

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

LaToya Tolliver,

Plaintiff,

v.

Med Shield, Inc. d/b/a M.S.I. Credit &
Collection,

Defendant.

Civil Action No: 1:19-cv-2187

**COMPLAINT AND
DEMAND FOR JURY TRIAL**

**COMPLAINT SEEKING DAMAGES FOR VIOLATION OF
THE FAIR DEBT COLLECTION PRACTICES ACT**

INTRODUCTION

1. This is an action for actual damages, statutory damages, legal fees and expenses for the improper and illegal actions and conduct of Med Shield, Inc. d/b/a M.S.I. Credit & Collection, whose actions and conduct are in direct violation of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq* (hereinafter referred to as the “FDCPA”), and the Indiana Deceptive Consumer Sales Act pursuant to IC 24-5-0.5-3-20.

JURISDICTION AND VENUE

2. Jurisdiction of this Court arises under 28 U.S.C § 1331 and pursuant to 15 U.S. § 1692k(d).

3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that the Defendant transacts business in this District and a substantial portion of the acts giving rise to this action occurred in this District.
4. The Plaintiff resides in this Judicial District.

PARTIES

5. The Plaintiff, LaToya Toliver (“Plaintiff”), is an adult individual residing in Indianapolis, Marion County, Indiana, and is a “consumer” as the term is defined by 15 U.S.C. § 1692a(3).
6. The Plaintiff is “any person” as the term is used in 15 U.S.C. § 1692d preface.
7. The Defendant, Med Shield, Inc. d/b/a M.S.I. Credit & Collection, (hereinafter referred to as “Defendant”), is a debt collection agency and/or debt purchaser operating from an address at 2424 E. 55th Street, Suite 100, Indianapolis, Indiana 46220, and is a “debt collector” as the term is defined by 15 U.S.C. § 1692a(6).
8. The Defendant is a debt collection agency and/or debt purchaser and is licensed by the State of Indiana. *See Exhibit “I” attached hereto.*
9. The Defendant regularly collects or attempts to collect, directly, or indirectly, debts owed of due or asserted to be owed or due another that arose out of transactions in which the money, property or services which are the subject of the transactions are primarily for personal, family or household purposes.

FACTUAL ALLEGATIONS

10. The Plaintiff disputes that she owes money to Defendant or the original creditor for whom they are collecting.

11. The Defendant filed a lawsuit in the Marion County, Indiana, Decatur Township Small Claims Court on May 20, 2004 under cause number 49K02-0405-SC-002370.
12. Plaintiff did not receive proper notification of the complaint.
13. At all times germane to the actions that form the basis of this case, the Plaintiff resided in Lawrence Township, Marion County, Indiana and never lived or resided in Decatur Township, Marion County, Indiana.
14. On July 1, 2004, the Defendant obtained a default judgment in the amount of \$1,385.59, against the Plaintiff in the Decatur Township Small Claims Court action.
15. Plaintiff had no knowledge of any legal proceedings against her by Defendant or any Judgement by the Defendant until she was contacted by phone in November of 2018.
16. On December 19, 2018 Palisades, by counsel, filed a motion asking to set a proceeding supplemental in order to initiate a wage garnishment or pursue alternate collection efforts against the Plaintiff for the current judgment amount of \$1,385.59.
17. On December 27, 2018, Plaintiff was served, by regular mail, with the proceeding supplemental order to appear.
18. On February 21, 2019, the Court ordered a 10% garnishment of Plaintiff's wages.

COUNT 1

VIOLATIONS OF THE FDCPA 15 U.S.C. § 1692, ET SEQ.

19. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as through fully stated herein.
20. The Defendant's attempts to collect a debt are in violation of 15 U.S.C. § 1692(i) as Med Shield, Inc. improperly filed their complaint in the Decatur Township Small Claims

Court which had no jurisdiction to hear the matter. *Suesz v. Med-1 Solutions, LLC*. 757 F.3d 636 (7th Cir. 2014).

21. The Defendant's failure to file their complaint in the proper venue, and their continued and ongoing use of the improper venue has prejudiced the Plaintiff and constitutes venue shopping for collection actions in contradiction of 15 U.S.C. §1692(i).
22. The Defendant's attempts to collect on this debt also violate 15 U.S.C. §1692(f) as they have used unfair or unreasonable means to collect or attempt to collect the debt, as they continue to attempt to enforce an unlawfully obtained judgment.
23. As a result of the above violations of the FDCPA, Defendant is liable to Plaintiff for actual damages, statutory damages of \$1,000 per defendant, attorney fees and costs.

COUNT TWO

VIOLATIONS OF THE INDIANA DECEPTIVE CONSUMER SALES ACT

24. The Plaintiff incorporates herein rhetorical paragraphs 1-23 of her complaint as if fully set forth below.
25. Pursuant to IC 24-5-0.5-3(20), any violation of the FDCPA is also a violation of the Indiana Deceptive Consumer Sales Act.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that the Court grant the following:

1. A finding that the Defendant violated the FDCPA and/or an admission from the Defendant that it violated the FDCPA.
2. Actual damages under 15 U.S.C. § 1692k(a)(1).

3. Statutory damages under 15 U.S.C. § 1692k(a)(2)(A).
4. Reasonable attorneys' fees and costs pursuant to 15 U.S.C. § 1692k(a)(3).
5. Actual and statutory damages pursuant to the Indiana Deceptive Consumer Sales Act.
6. Such other and further relief as the Court deems just and proper.

JURY DEMAND

The Plaintiff demands a trial by jury of all issues to triable pursuant to Rule 38 of the Federal Rules of Civil Procedure.

Dated: May 31, 2019

Respectfully Submitted,

By: /s/Richard J. Shea

Richard J. Shea, Esq., # 21396-53
Sawin, Shea & Steinkamp, LLC.
Attorneys for Plaintiff
6100 N. Keystone Avenue, Suite 620
Indianapolis, IN 46220
Telephone: (317) 255-2600
Facsimile: (317) 255-2905
E-mail: rshea@sawinlaw.com



Med Shield, Inc. d/b/a M.S.I. Credit & Collection

NMLS ID: 1141960	Street Address: 2424 E. 55th Street Indianapolis, IN 46220 Mailing Address: 2424 E. 55th Street Indianapolis, IN 46220	Phone: 317-613-3700 Toll-Free Number: Not provided Fax: 317-613-3745	Website: Not provided Email: davidb@medshield.com
------------------	---	--	--

Other Trade Names : d/b/a M.S.I. Credit & Collection

Prior Other Trade Names : None

Prior Legal Names : d/b/a M.S.I. Credit & Collection; Med Shield, Inc.

Sponsored MLOs : 0

Fiscal Year End: 12/31	Formed in: Indiana, United States	Date Formed: 03/01/1986	Stock Symbol: None	Business Structure: Corporation
------------------------	-----------------------------------	-------------------------	--------------------	---------------------------------

Regulatory Actions : [None posted in NMLS.](#)

Branch Locations No Branch Locations in NMLS

State Licenses/Registrations (Displaying 1 Active of 1 Total)

Regulator	Lic/Reg Name	Authorized to Conduct Business	Consumer Complaint
Indiana-SOS	Collection Agency License	Yes	Submit to Regulator
Lic/Reg #: 1141960Original Issue Date : 01/22/2014 Status : ApprovedStatus Date: 01/29/2019Renewed Through : 2019 Other Trade Names used in Indiana-SOS : d/b/a M.S.I. Credit & Collection View Resident/Registered Agent(s) for Service of Process ▶			

Regulatory Actions

While some state and federal agencies may add actions taken in previous years against a licensee, the majority are adding only new actions from 2012 or later. To view complete information regarding regulatory actions posted by the agency, click any regulator link.

No regulatory actions have been posted in NMLS.

Information made available through NMLS Consumer AccessSM is derived from NMLS (Nationwide Multistate Licensing System / Nationwide Mortgage Licensing System and Registry), the financial services industry's online registration and licensing database. NMLS was created by the [Conference of State Bank Supervisors \(CSBS\)](#) and the [American Association of Residential Mortgage Regulators \(AARMR\)](#) and is owned and operated by the [State Regulatory Registry LLC \(SRR\)](#), a wholly owned subsidiary of CSBS. For more information about the System, please visit the [NMLS Resource Center](#) or the [NMLS Federal Registry Resource Center](#) websites. | [Download PDF Reader](#)



CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

LaToya Toliver

(b) County of Residence of First Listed Plaintiff Marion

(EXCEPT IN U.S. PLAINTIFF CASES)

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

Sawin, Shea & Steinkamp, LLC.
6100 N. Keystone Ave, Suite 620
Indianapolis, IN 465220

DEFENDANTS

Case No: 1:19-cv-2187

Med Shield, Inc. d/b/a M.S.I Credit & Collection

County of Residence of First Listed Defendant Marion

(IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)

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

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

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

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | ☐ 1 | ☐ 1 | Incorporated or Principal Place of Business In This State | ☐ 4 | ☐ 4 |
| Citizen of Another State | ☐ 2 | ☐ 2 | Incorporated and Principal Place of Business In Another State | ☐ 5 | ☐ 5 |
| Citizen or Subject of a Foreign Country | ☐ 3 | ☐ 3 | Foreign Nation | ☐ 6 | ☐ 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
☐ 110 Insurance ☐ 120 Marine ☐ 130 Miller Act ☐ 140 Negotiable Instrument ☐ 150 Recovery of Overpayment & Enforcement of Judgment ☐ 151 Medicare Act ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans) ☐ 153 Recovery of Overpayment of Veteran's Benefits ☐ 160 Stockholders' Suits ☐ 190 Other Contract ☐ 195 Contract Product Liability ☐ 196 Franchise	PERSONAL INJURY ☐ 310 Airplane ☐ 315 Airplane Product Liability ☐ 320 Assault, Libel & Slander ☐ 330 Federal Employers' Liability ☐ 340 Marine ☐ 345 Marine Product Liability ☐ 350 Motor Vehicle ☐ 355 Motor Vehicle Product Liability ☐ 360 Other Personal Injury ☐ 362 Personal Injury - Medical Malpractice	☐ 365 Personal Injury - Product Liability ☐ 367 Health Care/Pharmaceutical Personal Injury Product Liability ☐ 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY ☐ 370 Other Fraud ☐ 371 Truth in Lending ☐ 380 Other Personal Property Damage ☐ 385 Property Damage Product Liability	☐ 422 Appeal 28 USC 158 ☐ 423 Withdrawal 28 USC 157 PROPERTY RIGHTS ☐ 820 Copyrights ☐ 830 Patent ☐ 835 Patent - Abbreviated New Drug Application ☐ 840 Trademark SOCIAL SECURITY ☐ 861 HIA (1395ff) ☐ 862 Black Lung (923) ☐ 863 DIWC/DIWW (405(g)) ☐ 864 SSID Title XVI ☐ 865 RSI (405(g))	☐ 375 False Claims Act ☐ 376 Qui Tam (31 USC 3729(a)) ☐ 400 State Reapportionment ☐ 410 Antitrust ☐ 430 Banks and Banking ☐ 450 Commerce ☐ 460 Deportation ☐ 470 Racketeer Influenced and Corrupt Organizations ☒ 480 Consumer Credit ☐ 485 Telephone Consumer Protection Act ☐ 490 Cable/Sat TV ☐ 850 Securities/Commodities/Exchange ☐ 890 Other Statutory Actions ☐ 891 Agricultural Acts ☐ 893 Environmental Matters ☐ 895 Freedom of Information Act ☐ 896 Arbitration ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision ☐ 950 Constitutionality of State Statutes
REAL PROPERTY ☐ 210 Land Condemnation ☐ 220 Foreclosure ☐ 230 Rent Lease & Ejectment ☐ 240 Torts to Land ☐ 245 Tort Product Liability ☐ 290 All Other Real Property	CIVIL RIGHTS ☐ 440 Other Civil Rights ☐ 441 Voting ☐ 442 Employment ☐ 443 Housing/Accommodations ☐ 445 Amer. w/Disabilities - Employment ☐ 446 Amer. w/Disabilities - Other ☐ 448 Education	PRISONER PETITIONS Habeas Corpus: ☐ 463 Alien Detainee ☐ 510 Motions to Vacate Sentence ☐ 530 General ☐ 535 Death Penalty Other: ☐ 540 Mandamus & Other ☐ 550 Civil Rights ☐ 555 Prison Condition ☐ 560 Civil Detainee - Conditions of Confinement	LABOR ☐ 710 Fair Labor Standards Act ☐ 720 Labor/Management Relations ☐ 740 Railway Labor Act ☐ 751 Family and Medical Leave Act ☐ 790 Other Labor Litigation ☐ 791 Employee Retirement Income Security Act IMMIGRATION ☐ 462 Naturalization Application ☐ 465 Other Immigration Actions	FEDERAL TAX SUITS ☐ 870 Taxes (U.S. Plaintiff or Defendant) ☐ 871 IRS—Third Party 26 USC 7609

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

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 U.S.C. 1692, et seq.

Brief description of cause:
Violations of the FDCPA**VII. REQUESTED IN COMPLAINT:**
☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.
DEMAND \$
8,000.00

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

05/31/2019

SIGNATURE OF ATTORNEY OF RECORD

/s/ Richard J. Shea

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

for the

LaToya Toliver

Plaintiff(s)

V.

Med Shield, Inc., d/b/a M.S.I. Credit & Collection

Defendant(s)

Civil Action No. 1:19-cv-2187

To: *(Defendant's name and address)*

David Barnard
Registered Agent for Med Shield, Inc.
d/b/a M.S.I. Creidt & Collection
2424 E. 55th Street, Suite 100
Indianapolis, IN 46220

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:

Richard J. Shea
Sawin, Shea & Steinkamp, LLC.
6100 N. Keystone Ave, Suite 620
Indianapolis, IN 46220

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

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. 1:19-cv-2187

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: