IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

MARSHA COOK,	)	
	)	
Plaintiff,	)	
	)	
v.	)	**Civil Action File No.**
	)	
MIDLAND CREDIT MANAGEMENT, INC.,	)	
	)	
	)	
Defendant.	)	

<u>DEFENDANT MIDLAND CREDIT MANAGEMENT, INC.'S NOTICE OF REMOVAL</u>

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant Midland Credit Management, Inc. ("Midland") hereby removes this action to this Court.[1] In support, Midland states as follows:

1. Plaintiff Marsha Cook ("<u>Plaintiff</u>") filed this action against Midland in the State Court of Mecklenburg County, North Carolina, on January 12, 2025 (the "<u>State Court Action</u>"). *See Marsha Cook v. Midland Credit Management, Inc.*, Pl.'s Compl., No. 25CV001627-590, (State Ct. Mecklenburg Cty., NC, January 12, 2025). Along with the other requisite underlying court filings and submissions, a copy of Plaintiff's Complaint is attached hereto as **Exhibit A**.

2. Midland was served with process in the State Court Action on January 17, 2025.

3. This notice of removal is timely given that it is being filed within thirty (30) days of service of Plaintiff's complaint. *See* 28 U.S.C. § 1446(b)(1).

[1] By filing this Notice of Removal, Midland does not waive and expressly reserves all rights, claims, demands, defenses, and objections, which include, but are not limited to any and all affirmative defenses as set forth in Rule 12 of the Federal Rules of Civil Procedure, including, but not limited to, failure to state a claim upon which relief can be granted, together with any and all other rights, claims, demands, defenses, and objections.

4. Plaintiff's Complaint alleges that Midland violated the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692, *et seq.* *See* Pl.'s Compl. at ¶¶ 72-79.

5. Additionally, Plaintiff's Complaint alleges claims under the North Carolina Collection Agency Act, N.C. Gen. Stat. § 58-70-1, *et seq.* *See* Pl.'s Compl. at ¶¶ 80-103.

6. This Court has jurisdiction over this action as Plaintiff alleges claims that arise under the FDCPA and, thus, present a federal question. *See* 28 U.S.C. § 1331 ("The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States."); *see also* 15 U.S.C. § 1692k(d) (providing that "an action to enforce any liability created by this title may be brought in any appropriate United States district court without regard to the amount in controversy").

7. The Court also has supplemental jurisdiction over Plaintiff's state law claims under 28 U.S.C. §§ 1367(a) and 1441(a). Specifically, the Court has supplemental jurisdiction over all state law claims which arise out of "a common nucleus of operative fact" to Plaintiff's federal claims. *United Mine Workers of Am. v. Gibbs*, 383 U.S. 715, 725 (1966).

8. Plaintiff's state and federal claims all arise out of the same nucleus of operative fact—communications sent by Midland to Plaintiff. *See* Pl.'s Compl. at ¶¶ 26-52; *id.* at ¶¶ 80, 85, 87, 89, 91, 93, 95, 97, 99, 100, 102 (incorporating the prior allegations of Plaintiff's Complaint to each of Plaintiff's claims under the North Carolina Collection Agency Act against Midland).

9. This action may be removed to this Court pursuant to 28 U.S.C. § 1441.

10. As required by 28 U.S.C. § 1446(a), Midland has attached copies of all process, pleadings, orders, and other papers served or otherwise filed in the underlying action. *See* Ex. A.

11. On the date of this filing, and as required by 28 U.S.C. § 1446(d), Midland will provide written notice of the filing of this notice of removal to Plaintiff, and Midland will file a

true and correct copy of the same with the Clerk of the State Court of Mecklenburg County, North Carolina.

WHEREFORE, Midland respectfully provides notice that the above-captioned case is removed to this Court.

Respectfully submitted this 14th day of February, 2025.

/s/ J. Christina Boardman Kuklinski
J. Christina Boardman Kuklinksi
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Suite 1500
Birmingham, AL 35203
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ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

I certify that on February 14, 2025, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, and a copy of the foregoing has been mailed to the Plaintiff at the addresses below:

Sean Weiner
11131 Wildlife Road
Charlotte, NC 28278

/s/ J. Christina Boardman Kuklinski
Of Counsel

Exhibit A

STATE OF NORTH CAROLINA COUNTY OF MECKLENBURG	IN THE GENERAL COURT OF JUSTICE SUPERIOR COURT DIVISION
MARSHA COOK, Plaintiff, vs. MIDLAND CREDIT MANAGEMENT, INC., Defendant	Case No.: **COMPLAINT**

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, MARSHA COOK (hereinafter "COOK"), alleges violations of the Fair Debt Collection Practices Act 15 U.S.C. § 1692 *et seq*. ("FDCPA") and the North Carolina Collection Agency Act ("NCCAA") North Carolina Gen. Stat. § 58-70 et. seq. against Defendant MIDLAND CREDIT MANAGEMENT, INC. (hereinafter "MCM") for illegal collections practices.

PARTIES

1. Plaintiff COOK is a natural person and resides in Charlotte, North Carolina.
2. Defendant MCM is a for-profit corporation that is a debt collector and operates as a debt collection agency with its principal place of business at 350 Camino De La Reina, Suite 100, San Diego, California 92108.
3. Defendant is registered as a collection agency with the North Carolina Department of Insurance. MCM is assigned the following debt collection permit numbers by the North Carolina Department of Insurance: 119505601, 119500908, 119506854, 119502738, 119506372, 119500436, 119500840, and 119505741.

JURISDICTION AND VENUE

4. The Court has subject matter jurisdiction under North Carolina Gen. Stat. §7A-240 and §7A-243 since this is a civil matter where the amount in controversy exceeds $25,000.

