IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DINA DONINI,	)	CIVIL DIVISION
	)	
Plaintiff,	)	No: 2:22-CV-1029__
	)	
v.	)	**ELECTRONICALLY FILED**
	)	
MIDLAND CREDIT MANAGEMENT, INC. and MIDLAND FUNDING, LLC,	)	**JURY TRIAL DEMANDED**
	)	
Defendants.	)	

PETITION FOR REMOVAL OF CIVIL ACTION

PLEASE TAKE NOTICE that Defendants, MIDLAND CREDIT MANAGEMENT, INC. and MIDLAND FUNDING, LLC (hereinafter referred to as "Midland"), hereby remove to this Court the state court action described below.

1. On or about May 31, 2022, Plaintiff filed an action in the Court of Common Pleas of Allegheny County, Pennsylvania, via Complaint, entitled and captioned: *Dina Donini v. Midland Credit Management, Inc. and Midland Funding, LLC.* and assigned Case No: AR 22-001742.

2. Midland was served with plaintiff's Complaint on June 16, 2022.

3. The following pleadings have been filed in this action to date:

   (a) Complaint;

   (b) Affidavit Regarding Return of Service of Complaint;

   (c) Praecipe for Appearance; and

   (d) Notice of Filing of Petition for Removal of a Civil Action.

See pleadings attached hereto as Exhibit "A".

4. This action is a civil action of which this Court has original jurisdiction under 28 U.S.C. §1331, and is one which may be removed to this Court by Defendant pursuant to the provisions of 28 U.S.C. §1441(b) in that it arises under the Fair Debt Collection Practices Act ("FDCPA") 15 U.S.C. §1692, *et seq*.

5. The Court of Common Pleas of Allegheny County, Pennsylvania, Civil Division, is located within the jurisdiction of the United States Court for the Western District of Pennsylvania. This Court is the court embracing the place where the action is pending.

6. This Complaint is removable to the United States District Court for the Western District of Pennsylvania, from the Court of Common Pleas of Allegheny County, Pennsylvania, Civil Division pursuant to 28 U.S.C. §1331, §1441 and §1681.

7. The Complaint alleges the action is brought under the FDCPA. As such, this Court has federal question jurisdiction over this action pursuant to 28 U.S.C. §1331.

8. This Notice of Removal is being filed within 30 days of the date upon service of Plaintiff's Complaint.

9. Pursuant to 28 U.S.C. §1446(b), a Notice of Removal "shall be filed within thirty days after receipt by the Defendant, through service or otherwise, of a copy of the initial pleading.

10. Concurrently, Defendants provided written notice of this Petition for Removal to Plaintiff's counsel and filed a copy with the Court of Common Pleas of Allegheny County, Pennsylvania, Civil Division, as required by 28 U.S.C. §1446(d).

WHEREFORE, Defendants remove to this Court the above-entitled action, now pending in the Court of Common Pleas of Allegheny County, Pennsylvania, Civil Division, and request that this action be placed on the docket of this Court for further proceedings as though this action had originally been instituted in this Court.

Respectfully submitted,

MARSHALL DENNEHEY
WARNER COLEMAN & GOGGIN

BY: ______________________________

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing **Petition for Removal of a Civil Action** has been served upon the following known counsel of record this 15th day of July 2022, via electronic mail and/or United States First-Class Mail, postage prepaid:

Eugene D. Frank, Esquire
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efrank@edf-law.com
(Counsel for Plaintiff)

MARSHALL DENNEHEY
WARNER COLEMAN & GOGGIN

Danielle M. Vugrinovich

DANIELLE M. VUGRINOVICH, ESQUIRE
Attorney for Defendants, Midland Credit Management, Inc. and Midland Funding, LLC

CSC

KN4 / ALL
Transmittal Number: 25094921
Date Processed: 06/21/2022

Notice of Service of Process

Primary Contact:	Tanya Flores Midland Credit Management, Inc. 350 Camino de La Reina Ste 100 San Diego, CA 92108-3007
Electronic copy provided to:	Krista Yerby

Entity:	Midland Credit Management, Inc Entity ID Number 1682419
Entity Served:	Midland Credit Management, Inc.
Title of Action:	Dina Donini vs. Midland Credit Management, Inc.
Matter Name/ID:	Dina Donini vs. Midland Credit Management, Inc. (12465698)
Document(s) Type:	Notice and Complaint
Nature of Action:	Violation of State/Federal Act
Court/Agency:	Allegheny County Court of Common Pleas, PA
Case/Reference No:	AR-22-001742
Jurisdiction Served:	Kansas
Date Served on CSC:	06/16/2022
Answer or Appearance Due:	20 Days
Originally Served On:	CSC
How Served:	Certified Mail
Sender Information:	Law Offices Of Eugene D. Frank, P.C 412-366-4276

Information contained on this transmittal form is for record keeping, notification and forwarding the attached document(s). It does not constitute a legal opinion. The recipient is responsible for interpreting the documents and taking appropriate action.

To avoid potential delay, please do not send your response to CSC

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**IN THE COURT OF COMMON PLEAS OF
ALLEGHENY COUNTY, PENNSYLVANIA
CIVIL DIVISION**

Dina Donini, Plaintiff, vs. Midland Credit Management, Inc. and Midland Funding LLC, Defendants.	Case No. AR-22-

COMPLAINT

AND NOW, comes the Plaintiff, Dina Donini, by and through her undersigned counsel, and files this Complaint, and in support thereof avers as follows:

Jurisdiction and Venue

1. Jurisdiction of this Court *generally* arises out of, but not limited to, the Defendant's violation(s) of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (the "FDCPA"), which prohibits debt collectors from engaging in abusive, false, deceptive, misleading and/or unfair practices.

2. At all relevant times herein, Defendants, Midland Credit Management, Inc. and Midland Funding LLC (collectively the "Defendants"), were engaged in the collection of delinquent consumer debts within the Commonwealth of Pennsylvania, including the County of Allegheny.

3. Venue is proper in Allegheny County, Pennsylvania pursuant to the Pennsylvania Rules of Civil Procedure.

Parties

4. At all times mentioned herein, Plaintiff, Dina Donini (the "Plaintiff"), was a natural person, consumer, and citizen of the Commonwealth of Pennsylvania.

5. At all relevant times herein, Plaintiff was allegedly obligated to pay a defaulted consumer debt as represented by Defendant and/or its agents/attorneys and as specifically set forth herein (the "Debt").

6. Defendant, Midland Credit Management, Inc. ("MCM"), is a corporation established in the State of Kansas with a business address located at 350 Camino De La Reina, Suite 100, San Diego, CA 92108.

7. MCM conducts business and/or attempts to collect delinquent consumer debts throughout the Commonwealth of Pennsylvania, including the County of Allegheny.

8. MCM's principal purpose is the collection of delinquent debts.

9. MCM is a servicer of Midland Funding LLC ("MF") consumer accounts and regularly attempts to collect related delinquent consumer debts for MF via phone calls to consumers and collection letters to consumers amongst other collection tactics.

10. MF is a limited liability company established in the State of Delaware with a business address located at 350 Camino De La Reina, Suite 100, San Diego, CA 92108.

11. MF conducts business and/or attempts to collect delinquent consumer debts throughout the Commonwealth of Pennsylvania, including the County of Allegheny.

12. MF's principal purpose is the collection of delinquent debts.

13. MF's sole business is the purchasing of delinquent consumer debts with the purpose of attempting to collect on those debts by way of dunning collection letters sent to the consumers, collection telephone calls made to the consumers or third parties in an

attempt to locate said consumers, filing collection lawsuits against consumers in various courts of law, and/or by reporting the delinquent debts to the credit bureaus.

14. MCM and MF are affiliated companies sharing common owners, officers, members, managers, attorneys, and/or employees as well as addresses, phone numbers, consumer files, and/or databases.

15. MCM and MF operate with one another and share information in their efforts to purchase and collect on delinquent consumer debts.

16. MF does not issue credit and/or charge accounts or otherwise extend credit to consumers.

17. At all times mentioned herein, MF directed and/or authorized MCM to act as its agent in the attempts to collect the relevant consumer debt.

18. Defendants are "debt collectors" as defined in the FDCPA and, at all times relevant herein, acted by and/or through their owners, managers, officers, shareholders, authorized representatives, partners, employees, agents, affiants, attorneys, affiliates and/or workmen.

19. At all times mentioned herein, Defendant directed, retained, and/or authorized the Law Offices of Hayt, Hayt & Landau LLC ("HHL") to act as its agent or attorneys in the attempt to collect the Debt as set forth herein and communicated thereafter with HHL including, but not limited to, any outcome of collection activity related to legal action taken by HHL against Plaintiff.

20. MF is vicariously liable for the actions of MCM as well as any other agents or attorneys assigned and/or hired to collect the relevant debt.

21. Defendants (individually and/or collectively) regularly engage in collecting delinquent consumer debts and regularly use the mails and/or the telephone in an

attempt to collect, directly or indirectly, delinquent consumer debts allegedly owed or due or asserted to be owed or due another.

Factual Allegations

22. Prior to the events that give rise to this action, Plaintiff retained Morrow & Artim, P.C. ("M&A") to represent him in a collection lawsuit filed by MF in the Commonwealth of Pennsylvania at Case Number CV-0000200-2016 in an attempt to collect the Debt (the "Collection Lawsuit"). All pleadings and/or other documents filed within the Collection Lawsuit are incorporated herein by reference.

23. The Debt was a consumer debt as defined in the FDCPA because Plaintiff incurred the Debt for personal, family and/or household purposes, including, but not limited to, personal necessities and retail purchases.

24. HHL was aware that Plaintiff was represented by an attorney and, upon information and belief, communicated with Defendants both during the pendency of the Collection Lawsuit as well as thereafter.

25. Shortly after the conclusion of the Collection Lawsuit, M&A sent a letter dated January 19, 2017 on behalf of Plaintiff to Defendants and HHL (the "Attorney Letter").

26. The Attorney Letter made it clear that M&A represented Plaintiff even after the Collection Lawsuit ended.

27. Defendants nor their agents or attorneys ever contacted M&A to determine if it or its attorneys still represented Plaintiff nor was Defendants provided consent from M&A prior to making the intentional business decision to communicate *directly* with Plaintiff.

28. On or about October 30, 2021, Defendants mailed or, caused to be mailed, **directly** to Plaintiff a collection letter in an attempt to collect the Debt (the "Collection Letter").

29. Plaintiff reviewed the Collection Letter.

30. The Collection Letter is a "communication" as defined in the FDCPA given the Collection Letter conveyed information regarding the Debt, implied the existence thereof, and attempted to induce payment of the same from Plaintiff.

31. The Collection Letter includes a "current balance" and indicates that "[i]f you do not pay the debt, we may continue to report it to the credit reporting agencies as unpaid."

32. Defendants either had knowledge of M&A's information or could have readily ascertained M&A's information prior to sending the Collection Letter directly to Plaintiff.

33. Thereafter, on or about November 24, 2021. Attorney Gregory T. Artim sent Defendants another cease-and-desist letter to stop contacting Plaintiff directly.

34. Despite the further directive to stop directly contacting Plaintiff, Defendants attempted to make contact with Plaintiff by phone in February 2022 but *interestingly enough* never did the same with Plaintiff's attorney.

35. Additionally, Plaintiff was unaware how long credit reporting is allowed for delinquent debts and, at the time Defendants mailed the Collection Letter to Plaintiff and her review of it, she was unaware that the Debt would only be allowed to be reported by law for a very minimal timeframe thereafter (i.e., less than 7 months).

36. A least sophisticated consumer is at risk of confusing how long credit reporting is allowed when they receive a letter such as the Collection Letter and, in the case

of a represented consumer, could suffer harm if the consumer chooses not to consult with her attorney prior to making a decision regarding the relevant debt.

37. Upon review of the Collection Letter and the phone call, Plaintiff experienced anxiety, aggravation, mental distress, concern, frustration, inconvenience, anger, confusion, and/or worry.

Causes of Action
Count I
Violations of the FDCPA
15 U.S.C. § 1692, *et seq.*

38. Plaintiff incorporates by reference the above paragraphs of this Complaint as though fully set forth herein.

39. There is abundant evidence of the use of abusive, deceptive, and unfair collection practices by many debt collectors. Abusive debt collection practices contribute to the number of personal bankruptcies, marital instability and invasions of individual privacy.

40. The FDCPA was enacted, in part, due to existing laws and/or procedures being inadequate for redressing the types of injuries as set forth herein.

41. Defendants knew or should have known that their actions violated the FDCPA.

42. Defendants are subject to *strict liability* for the actions in attempting to collect the Debts as set forth herein.

43. Defendants could have taken steps necessary to bring their actions within FDCPA compliance, but neglected to do so and failed to adequately review their actions to ensure compliance with the law.

44. Because the list is non-exhaustive, a debt collection practice can be deemed a false, deceptive, materially misleading, or unfair practice even if it does not fall within any of the subsections of Sections 1692d, 1692e, and/or 1692f of the FDCPA.

45. Defendants violated the FDCPA by directly communicating with Plaintiff via the Collection Letter and phone call when they knew or should have known Plaintiff was represented by an attorney.

46. Additionally, Defendants violated the FDCPA when it knew the Debt was ***extremely*** old and that credit reporting was ***nearly*** obsolete yet drafted the Collection Letter leaving it intentionally vague which can cause the least sophisticated consumer to be confused whether the Debt would be reported for a meaningful period of time to the credit bureaus when in reality it was only allowed to be reported for an insignificant period of time as of the date of the Collection Letter.

47. The conduct of Defendants, their agents, servants, representatives, managers, attorneys and/or employees, as described herein was improper, misleading, deceptive, abusive, harassing and/or unfair collection practices in violation(s) of the FDCPA's communication in connection with debt collection practices at 15 U.S.C. § 1692c, harassment and abuse collection practices at 15 U.S.C. § 1692d, deceptive collection practices at 15 U.S.C. § 1692e, and/or unfair collection practices at 15 U.S.C. § 1692f.

48. As a result of Defendants' violation(s) of the FDCPA, Plaintiff is entitled to actual damages, statutory damages and reasonable attorneys' fees and costs.

WHEREFORE, Plaintiff respectfully demands that this Court enter a judgment against Defendants *not in excess* of the arbitration limits for the following:

(a) Actual damages;

(b) Statutory damages;

(c) Attorneys' fees, litigation expenses and costs of suit;

(d) Such other and further relief that this Court deems just and proper.

Plaintiff, Dina Donini, demands a trial by jury if removed or appealed as to all issues so triable.

Respectfully submitted,

By: */s/ Eugene D. Frank*
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