vehicle consumer lease under s. 425.206 (1) (d), unless the merchant gives, by mail, the customer a notice containing all of the following information:

1. The name, address, and telephone number of the merchant, a brief identification of the consumer credit transaction, and a brief description of the collateral or goods.
2. A statement that, as a result of the customer’s default on the consumer credit transaction, the merchant may have the right to

take possession of the collateral or goods without further notice or court proceeding.

3. A statement that if the customer is not in default or objects to the merchant's right to take possession of the collateral or goods, the customer may, no later than 15 days after the merchant has given the notice, demand that the merchant proceed in court by notifying the merchant in writing.

4. A statement that if the merchant proceeds in court, the customer may be required to pay court costs and attorney fees.

(b) The information required under par. (a) may be combined with any other notice, except that if the customer has a right to cure under s. 425.105, the information required under par. (a) shall be combined with the notice of right to cure under s. 425.104.

(c) A merchant is presumed to have given notice under par. (a) if the merchant sent the notice by certified or registered mail. A merchant who fails to give notice under par. (a) by certified or registered mail is subject to the penalties specified in s. 425.302 (1), but such failure does not constitute a failure to comply with s. 425.206 (1) (d).

48. Plaintiffs were aware of the notice requirement described above prior to the repossession.

49. Plaintiffs were actively checking the mail every day for the notice or a notification from the post office that it was holding a certified or registered mail letter for Plaintiff. No notice ever arrived by regular or certified or registered mail.

50. Plaintiffs have been litigants in other matters and are aware of the need to save and preserve all documents that may be related to litigation or potential litigation. If a notice had arrived from Defendants, Plaintiffs would have preserved it and turned it over to their counsel. Plaintiffs did not dispose of any Notice of Right to Cure or Notice of Intent to Repossess Collateral because they never received any such notices.

51. When a creditor fails to provide the §425.205(1g) notice, fails to obtain a truly voluntary surrender, cannot reasonably believe that the collateral is abandoned and fails to obtain a valid replevin judgment, self-help repossession violates the WCA. Wis. Stat. § 425.206.

52. Illegal self-help repossessions of collateral subject to Consumer Credit Transactions in Wisconsin render the transaction void. Wis. Stat. § 425.206(3) (“A violation of this section is subject to s. 425.305.”).

53. Wis. Stat. § 425.305 states:

**425.305 Transactions which are void.**

(1) In a transaction to which this section applies, the customer shall be entitled to retain the goods, services or money received pursuant to the transaction without obligation to pay any amount.

(2) In addition, the customer shall be entitled to recover any sums paid to the merchant pursuant to the transaction.

54. Plaintiff is also entitled to recover his reasonable attorneys’ fees and costs. Wis. Stat. § 425.308.

55. Moreover, Chapter 427 of the Wisconsin Statutes, part of the Wisconsin Consumer Act, regulates debt collectors and debt collection activities. The statute reads, in relevant part:

**427.104 Prohibited Practices.**

(1) In attempting to collect an alleged debt arising from a consumer credit transaction or other consumer transaction, ... where there is an agreement to defer payment, a debt collector may not

...  
(j) Claim, or attempt or threaten to enforce a right with knowledge or reason to know that the right does not exist.

**COUNT I – FDCPA**

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

57. Count I is brought against Defendant SRS.

58. SRS repossessed Plaintiffs' automobile in order to enforce the security interest CPS had in such automobile, when Wisconsin law prohibited SRS from repossessing Plaintiff's automobile.

59. At the time SRS repossessed the Kia Sorento, Defendants had not provided Plaintiffs with the mandatory notice of right to cure default or mandatory notice of intent to repossess collateral, as Wis. Stat. §§ 425.104 and 425.105 require.

60. Defendant SRS violated 15 U.S.C. § 1692f(6).

#### **COUNT II – WCA**

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

62. Count II is brought against Defendant CPS.

63. CPS repossessed Plaintiffs' automobile in violation of the WCA.

64. CPS did not provide Plaintiffs with the statutorily required notice of right to cure default, required by Wis. Stat. §§ 425.104 and 425.105, before accelerating the loan balance and repossessing the automobile.

65. CPS did not obtain judgment of replevin, or even file a replevin action, prior to repossessing the Kia Sorento.

66. CPS did not provide Plaintiffs with the required Notice of Intent to Repossess Collateral prior to repossessing the Kia Sorento. Wis. Stat. § 425.205(1g).

67. Plaintiffs did not voluntarily surrender the Kia Sorento. At no time did Plaintiffs communicate a willingness to voluntarily surrender the Kia Sorento to either defendant or to any agent or employee of either defendant or to any other person.

68. Plaintiffs did not abandon the Kia Sorento.

69. CPS failed to send Plaintiff a Notice of Intent to Repossess Collateral applicable to the alleged default.

70. Because CPS failed to provide Plaintiff with the required Notice of Right to Cure the alleged default, CPS was barred from accelerating Plaintiffs' loan or "demand[ing] or tak[ing] possession of collateral or goods subject to a consumer lease" before such notice was provided.

71. Because CPS failed to provide Plaintiff with the required Notice of Intent to Repossess Collateral, CPS was barred from "self-help" repossessing the Plaintiffs' automobile.

72. Instead of providing Plaintiffs with a proper Notice of Right to Cure, and instead of either providing a Notice of Intent to Repossess Collateral or obtaining a replevin judgment, CPS engaged in self-help repossession of Plaintiffs' automobile in violation of the WCA, Wis. Stat. § 425.206.

73. Defendant CPS violated Wis. Stat. § 425.206.

74. The loan transaction is void. *Id.*; Wis. Stat. § 425.305.

75. CPS must return the Plaintiffs' automobile or, if the automobile has been sold, pay Plaintiffs the fair market value of the automobile. *Id.* CPS is also liable for the total amount of all payments Plaintiff made to CPS in connection with the motor vehicle loan. *Id.*

### **COUNT III - WCA**

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

77. Count III is brought against both Defendants.

78. By repossessing Plaintiffs' automobile without having obtained a judgment, provided a notice of right to cure, or otherwise affect a voluntary surrender of the vehicle, Defendants claimed a right with knowledge to know such right did not exist.

79. Defendants violated Wis. Stat. 427.104(1)(j).

### **CLASS ALLEGATIONS**

80. Plaintiffs bring this action on behalf of a Class, consisting of (a) all natural persons in the State of Wisconsin, (b) who defaulted on a loan serviced by CPS, (c) where the amount financed was less than \$25,000 and the loan was secured by a vehicle purchased for personal, family, or household purposes, and (d) who had their vehicles repossessed by CPS without being sent an notice of right to cure / take possession, (e) between June 12, 2016 and June 12, 2018, inclusive.

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

82. There are questions of law and fact common to the members of the class, which common questions predominate over any questions that affect only individual class members. The predominant common question is whether the Defendant complied with the FDCPA.

83. Plaintiffs' claims are typical of the claims of the Class members. All are based on the same factual and legal theories.

84. Plaintiffs will fairly and adequately represent the interests of the Class members. Plaintiffs have retained counsel experienced in consumer credit and debt collection abuse cases.

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

**JURY DEMAND**

86. Plaintiffs hereby demand a trial by jury.

**PRAYER FOR RELIEF**

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

- (a) actual damages including but not limited to return of the Kia Sorento or the fair market value of the Kia Sorento if return is not possible, plus all sums paid to CPS pursuant to the loan transaction;
- (b) statutory damages;
- (c) punitive damages;
- (d) injunctive relief, specifically, preventing the sale of the Kia Sorento and the immediate return of the Kia Sorento to Plaintiffs;
- (e) attorneys' fees, litigation expenses and costs of suit; and
- (f) such other or further relief as the Court deems proper.

Dated: June 12, 2018

**ADEMI & O'REILLY, LLP**

By: /s/ John D. Blythin  
John D. Blythin (SBN 1046105)  
Mark A. Eldridge (SBN 1089944)  
Jesse Fruchter (SBN 1097673)  
Ben J. Slatky (SBN 1106892)  
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meldridge@ademilaw.com  
jfruchter@ademilaw.com  
bslatky@ademilaw.com

# **EXHIBIT A**

BILLING NOTICE

\*\*\* ACCOUNT PAST DUE \*\*\*



CPS

Consumer Portfolio Services, Inc.
PO BOX 57071, IRVINE CA 92619-7071

CUSTOMER INFORMATION

ACCOUNT NO. 0675

BORROWERS ISRAEL BERNAL
MARCIA BERNAL
5627 ROOT RIVER DR
GREENDALE, WI 53129

COLLATERAL DESCRIPTION 2004 KIA SORENTO

Send Regular Payments To:
Please do not send correspondence to this address

Consumer Portfolio Services, Inc.
P.O. BOX 98757
PHOENIX AZ 85038-0757

Make Check Payable To: CPS AUTO REC TRUST 2013 - B

A fee of up to \$15.00 will be assessed on all Returned Checks.

Table with 2 columns: Description and Amount. Rows include STATEMENT DATE, NEXT PAYMENT DATE, REGULAR MONTHLY PAYMENT, AMOUNT PAST DUE, LATE / SERVICE FEES, and TOTAL DUE ON NEXT PAYMENT DATE.

PRINCIPAL BALANCE \$9,433.50

Please Call 1-888-469-4520 for your payoff amount. Your payoff amount is different than your principal balance, as the principal balance does not include interest.

Send Payoff or Correspondence To:

Consumer Portfolio Services, Inc.
PO BOX 57071
IRVINE CA 92619-7071

Visit us online at www.consumerportfolio.com to:

- Make a payment by check, debit, or credit card [add'l fee may apply]
See prior statements, your payment history, and get your payoff
Change your mailing address
Get answers to questions via Live Chat or FAQ's

Other contact options:

- Call us at 1-888-469-4520
Text us with questions/comments at 66123

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

Credit Reporting Disputes: If you believe we reported incorrect or incomplete information about you, write us at:

Consumer Portfolio Services, Inc.
Attn: Credit Report Response Team
P.O. Box 57071
Irvine, CA 92619-7071

Please tell us why you believe it is incorrect or incomplete and provide any evidence you may have.

Please see back for additional disclosures.

For Proper Credit Please Return this Coupon in the Enclosed Envelope

PAYMENT COUPON



CPS

Consumer Portfolio Services, Inc.
PO BOX 57071, IRVINE CA 92619-7071



50000168209414

MIXED AADC 900

ISRAEL BERNAL
MARCIA BERNAL
5627 ROOT RIVER DR
GREENDALE WI 53129



001473

Consumer Portfolio Services, Inc.
P.O. BOX 98757
PHOENIX AZ 85038-0757

Table with 2 columns: Description and Amount. Rows include ACCOUNT NO., REGULAR MONTHLY PAYMENT, AMOUNT PAST DUE, LATE / SERVICE FEES, and TOTAL DUE ON NEXT PAYMENT DATE.

PLEASE MAKE CHECK PAYMENT TO:
CPS AUTO REC TRUST 2013 - B



**BANKRUPTCY:**

In the event a party on the contract files for bankruptcy protection please send your case notification to Asset Recover Dept., Attn: Bankruptcy, P.O. Box 57071, Irvine, CA 92619-7071 or call 800-342-9248.

**LATE CHARGES:**

You can avoid late charges by paying the Next Payment Amount as indicated on this Billing Statement on or before the Next Payment Due Date. Please refer to your retail installment sales contract for details regarding the assessment of late charges on your account.

To ensure that we receive your payment on time, please use the enclosed envelope and the attached payment coupon, send the payment to the address on the payment coupon and allow 7 - 10 days for mail delivery. There may be a delay of up to 5 days in posting payments if the payment is not received at the location identified on the payment coupon.

**NOTICE TO CONSUMER ABOUT NEGATIVE CREDIT REPORTING:**

Federal law requires us to advise you that we may report information about your account to the credit bureaus. Late payments, missed payments, or other defaults on your account may be reflected in your credit report.

As required by California law, you are hereby notified that a negative credit report reflecting on your credit report record may be submitted to a credit reporting agency if you fail to fulfill the terms on your credit obligation.

**ATTEMPT TO COLLECT A DEBT:**

This communication is an attempt by CPS to collect a debt, and any information received in response to this communication will be used for that purpose.

**Dedicated Complaint Line**  
8:00 AM EST - 8:00 PM EST  
Seven days a week  
1-888-469-4520

**Automated Customer Service**  
4:00 AM - Midnight - PT  
Seven days a week  
1-888-469-4520

**USE OF YOUR CREDIT REPORT:**

You agree that we may request and utilize your credit report(s) at any time during the term of your contract, for the purpose of reviewing, updating, renewing or extending credit, taking collection action or for other legitimate business purposes associated with your account, referenced on the front side of this statement.

**MISCELLANEOUS CHARGES:**

Miscellaneous charges may consist of unpaid fees, penalties, and expenses incurred by us on your account. These fees and expenses include, but are not limited to taxes, towing, repair bills, storage bills, fines and attorney fees. Please refer to your retail installment sales contract for details and repayment obligations.

**CONDITIONAL PAYMENTS:**

Any restrictive language on a payment we accept will have no effect on us without our express prior written approval.

**ADDITIONAL DISCLOSURES:**

When you provide a check as payment, you authorize us to use information from your check to make a one-time electronic fund transfer from your account. In certain circumstances, such as for technical or processing reasons, we may process your payment as a check transaction.

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.