5. The venue is proper under North Carolina Gen. Stat. § 1-82 because COOK is a resident of Mecklenburg County.

APPLICABLE LAW
NORTH CAROLINA COLLECTION AGENCY ACT (NCCAA)

6. Collection agencies engaged in the collection of debts from consumers are prohibited from "collect[ing] or attempt[ing] to collect a debt . . . by any fraudulent, deceptive, or misleading representation." North Carolina Gen. Stat. § 58-70-110.

7. "No collection agency shall collect or attempt to collect a debt or obtain information concerning a consumer by fraudulent, deceptive or misleading representation [,] [such as] . . . falsely representing the character, extent, or amount of a debt against a consumer. . ." North Carolina Gen. Stat. § 58-70-110(4).

8. "No collection agency shall collect or attempt to collect a debt . . . [by] [f]alsely representing that an existing obligation of the consumer may be increased by the addition of attorney's fees, investigation fees, service fees, or any other fees or charges . . . " North Carolina Gen. Stat. § 58-70-110(6).

9. "No collection agency shall collect or attempt to collect any debt by use of any unfair practices. Such practices include . . . [c]ommunicating with a consumer whenever the

collection agency has been notified by the consumer's attorney that he represents said consumer." North Carolina Gen. Stat. § 58-70-115(3).

10. The NCCAA defines "collection agency" as "a person directly or indirectly engaged in soliciting, from more than one person delinquent claims of any kind owed or due or asserted to be owed or due the solicited person and all persons directly or indirectly engaged in the asserting, enforcing or prosecuting of those claims." North Carolina Gen. Stat. § 58-70-15.
11. Further, for the collection of debts from consumers, "a collection agency means a collection agency as defined in G.S. § 58-70-15 which engages, directly or indirectly, in debt collection from a consumer." North Carolina Gen. Stat. § 50-70-90 (1).
12. The NCCAA defines "consumer" as "an individual, aggregation of individuals, corporation, company, or partnership that has incurred a debt or alleged debt." North Carolina Gen. Stat. § 58-70-90 (2).
13. The NCCAA defines a "person" as "an individual, corporation . . . or similar entity." North Carolina Gen. Stat. § 58-70-6.
14. The NCCAA defines "debt" as "any obligation owed or due or alleged to be owed or due from a consumer." North Carolina Gen. Stat. § 58-70-90(3).
15. The NCCAA creates a private right of action and statutory civil liability for each violation under North Carolina Gen. Stat. § 58-70-130.

FAIR DEBT COLLECTION PRACTICES ACT (FDCPA)

16. The purpose of FDCPA is “to eliminate abusive debt collection practices . . . and to promote consistent State action to protect consumers against debt collection abuses.” 15 U.S.C. § 1692.

17. Amongst other things, the FDCPA prohibits debt collectors from making any “false, deceptive, or misleading representation . . . in connection with the collection of the debt,” including “the use of any false representation or deceptive means to collet or attempt to collect any debt.” 15 U.S.C. § 1692e.

18. “Any debt collector communicating with any person other than the consumer for the purpose of acquiring location information about the consumer shall . . . after the debt collector knows the consumer is represented by an attorney with regard to the subject debt . . . not communicate with any person other than that attorney, unless the attorney fails to respond within a reasonable period of time to communication from the debt collector.” 15 U.S.C. § 1692b(6).

19. “[A] debt collector may not use false, deceptive, or misleading representation or means in connection with the collection of any debt . . . [such as] the false representation of the character, amount, or legal status of any debt.” 15 U.S.C. §1692e (2)(A).

20. “[A] debt collector may not communicate with a consumer in connection with the collection of any debt . . . if the debt collector knows the consumer is represented by an attorney with respect to such debt and has knowledge of, or can readily ascertain, such attorney’s name and address, unless the attorney fails to respond within a reasonable

period of time to communication from the debt collector or unless the attorney consents to direct communication with the consumer." 15 U.S.C. 1692c (a)(2).

21. Provisions of FDCPA have been promulgated into Regulation F by the Consumer Financial Protection Bureau (CFPB). See 12 C.F.R. 1006, *et seq.* Consistent with FDCPA, Regulation F provides regulatory guidance and interpretation for a debt collector implementing FDCPA.
22. The FDCPA creates a private right of action under 15 U.S.C. § 1692k.
23. The FDCPA defines "consumer" as "any natural person obligated or allegedly obligated to pay any debts." 15 U.S.C. § 1692a (3).
24. The FDCPA defines "debt collector" as "any person who uses any instrumentality of interstate commerce or the mail in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another." 15 U.S.C. § 1692a (6).
25. The FDCPA defines "debt" as "any obligation or alleged obligation of a consumer to pay money arising out of a transaction . . . [that] are primarily for personal, family, or household purposes." 15 U.S.C. § 1692a (5).

FACTUAL ALLEGATIONS

Letter from MCM to COOK on December 4, 2024

26. On December 4, 2024, MCM sent a letter to COOK attempting to collect a debt that was purportedly owed by COOK.
27. The December 4, 2024 letter stated, in part, "MCM wants to help you out."

28. The December 4, 2024 letter stated, in part, "You have been approved for an interest free payment plan to fit within your budget."

29. The December 4, 2024 letter stated, in part, "We're here to help."

30. The December 4, 2024 letter stated, in part, "[You] [w]on't be charged late fees or other fees as part of your repayment plan."

31. MCM's December 4, 2024 letter did not advise COOK that any payment and/or agreement to make a payment would extend the statute of limitation to sue COOK on the debt.

32. MCM purchased the purported debt from the original creditor and on December 4, 2024, was the owner of the alleged debt.

33. The statements described in this complaint extracted from MCM's December 4, 2024 letter to COOK were designed to deceptively entice COOK to make a payment or enter into a repayment plan. MCM would fully benefit from all payments—both as a debt collector and the owner of the debt.

34. MCM's interest in the debt is to maximize payments on the debt and obtain a profit from the debt it purchased.

35. MCM's interest as owner and collector of the purported debt is in direct conflict to COOK's interest in the debt. MCM has no interest in or intent of "helping" COOK other than fulfilling MCM's own self-serving interest of receiving payment on the debt and generating a profit.

36. MCM is prohibited from adding fees to the outstanding debt because additional fees were not authorized by law, regardless of whether COOK entered into a repayment plan offered by MCM.

37. MCM did not “approve” cook for an interest free repayment plan. Instead, MCM allows interest free payments as a corporate policy and no approval was received for an interest free payment plan.

COOK’s Counsel Notification and MCM’s Communication to Cook

38. On December 15, 2024, counsel for COOK notified MCM by email that COOK was represented by counsel related to the alleged debt MCM was attempting to collect. Specifically, counsel for COOK sent an email notification to Ryan Bell (MCM President), Matt Jubenville (MCM General Counsel), Darin Herring (MCM SVP Operations), and Andrew Asch (MCM Board Secretary). On the same date, the notification was sent by U.S. Mail to MCM at the address listed with the North Carolina Secretary of State for MCM.

39. The December 15, 2024 letter from COOK’s counsel contained counsel’s name, address, phone number, and email address.

40. On December 15, 2024, counsel for COOK received a “delivery” notification that his December 15, 2024 email to each recipient was successfully completed/delivered.

41. On December 21, 2024, COOK notified MCM that she was represented by counsel by internet chat.

42. On January 3, 2025, counsel for COOK emailed MCM executive officers Ryan Bell, Matt Jubenville, Darin Herring, Andrew Asch, and Ashish Masih (MCM Parent Company CEO) as follow-up to his December 15, 2024 email.

43. On January 3, 2025, counsel for COOK received a “delivery” notification that his January 3, 2025 email to each recipient was successfully completed/delivered.

44. On January 9, 2025, counsel for COOK sent an email to Matt Jubenville, Andrew Asch, and Jill Brown (MCM Lead Legal Counsel for Litigation) as a follow-up to his December 15, 2024 and January 3, 2025 emails.

45. On January 9, 2025, counsel for COOK received a "delivery" notification that his January 9, 2025 email to each recipient was successfully completed/delivered.

46. Despite MCM being notified that COOK was represented by counsel, in an attempt to collect the alleged debt, MCM sent a communication directly to COOK on December 28, 2024.

47. MCM's December 28, 2024 communication stated, in part, "[p]lease understand this is a communication from a debt collector. This is an attempt to collect a debt. Any information obtained will be used for that purpose."

MCM/COOK's December 21, 2024, Communication

48. On December 15, 2024, counsel for COOK sent a letter by email and U.S. Mail to MCM notifying MCM that COOK was represented by counsel and that COOK disputed the debt. Counsel's letter to MCM instructed MCM to cease communication with COOK.

49. COOK's counsel received email confirmation on December 15, 2024 that his representation and dispute letter was delivered to Ryan Bell (MCM President), Matt Jubenville (MCM General Counsel), Darin Herring (MCM SVP Operations), and Andrew Asch (MCM Secretary).

50. On December 21, 2024, COOK contacted MCM by internet chat from the MCM website. COOK told MCM she was worried about the debt causing her to lose sleep, and she did not fully understand who MCM was and the nature of the debt.

51. MCM chat representative Katrina Reed (hereinafter "Reed") answered COOK's questions; however, Reed did not stop the communication after answering COOK's questions, but instead continued attempting to collect on the debt, despite MCM previously receiving notification that COOK was represented by counsel and Reed being advised by Cook in the chat session that she was represented by counsel.

52. During the December 21, 2024 chat session Reed asked COOK why she was unable to pay the debt and offered to setup one of three payment arrangements that "fits [COOK's] needs." Further, after COOK said in the chat that she was represented by counsel, REED continued to inform COOK that Reed would help setup a payment arrangement and asked "how much can you [COOK] afford monthly?"

MCM'S Website

53. MCM maintains a website homepage at https://www.midlandcredit.com/.

54. MCM's homepage says, in part, "Please understand that this is a communication from a debt collector. This is an attempt to collect a debt. Any information obtained will be used for that purpose."

55. MCM's homepage says, in part, "MCM has helped over 7 millions consumers gain control of their financial obligations" and "[o]ur team helps consumers in all 50 states get back to doing what they love." Further, the homepage says, in part, "We've helped more than 7,000,000 people regain their financial independence."

56. MCM's homepage displays a Google rating of 4.4 stars with 3,144 reviews and says, "Don't Just Take Our Word For It . . . Discover what real consumers have to say about MCM." However, the link to the Google reviews does not work, and a Google search for "Midland

Credit Management" does not have any visible ratings, let alone a 4.4 star rating with "real consumer" feedback.

57. MCM maintains a "Frequent Asked Questions" (hereinafter "FAQ") page available online at https://www.midlandcredit.com/help-center/faqs/.

58. MCM's FAQ says, in part, "Please understand that this is a communication from a debt collector. This is an attempt to collect a debt. Any information obtained will be used for that purpose."

59. MCM's FAQ page says, in part, "Midland Credit Management helps consumers resolve outstanding account balances that are past-due . . . We have helped millions of consumers work toward improved financial health." The page also states, in part, "MCM is committed to helping consumers resolve their obligations and get back to doing what they love."

60. MCM maintains a webpage within its MCM Insights section titled "Statute of Limitations on Debt: A Complete Guide" (hereinafter "SOL Guide") available at https://www.midlandcredit.com/insights/statute-of-limitations-on-debt/.

61. The SOL Guide page states, in part, "Please understand that this is a communication from a debt collector. This is an attempt to collect a debt. Any information obtained will be used for that purpose."

62. The SOL Guide encourages debtors (including COOK) to pay time-barred debt owed to MCM; however, it omits that a payment and/or an agreement for repayment restarts the statute of limitations and a lawsuit can be filed on the previously time-barred debt.

63. MCM maintains a page "About MCM—Mission, Vision, and Values" (hereinafter "MVV") available at https://www.midlandcredit.com/mission-vision-and-values/

64. The MVV page states, in part, "Please understand that this is a communication from a debt collector. This is an attempt to collect a debt. Any information obtained will be used for that purpose."

65. The MVV page states, in part, "We help make credit accessible by partnering with the consumer to restore their financial health."

66. MCM displays a video titled "Midland Credit Management (MCM)- Get Back To Doing What You Love on its hosted page at https://www.midlandcredit.com/who-is-mcm/. In addition, this video is also hosted on YouTube at https://www.youtube.com/watch?v=QOu0DQiu_oo.

67. The webpage displaying the "Midland Credit Management (MCM) – Get Back to Doing What You Love" states, in part, "Please understand that this is a communication from a debt collector. This is an attempt to collect a debt. Any information obtained will be used for that purpose."

68. The video says, in part, "MCM has partnered with over 7 million consumers just like you."

Background on COOK

69. COOK is 68 years old woman that does not understand that MCM's interests are adverse to hers.

70. Plaintiff has suffered damage as a result of Defendant's violations, including but not limited to, retaining counsel to protect her legal rights related to deceptive and misleading debt collection practices, paying a debt she did not believe she owes, financial damages and emotional distress.

71. COOK, through counsel, attempted in good faith to resolve the issues brought up on this suit; however, MCM refused to respond to COOK. Specifically, on December 15, 2024; January 3, 2025; and January 9, 2025 counsel attempted by email and/or U.S. Mail to contact MCM to resolve the complaint; however, MCM refused to respond—despite COOK's counsel receiving a "delivery" receipt indicating that MCM received the communications.

COUNT I AS TO DEFENDANT MCM'S FALSE, DECEPTIVE, AND MISLEADING REPRESENTATIONS IN VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT 15 U.S.C. § 1692e.

72. Plaintiff restates all allegations contained in prior paragraphs as if fully stated in this count.

73. Plaintiff is a "consumer" as defined by 15 U.S.C. § 1692a(3) and was contacted by MCM in relation to an alleged debt owed for personal, family, or household purposes.

74. MCM is a "debt collector" as defined by 15 U.S.C. § 1692a (6) and referred to itself as a debt collector in the December 4, 2024 dunning letter sent to COOK and its principal business purpose is to collect debts. Further, MCM's Business Corporation Annual Report filed with the North Carolina Secretary of State described MCM's nature of business as "debt collection."

75. MCM violated 15 U.S.C. § 1692e when it attempted to collect debt from Plaintiff using false, deceptive, and misleading representation in connection with the collection of the debt. To wit, MCM to misrepresented that MCM "wants to help [COOK] out" although MCM's financial interests are in direct conflict with COOK's financial interest and MCM merely wants to coerce COOK into paying the debt—not helping her. MCM's statement that it wants to help COOK is misleading and deceptive.

76. MCM violated 15 U.S.C. § 1692e when it attempted to collect debt from Plaintiff using false, deceptive, and misleading representation in connection with the collection of the debt. To wit, MCM misrepresented that MCM "approved" COOK for an interest free payment plan, whereas MCM did not approve COOK for an interest free payment plan, but instead waives interest as a policy without any approval. MCM's representation that it reviewed COOK's account and "approved" her is misleading and deceptive.

COUNT II AS TO DEFENDANT MCM'S ATTEMPT TO COMMUNICATE ATER BEING ADVISED THAT DEBTOR IS REPRESENTED BY COUNSEL IN VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT 15 U.S.C. § 1692b(6) and 15 U.S.C. § 1692c(a)(2).

77. Plaintiff restates all allegations contained in prior paragraphs as if fully stated in this count.

78. MCM violated 15 U.S.C. § 1692b(6) and 15 U.S.C. § 1692c(a)(2) when it attempted to collect debt from Plaintiff after being notified by counsel and COOK that COOK was represented by counsel. To wit, MCM attempted to coerce COOK into a payment plan despite MCM being notified that COOK was represented by counsel. MCM attempting to collect on the debt (and not just answer COOK's immediate question) after MCM was notified that COOK was represented by counsel is prohibited.

79. MCM violated 15 U.S.C. § 1692b(6) and 15 U.S.C. § 1692c(a)(2)when it attempted to collect debt from Plaintiff after being notified by counsel that COOK was represented by counsel. To wit, MCM mailed communication directly to COOK on December 28, 2024 after being notified that she was represented by counsel.

COUNT III AS TO DEFENDANT MCM'S FRAUDULENT, DECEPTIVE, AND MISLEADING REPRESENTATIONS IN VIOLATION OF THE NORTH CAROLINA COLLECTION AGENCY ACT GEN. STAT. § 58-70-110

80. Plaintiff restates all allegations contained in prior paragraphs as if fully stated in this count.

81. MCM is a debt collection agency as defined by N.C.G.S. § 58-70-90 and N.C.G.S. § 58-70-15.

82. MCM attempted to collect a debt as defined by N.C.G.S. § 58-70-90(3)

83. COOK is a consumer as defined by N.C.G.S. § 58-70-90(2)

84. MCM violated N.C.G.S. § 58-70-110 when it attempted to collect debt from COOK using fraudulent, deceptive, and misleading representation in connection with the collection of the debt. To wit, MCM misrepresented that MCM "wants to help [COOK] out" although MCM's financial interests are in direct conflict with COOK's financial interest and MCM merely wants to coerce COOK into paying the debt—not helping her. MCM's statement that it wants to help COOK is misleading and deceptive.

COUNT IV AS TO DEFENDANT MCM'S FRAUDULENT, DECEPTIVE, AND MISLEADING REPRESENTATIONS IN VIOLATION OF THE NORTH CAROLINA COLLECTION AGENCY ACT GEN. STAT. § 58-70-110

85. Plaintiff restates all allegations contained in prior paragraphs as if fully stated in this count.

86. MCM violated N.C.G.S. § 58-70-110 when it attempted to collect debt from COOK using fraudulent, deceptive, and misleading representation in connection with the collection of the debt. To wit, MCM misrepresented its true intentions when MCM stated, "We're here to help" although MCM's financial interests are in direct conflict with COOK's financial interest and MCM merely wants to coerce COOK into paying the debt—not helping her. MCM's statement that it was there to help COOK is misleading and deceptive.

COUNT V AS TO DEFENDANT MCM'S UNFAIR PRACTICES IN VIOLATION OF THE NORTH CAROLINA COLLECTION AGENCY ACT GEN. STAT. § 58-70-110

87. Plaintiff restates all allegations contained in prior paragraphs as if fully stated in this count.

88. MCM violated N.C.G.S. § 58-70-110 when it attempted to collect debt from COOK on December 4, 2024 it deceptively omitted that MCM was not authorized to charge additional late fees and/or other fees on COOK's debt. To wit, in an attempt to collect a debt, MCM stated that COOK "[w]on't be charged late fees or other fees as part of your [COOK's] repayment plan." MCM made this statement to entice COOK into entering a payment plan; however, MCM was not authorized to charge late fees and/or other fees—even outside a payment plan. This misleading omission was done to coerce COOK into the payment plan.

COUNT VI AS TO DEFENDANT MCM'S UNFAIR PRACTICES IN VIOLATION OF THE NORTH CAROLINA COLLECTION AGENCY ACT GEN. STAT. § 58-70-115(3)

89. Plaintiff restates all allegations contained in prior paragraphs as if fully stated in this count.

90. MCM violated N.C.G.S. § 58-70-115 when it attempted to collect debt from COOK on December 21, 2024 using unfair practices. To wit, in an attempt to collect a debt, MCM continued communication and attempts to collect debt from COOK after being notified that COOK was represented by counsel. MCM's continued attempts to collect debt from COOK after being notified that she was represented by counsel is prohibited.

COUNT VII AS TO DEFENDANT MCM'S FRAUDULENT, DECEPTIVE, AND MISLEADING REPRESENTATIONS IN VIOLATION OF THE NORTH CAROLINA COLLECTION AGENCY ACT GEN. STAT. § 58-70-110

91. Plaintiff restates all allegations contained in prior paragraphs as if fully stated in this count.

92. MCM violated N.C.G.S. § 58-70-110 when it attempted to collect debt by providing false and misleading information to COOK on its website homepage related to its Google rating. To wit, MCM attempted to convince COOK to trust MCM by telling her that consumers

give MCM a high Google rating of 4.4 stars (out of 5) from 3,146 reviews; however, the Google ratings are not available for review directly from MCM's website, nor can the reviews be located with a Goole search. Ratings available on platforms other than Google that can be located, such as Yelp, show a 1-star rating. In an attempt to collect the debt and gain COOK's trust, MCM misrepresented its Google rating on its website.

COUNT VIII AS TO DEFENDANT MCM'S FRAUDULENT, DECEPTIVE, AND MISLEADING REPRESENTATIONS IN VIOLATION OF THE NORTH CAROLINA COLLECTION AGENCY ACT GEN. STAT. § 58-70-110

93. Plaintiff restates all allegations contained in prior paragraphs as if fully stated in this count.

94. MCM violated N.C.G.S. § 58-70-110 when it attempted to collect debt by providing false and misleading information to COOK on its website FAQ page. To wit, MCM misrepresented its true intentions when MCM stated that Midland Credit Management helps consumers resolve outstanding accounts balances that are past due and have helped millions of consumers work towards financial health. Further, MCM misled COOK when it stated that MCM is committed to helping consumers resolve their obligations and get back to doing what they love. MCM does not help consumers, but instead helps their own financial interests in collecting debt. By the nature of MCM's business, their interests are in direct conflict with the consumers' interests and consumers are in worse financial position after dealing with MCM.

COUNT IX AS TO DEFENDANT MCM'S FRAUDULENT, DECEPTIVE, AND MISLEADING REPRESENTATIONS IN VIOLATION OF THE NORTH CAROLINA COLLECTION AGENCY ACT GEN. STAT. § 58-70-110

95. Plaintiff restates all allegations contained in prior paragraphs as if fully stated in this count.

96. MCM violated N.C.G.S. § 58-70-110 when it attempted to collect debt by providing false and misleading information to COOK on its website homepage. To wit, MCM misrepresented its true intentions when MCM stated, that MCM has helped over 7 million consumers gain control of their financial obligations, that the MCM team helps consumers in all 50 states get back to doing what they love, and that they have helped more than 7,000,000 people regain their financial independence. MCM does not help consumers, but instead helps their own financial interests in collecting debt. By the nature of MCM's business, its interests are in direct conflict with the consumers' interests and consumers are in worse financial situations after dealing with MCM.

COUNT X AS TO DEFENDANT MCM'S FRAUDULENT, DECEPTIVE, AND MISLEADING REPRESENTATIONS IN VIOLATION OF THE NORTH CAROLINA COLLECTION AGENCY ACT GEN. STAT. § 58-70-110

97. Plaintiff restates all allegations contained in prior paragraphs as if fully stated in this count.

98. MCM violated N.C.G.S. § 58-70-110 when it attempted to collect and omitted material information on its website SOL Guide by not informing COOK that any payment and/or payment plan would reset the statute of limitations on the debt allowing MCM to file suit for a greater amount of time. To wit, MCM misrepresented the advantages of paying time-barred debt on its website when it strongly encouraged COOK to repay debt even if the statute of limitations has expired; however, failed to inform her that the statute of limitation would reset. This misleading omission is deceptive.

COUNT XI AS TO DEFENDANT MCM'S FRAUDULENT, DECEPTIVE, AND MISLEADING REPRESENTATIONS IN VIOLATION OF THE NORTH CAROLINA COLLECTION AGENCY ACT GEN. STAT. § 58-70-110

99. Plaintiff restates all allegations contained in prior paragraphs as if fully stated in this count.

MCM violated N.C.G.S. § 58-70-110 when it attempted to collect debt by providing false and misleading information to COOK on its website MVV page. To wit, MCM misrepresented its true intentions when MCM stated, that MCM makes credit accessible by partnering with the consumer to restore their financial health. MCM does not partner with consumers (including COOK), but instead helps its own financial interests in collecting debt. By the nature of MCM's business, its interests are in direct conflict with the consumers' interests and consumers are not a partner with MCM.

COUNT XII AS TO DEFENDANT MCM'S FRAUDULENT, DECEPTIVE, AND MISLEADING REPRESENTATIONS IN VIOLATION OF THE NORTH CAROLINA COLLECTION AGENCY ACT GEN. STAT. § 58-70-110

100. Plaintiff restates all allegations contained in prior paragraphs as if fully stated in this count.

101. MCM violated N.C.G.S. § 58-70-110 when it attempted to collect debt by providing false and misleading information to COOK in its promotional video available on MCM's website and on YouTube. To wit, MCM misrepresented its true intentions when MCM stated, that MCM partnered with 7 million consumers just like you (COOK). MCM does not partner with consumers (including COOK), but instead helps its own financial interests in collecting debt. By the nature of MCM's business, its interests are in direct conflict with the consumers' interests and consumers are not a partner with MCM.

COUNT XIII AS TO DEFENDANT MCM'S UNFAIR PRACTICES IN VIOLATION OF THE NORTH CAROLINA COLLECTION AGENCY ACT GEN. STAT. § 58-70-115(3)

102. Plaintiff restates all allegations contained in prior paragraphs as if fully stated in this count.

103. MCM violated NC.G.S. 58-70-115 when it attempted to collect a debt from COOK using unfair practices. To wit, in an attempt to collect a debt, MCM sent a communication by U.S.

Mail to COOK on December 28, 2024 after being notified that COOK was represented by counsel. MCM's continued attempts to collect debt (or communicate with COOK) after being notified that she was represented by counsel is prohibited.

REQUESTED RELIEF

WHEREFORE, based on the above stated in this Complaint, COOK has been subject to MCM's deceptive, misleading, and unfair practices in its debt collection activity in violation of the FDCPA and NCCAA. As a result, COOK has suffered damages, including but not limited to, financial damages and emotional distress.

Plaintiff respectfully requests this Honorable Court to enter judgment for the Plaintiff on all counts and the following forms of relief:

A. Actual damages;

B. Statutory damages under FDCPA;

C. Reasonable attorneys' fees and costs pursuant to FDCPA;

D. Court costs;

E. Full allowable statutory damages for each violation under NCCAA;

F. Reasonable attorney's fees and costs pursuant to NCCAA;

G. A judgment awarding injunctive relief;

H. A judgment prohibiting Defendant from reporting the purported debt to any credit reporting agency; and

I. Such other and further relief the Court may deem just and proper.

REQUEST FOR JURY TRIAL

J. Plaintiff respectfully requests a trial by jury on all issues so triable.

Dated: January 13, 2025 Respectfully submitted,

Sean Weiner, Esq. (NC Bar # 57365)
sean@weinerlaw.net
11131 Wildlife Road
Charlotte, North Carolina 28278
Telephone: (954) 818-9191

STATE OF NORTH CAROLINA

MECKLENBURG County

File No. 25CV001627-590

In The General Court Of Justice
☐ District ☒ Superior Court Division

Name And Address Of Plaintiff 1
MARSHA COOK
11131 WILDLIFE ROAD
CHARLOTTE, NORTH CAROLINA 28278

Name And Address Of Plaintiff 2

GENERAL CIVIL ACTION COVER SHEET

☒ INITIAL FILING ☐ SUBSEQUENT FILING

Rule 5(b) of the General Rules of Practice for the Superior and District Courts

VERSUS

Name And Address Of Defendant 1
MIDLAND CREDIT MANAGEMENT, INC.
350 CAMINO DE LA REINA, SUITE 100
SAN DIEGO, CALIFORNIA 92108

Summons Submitted
☒ Yes ☐ No

Name And Address Of Defendant 2

Summons Submitted
☐ Yes ☐ No

Name And Address Of Attorney Or Party, If Not Represented
(complete for initial appearance or change of address)
SEAN WEINER
11131 WILDLIFE ROAD
CHARLOTTE, NORTH CAROLINA 28278

Telephone No. 954-818-9191
Cellular Telephone No. 954-818-9191

NC Attorney Bar No. 57365
Attorney Email Address SEAN@WEINERLAW.NET

☒ Initial Appearance in Case ☐ Change of Address

Name Of Firm WEINER LAW
Fax No.

Counsel For
☒ All Plaintiffs ☐ All Defendants ☐ Only: *(list party(ies) represented)*

☒ Jury Demanded In Pleading ☐ Complex Litigation ☐ Stipulate to Arbitration

TYPE OF PLEADING

(check all that apply)

☐ Amend (AMND)
☐ Amended Answer/Reply (AMND-Response)
☐ Amended Complaint (AMND)
☐ Assess Costs (COST)
☐ Answer/Reply (ANSW-Response) *(see Note)*
☐ Change Venue (CHVN)
☒ Complaint (COMP)
☐ Confession Of Judgment (CNFJ)
☐ Consent Order (CONS)
☐ Consolidate (CNSL)
☐ Contempt (CNTP)
☐ Continue (CNTN)
☐ Compel (CMPL)
☐ Counterclaim (CTCL) *Assess Court Costs*
☐ Crossclaim *(list on back)* (CRSS) *Assess Court Costs*
☐ Dismiss (DISM) *Assess Court Costs*
☐ Exempt/Waive Mediation (EXMD)
☐ Extend Statute Of Limitations, Rule 9 (ESOL)
☐ Extend Time For Complaint (EXCO)
☐ Failure To Join Necessary Party (FJNP)
☐ Failure To State A Claim (FASC)
☐ Implementation Of Wage Withholding In Non-IV-D Cases (OTHR)
☐ Improper Venue/Division (IMVN)
☒ Including Attorney's Fees (ATTY)
☐ Intervene (INTR)
☐ Interplead (OTHR)
☐ Lack Of Jurisdiction (Person) (LJPN)
☐ Lack Of Jurisdiction (Subject Matter) (LJSM)
☐ Modification Of Child Support In IV-D Actions (MSUP)
☐ Notice Of Dismissal With Or Without Prejudice (VOLD)
☐ Petition To Sue As Indigent (OTHR)
☐ Rule 12 Motion In Lieu Of Answer (MDLA)
☐ Sanctions (SANC)
☐ Set Aside (OTHR)
☐ Show Cause (SHOW)
☐ Transfer (TRFR)
☐ Third Party Complaint *(list Third Party Defendants on back)* (TPCL)
☐ Vacate/Modify Judgment (VCMD)
☐ Withdraw As Counsel (WDCN)
☐ Other *(specify and list each separately)*

NOTE: *All filings in civil actions shall include as the first page of the filing a cover sheet summarizing the critical elements of the filing in a format prescribed by the Administrative Office of the Courts, and the Clerk of Superior Court shall require a party to refile a filing which does not include the required cover sheet. For subsequent filings in civil actions, the filing party must include either a General Civil (AOC-CV-751), Motion (AOC-CV-752), or Court Action (AOC-CV-753) cover sheet.*

CLAIMS FOR RELIEF

- [ ] Administrative Appeal (ADMA)
- [ ] Appointment Of Receiver (APRC)
- [ ] Attachment/Garnishment (ATTC)
- [ ] Claim And Delivery (CLMD)
- [ ] Collection On Account (ACCT)
- [ ] Condemnation (CNDM)
- [ ] Contract (CNTR)
- [ ] Discovery Scheduling Order (DSCH)
- [x] Injunction (INJU)
- [ ] Limited Driving Privilege - Out-Of-State Convictions (PLDP)
- [ ] Medical Malpractice (MDML)
- [ ] Minor Settlement (MSTL)
- [ ] Money Owed (MNYO)
- [ ] Negligence - Motor Vehicle (MVNG)
- [ ] Negligence - Other (NEGO)
- [ ] Motor Vehicle Lien G.S. Chapter 44A (MVLN)
- [ ] Possession Of Personal Property (POPP)
- [ ] Product Liability (PROD)
- [ ] Real Property (RLPR)
- [ ] Specific Performance (SPPR)
- [x] Other *(specify and list each separately)*

DAMAGES AND ATTORNEY FEES UNDER FAIR DEBT COLLECTION PRACTICES ACT AND NORTH CAROLINA COLLECTION AGENCY ACT

Date	Signature Of Attorney/Party
01/13/2025	S

FEES IN G.S. 7A-308 APPLY
Assert Right Of Access (ARAS)
Substitution Of Trustee (Judicial Foreclosure) (RSOT)
Supplemental Procedures (SUPR)

PRO HAC VICE FEES APPLY
Motion For Out-Of-State Attorney To Appear In NC Courts In A Civil Or Criminal Matter (Out-Of-State Attorney/Pro Hac Vice Fee)

No.	☐ Additional Plaintiff(s)

No.	☐ Additional Defendant(s) ☐ Third Party Defendant(s)	Summons Submitted
		☐ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No

Plaintiff(s) Against Whom Counterclaim Asserted

Defendant(s) Against Whom Crossclaim Asserted

STATE OF NORTH CAROLINA

MECKLENBURG County

File No. 25CV001627-590

In The General Court Of Justice
☐ District ☒ Superior Court Division

Name Of Plaintiff MARSHA COOK	
Address 11131 WILDLIFE ROAD	**CIVIL SUMMONS** ☐ **ALIAS AND PLURIES SUMMONS (ASSESS FEE)**
City, State, Zip CHARLOTTE NC 28278	G.S. 1A-1, Rules 3 and 4
VERSUS	
Name Of Defendant(s) MIDLAND CREDIT MANAGEMENT, INC.	*Date Original Summons Issued* *Date(s) Subsequent Summons(es) Issued*

To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1	*Name And Address Of Defendant 2*
MIDLAND CREDIT MANAGEMENT 350 CAMINO DE LA REINA, SUITE 100 SAN DIEGO, CALIFORNIA 92108	

IMPORTANT! You have been sued! These papers are legal documents, DO NOT throw these papers out! You have to respond within 30 days. You may want to talk with a lawyer about your case as soon as possible, and, if needed, speak with someone who reads English and can translate these papers!

¡IMPORTANTE! ¡Se ha entablado un proceso civil en su contra! Estos papeles son documentos legales. ¡NO TIRE estos papeles!
Tiene que contestar a más tardar en 30 días. ¡Puede querer consultar con un abogado lo antes posible acerca de su caso y, de ser necesario, hablar con alguien que lea inglés y que pueda traducir estos documentos!

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (if none, Address Of Plaintiff)	
SEAN WEINER #57365 11131 WILDLIFE ROAD CHARLOTTE, NORTH CAROLINA 28278 SEAN@WEINERLAW.NET	*Date Issued* 1/13/2025 *Time* 10:10:33 am ☐ AM ☐ PM *Signature* /s/ Dana Bullock ☒ *Deputy CSC* ☐ *Assistant CSC* ☐ *Clerk Of Superior Court*

☐ ENDORSEMENT (ASSESS FEE) This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.	*Date Of Endorsement* *Time* ☐ AM ☐ PM *Signature* ☐ *Deputy CSC* ☐ *Assistant CSC* ☐ *Clerk Of Superior Court*

NOTE TO PARTIES: *Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is $25,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.*

(Over)

RETURN OF SERVICE

I certify that this Summons and a copy of the complaint were received and served as follows:

DEFENDANT 1

Date Served	*Time Served* ☐ AM ☐ PM	*Name Of Defendant*

☐ By delivering to the defendant named above a copy of the summons and complaint.

☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.

☐ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

☐ Acceptance of service. Summons and complaint received by: ☐ Defendant 1. ☐ Other: *(type or print name)*	*Date Accepted*	*Signature*

☐ Other manner of service *(specify)*

☐ Defendant WAS NOT served for the following reason:

DEFENDANT 2

Date Served	*Time Served* ☐ AM ☐ PM	*Name Of Defendant*

☐ By delivering to the defendant named above a copy of the summons and complaint.

☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.

☐ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

☐ Acceptance of service. Summons and complaint received by: ☐ Defendant 2. ☐ Other: *(type or print name)*	*Date Accepted*	*Signature*

☐ Other manner of service *(specify)*

☐ Defendant WAS NOT served for the following reason:

Service Fee Paid $	*Signature Of Deputy Sheriff Making Return*
Date Received	*Name Of Sheriff (type or print)*
Date Of Return	*County Of Sheriff*

STATE OF NORTH CAROLINA

MECKLENBURG County

File No. 25CV001627-590

In The General Court Of Justice
☐ District ☒ Superior Court Division

Name Of Plaintiff(s) MARSHA COOK	**AFFIDAVIT OF SERVICE OF PROCESS BY** ☐ **REGISTERED MAIL** ☒ **CERTIFIED MAIL** ☐ **DESIGNATED DELIVERY SERVICE** G.S. 1-75.10(a)(5), (a)(6); 1A-1, Rule 4(j2)
VERSUS	
Name Of Defendant MIDLAND CREDIT MANAGEMENT, INC.	

I, the undersigned, did mail by ☐ registered mail (return receipt requested), ☒ certified mail (return receipt requested),
☐ designated delivery service (delivery receipt requested),
a copy of the summons and complaint ☒ and other document(s) *(list)* 1. PLAINTIFF'S FIRST SET OF INTERROGATORIES AND 2. PLAINTIFF'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS
in the above captioned action to *(name of person to be served)* Corporation Service Company,
addressed as follows: 2626 Glenwood Avenue, Suite 550, Raleigh, North Carolina 27608

Further, that copies of the summons and complaint ☒ and the above listed other document(s) *(check, if applicable)* were in fact received by the defendant on *(date of receipt)* 01/17/2025, as evidenced by the attached original receipt.
(Attach original receipt or electronic proof of signature confirmation to this affidavit.)

SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME		Signature Of Plaintiff/Attorney
Date 01/17/2025	Signature Of Person Authorized To Administer Oaths Gabrielle Ramos	Name (type or print) Sean Weiner
Title Of Person Authorized To Administer Oaths Notary Public		
☒ Notary	Date My Commission Expires 02/16/2028	
SEAL	County Where Notarized MECKLENBURG	

GABRIELLE RAMOS
NOTARY PUBLIC
MECKLENBURG COUNTY,NC
COMMISSION EXP. FEB. 16, 2028

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece,

Corporation Service Company
2626 Glenwood Avenue, Suite 550
Raleigh, NC 27608

RE: Midland Credit Management, Inc.

9590 9402 8715 3310 3387 87

2. Article Number *(Transfer from service label)*

9589 0710 5270 0295 0005 08

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X
☐ Agent
☐ Addressee

B. Received by *(Printed Name)* Hughes

C. Date of Delivery 1/17/25

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☐ Adult Signature
☐ Adult Signature Restricted Delivery
☐ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
Mail
Mail Restricted Delivery
(over $500)
☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

PS Form 3811, July 2020 PSN 7530-02-000-9053 Domestic Return Receipt