**NOTICE:** If you are entitled to the protections of the United States Bankruptcy Code (11 U.S.C. §§ 502; 524) regarding the subject matter of this letter, the following applies to you: **THIS COMMUNICATION IS NOT AN ATTEMPT TO COLLECT, ASSESS, OR RECOVER A CLAIM IN VIOLATION OF THE BANKRUPTCY CODE AND IS FOR INFORMATIONAL PURPOSES ONLY.**

**Change of Address:**

Address  
[Grid for address input]

City  
[Grid for city input]

State / Zip  
[Grid for state and zip input]

Home Phone  
[Grid for home phone input]

Work Phone  
[Grid for work phone input]

Cell Phone  
[Grid for cell phone input]

# Exhibit B

BILLING NOTICE

\*\*\* ACCOUNT PAST DUE \*\*\*



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Consumer Portfolio Services, Inc.
PO BOX 57071, IRVINE CA 92619-7071

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Send Payoff or Correspondence To:

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PO BOX 57071
IRVINE CA 92619-7071

Visit us online at www.consumerportfolio.com to:

- Make a payment by check, debit, or credit card [add'l fee may apply]
See prior statements, your payment history, and get your payoff
Change your mailing address
Get answers to questions via Live Chat or FAQ's

Other contact options:

- Call us at 1-888-469-4520
Text us with questions/comments at 66123

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

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Attn: Credit Report Response Team
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Irvine, CA 92619-7071

Please tell us why you believe it is incorrect or incomplete and provide any evidence you may have.

Please see back for additional disclosures.

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PAYMENT COUPON



CPS

Consumer Portfolio Services, Inc.
PO BOX 57071, IRVINE CA 92619-7071



50000169943599

\*\*\*\*\*MIXED AADC 900

ISRAEL BERNAL
MARCIA BERNAL
5627 ROOT RIVER DR
GREENDALE WI 53129



001447



Table with 2 columns: Description and Amount. Rows include ACCOUNT NO., REGULAR MONTHLY PAYMENT, AMOUNT PAST DUE, LATE / SERVICE FEES, and TOTAL DUE ON NEXT PAYMENT DATE. Includes instruction: PLEASE MAKE CHECK PAYMENT TO: CPS AUTO REC TRUST 2013 - B

Consumer Portfolio Services, Inc.
P.O. BOX 98757
PHOENIX AZ 85038-0757





# 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**  
ISRAEL BERNAL and MARCIA BERNAL

**DEFENDANTS**  
CONSUMER PORTFOLIO SERVICES, INC., et al.

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

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.

(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

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>	<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"/> 362 Personal Injury - Med. Malpractice	<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"/> 365 Personal Injury - 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"/> 368 Asbestos Personal Injury Product Liability	<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	<b>PERSONAL PROPERTY</b>	<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"/> 370 Other Fraud	<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"/> 371 Truth in Lending	<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"/> 380 Other Personal Property Damage	<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	<input type="checkbox"/> 385 Property Damage 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			<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 196 Franchise			<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>	<b>CIVIL RIGHTS</b>	<b>PRISONER PETITIONS</b>	<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"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	<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"/> 442 Employment	<b>Habeas Corpus:</b>	<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"/> 443 Housing/Accommodations	<input type="checkbox"/> 530 General	<b>IMMIGRATION</b>		<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 462 Naturalization Application		<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 540 Mandamus & Other	<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"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 465 Other Immigration Actions		<input type="checkbox"/> 950 Constitutionality of State Statutes
	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 555 Prison Condition			

**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: June 12, 2018      SIGNATURE OF ATTORNEY OF RECORD: s/ John D. Blythin

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

ISREAL BERNAL and MARCIA BERNAL

Plaintiff(s)

v.

CONSUMER PORTFOLIO SERVICES, INC. and
STATEWIDE RECOVERY SPECIALISTS, LLC

Defendant(s)

Civil Action No. 18-cv-891

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) CONSUMER PORTFOLIO SERVICES, INC.
c/o C T CORPORATION SYSTEM
301 S. Bedford St., Suite 1
Madison, WI 53703

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-891

**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

ISREAL BERNAL and MARCIA BERNAL

Plaintiff(s)

v.

CONSUMER PORTFOLIO SERVICES, INC. and
STATEWIDE RECOVERY SPECIALISTS, LLC

Defendant(s)

Civil Action No. 18-cv-891

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) STATEWIDE RECOVERY SPECIALISTS, LLC
c/o KIVEN P GERKE
1810 COFRIN DRIVE
GREEN BAY, WI 54302

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-891

**PROOF OF SERVICE**

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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.: