



# DeLadurantey Law Office, LLC

SERVING GREATER MILWAUKEE, WI

April 17, 2015

West Allis City Attorney's Office  
7525 W. Greenfield Ave.  
West Allis, WI 53214

Re: Litigation Hold Notice  
Bednarz et al v. Wisconsin Auto Title Loans, Inc. et al  
Case No.: 15-cv-458 (E.D. Wis.)

To whom it may concern:

Please be advised that lawsuit has been filed regarding events that took place at 7106 W. National Ave., West Allis, WI 53214 on March 25, 2015 around the hours of 3:00-6:00am. I represent the Plaintiffs in this action, Mr. and Mrs. Bednarz.

Upon information and belief, the City of West Allis Health Department has security cameras that face 7106 W. National Ave. ***It is crucial that you take affirmative steps to preserve the video surveillance from March 25, 2015 from 3:00-6:00am.***

If you have any questions, please feel free to contact me at [Heidi@dela-law.com](mailto:Heidi@dela-law.com) or 414-892-4950.

Sincerely,

A handwritten signature in black ink, appearing to read 'Heidi N. Miller', written in a cursive style.

Heidi N. Miller  
Enclosures

CC: City of West Allis Health Department  
7120 W National Ave  
West Allis, WI 53214

RECEIVED  
APR 20 2015  
WEST ALLIS  
CITY ATTORNEY

735 W. Wisconsin Avenue, Suite 720 ♦ Milwaukee, WI 53233

Phone: 414-377-0515 ♦ Fax: 414-755-0860

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN  
MILWAUKEE DIVISION

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JOHN BEDNARZ JR AND ALISON  
BEDNARZ,

Case No. 15-cv-458

Plaintiffs,

vs.

WISCONSIN AUTO TITLE LOANS,  
INC., RYAN LOVALD, NICHOLAS  
RYDZEWSKI, ASSET TOWING &  
RECOVERY, LLC, AND CITY OF  
WEST ALLIS,

Defendants.

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**COMPLAINT**

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NOW COME Plaintiffs, John Bednarz Jr. and Alison Bednarz, by and through their attorneys, DeLadurantey Law Office, LLC and complain of Defendants Wisconsin Auto Title Loans Inc., Ryan Lovald, Nicholas Rydzewski, Asset Towing & Recovery, LLC, and City of West Allis and alleges to the best of their knowledge, information and belief formed after an inquiry reasonable under the circumstances, the following:

**INTRODUCTION**

**Nature of the Action**

1. This lawsuit arises from the collection attempts of the Defendants.
2. Causes of Action herein are brought under the Civil Rights Act of 1871, 42 U.S.C. § 1983 *et seq.*, Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692, and the Wisconsin Consumer Act (“WCA”), Wis. Stat. 421 *et seq.*

### **Jurisdiction and Venue**

3. Jurisdiction of this Court arises under 28 U.S.C. § 1331, because the case arises under the laws of the United States.

4. This Court also has jurisdiction pursuant to 15 U.S.C. § 1692k(d) as it is an action to enforce liability created by the FDCPA within one year from the date on which the violation occurred

5. This Court has supplemental jurisdiction over the claims arising under the Wisconsin Consumer Act under 28 U.S.C. §1367, because the Wisconsin Consumer Act claims are related to the FDCPA claims as they arise under the same set of facts, becoming part of the same case or controversy under Article III of the United States Constitution.

6. Venue in this Court is appropriate pursuant to 28 U.S.C. § 1391(b)(2), because this is where the acts giving rise to the claim occurred.

7. Under 28 U.S.C. § 1391(c), a defendant corporation shall be deemed to reside in any judicial district in which it is subject to personal jurisdiction. Defendants are subject to personal jurisdiction in Wisconsin, as the actions giving rise to the lawsuit occurred in Wisconsin.

### **Parties**

8. Plaintiff John Bednarz Jr. (hereinafter “Mr. Bednarz”) is a natural person who resides in the City of West Allis, County of Milwaukee, State of Wisconsin.

9. Mr. Bednarz is a “consumer” as defined by 15 U.S.C. §1962a(3).

10. Plaintiff Alison Bednarz (hereinafter “Mrs. Bednarz”) is a natural person who resides in the City of West Allis, County of Milwaukee, State of Wisconsin.

11. Mrs. Bednarz is a “consumer” as defined by 15 U.S.C. §1962a(3).

12. Defendant Wisconsin Auto Title Loans, Inc. (hereinafter “Defendant WATL”) is a foreign business with a principal office of 8601 Dunwoody Place, Ste. 406, Atlanta, GA 30350, and a registered agent of CT Corporation System, 8020 Excelsior Dr., Ste. 200, Madison, WI 53717.

13. Defendant WATL is a “creditor” as defined by 15 U.S.C. § 1692a(4) and a “debt collector” as defined by Wis. Stat. § 427.103(3).

14. Defendant Ryan Lovald (hereinafter “Defendant Lovald”) is a tow truck driver for Defendant Asset Towing & Recovery, LLC. His address is S85W21175 Janesville Rd, Muskego, WI 53150.

15. Defendant Lovald is a “debt collector” as defined by 15 U.S.C. §1692a(6) and Wis. Stat. § 427.103(3).

16. Defendant Nicholas Rydzewski (hereinafter “Defendant Rydzewski”) is the owner of Defendant Asset Towing & Recovery, LLC. His address is 157 3rd St #11, Waukesha, WI 53188.

17. Defendant Rydzewski is a “debt collector” as defined by 15 U.S.C. §1692a(6) and Wis. Stat. § 427.103(3).

18. Defendant Asset Towing Recovery, LLC (hereinafter “Defendant Asset Towing”) is a domestic business with a principal office of W224 S8445 Industrial Dr. Unit A Upper, Big Bend, WI 53103, and a registered agent of Nicholas Rydzewski, W224 S8445 Industrial Dr. Unit A Upper, Big Bend, WI 53103.

19. Defendant Asset Towing regularly attempts to collect debts owed to others and is a “debt collector” as defined by 15 U.S.C. §1692a(6) and Wis. Stat. § 427.103(3).

20. Defendant Asset Towing is liable for the acts of its employees, agents, and independent contractors, and those of its subsidiaries and affiliates, under theories of respondeat superior, agency, and vicarious liability.

21. The City of West Allis is a municipality in Milwaukee County. West Allis City Attorney's Office has an address of 7525 W. Greenfield Ave., West Allis, WI 53214.

### **BACKGROUND**

22. Sometime prior to 2015, Defendant WATL obtained a lien on a 2001 Honda (hereinafter "vehicle") owned by the Plaintiffs.

23. The Plaintiffs fell behind on their payments.

24. Defendant WATL sent a "Notice of Right to Cure Default and Notice Regarding Repossession of Collateral" to the Plaintiffs, dated February 18, 2015.

25. This Notice gave them until March 8, 2015 to cure the alleged amount due on their vehicle.

26. On March 25, 2015, around 3am, Mr. and Mrs. Bednarz were awaked by a large crash behind their residence.

27. Ms. Bednarz saw a black Ford 150 in the ally next to his vehicle.

28. The loud crashing sound made Mr. Bednarz think that someone was ramming into his vehicle.

29. Mr. Bednarz retrieved his firearm and went outside.

30. He brought the firearm for his safety, as he did not know what was happening outside.

31. When Mr. Bednarz went outside, he met Defendant Lovald, who was attempting

to repossess the vehicle.

32. Mr. Bednarz keep his firearm next to his side at all times.

33. Mr. Bednarz asked Defendant Lovald what he was doing.

34. Defendant Lovald responded, "I'm out of here."

35. Mr. Bednarz told him that he could not take the vehicle.

36. Defendant Lovald got into his tow truck and left.

37. Mr. Bednarz went back inside and secured his firearm.

38. Shortly thereafter, Mrs. Bednarz noticed from her bedroom window that there was a police car in the alley behind their house.

39. Mr. Bednarz opened his bedroom window.

40. About eight to ten police officers from Defendant City of West Allis, pointed guns at him and made him put his hands up and out the window.

41. Mrs. Bednarz, still in her pajamas, was told to put the dog away and then told to open the house door for the police officers.

42. The officers then came inside.

43. Mr. Bednarz was hand cuffed and had to remain in his bedroom.

44. Mrs. Bednarz was forced to stay in a different part of the house.

45. Mr. and Mrs. Bednarz's three daughters woke up due to the police officers searching the house.

46. The police officers were in constant contact with Defendant WATL, Defendant Lovald, and Defendant Rydzewski.

47. One of the police officers informed Mr. and Mrs. Bednarz that while they were there, they would make sure that the vehicle was repossessed "peacefully."

48. Defendant Rydzewski came to the Bednarz house and provided the repossession documentation to the police officers.

49. Mr. Bednarz was sent outside to move his work truck so that Defendant Lovald could get to the vehicle.

50. Defendant Lovald then repossessed the vehicle.

**Count 1 – Violations of the Fair Debt Collection Practices Act (15 U.S.C. §1692) –  
Defendants Lovald, Rydzewski, and Asset Towing**

51. Plaintiffs incorporate by reference all of the above paragraphs of this Complaint as though fully stated herein.

52. The foregoing deliberate acts by Defendants Lovald and Asset Towing constitute violations of the FDCPA, including but not limited to 15 U.S.C. §§ 1692d, 1692d(1), 1692e, 1692e(2), 1692e(5), 1692e(10), 1692f, 1692f(1), and 1692f(6).

53. Specifically, Defendants Lovald, Rydzewski, and Asset Towing could not legally take the vehicle due to the protest by Mr. Bednarz.

54. Additionally, Defendants Lovald, Rydzewski, and Asset Towing could not use Defendant City of West Allis to accomplish repossessing the car in violation of the Wisconsin Consumer Act.

55. As a result of the above violations of the FDCPA, Mr. and Mrs. Bednarz have suffered emotional distress and loss of property, constituting actual damages pursuant to 15 U.S.C. §1692k(a)(1).

56. Defendant Defendants Lovald, Rydzewski, and Asset Towing are liable to Plaintiff for their actual damages, statutory damages, and costs and attorneys' fees, as provided by 15 U.S.C. § 1692k.



**Count 2 – Violations of the Wisconsin Consumer Act**  
**(Wis. Stat. § 425), as to Defendants WATL, Lovald, Rydzewski, and Asset Towing**

57. Plaintiffs incorporate by reference all of the above paragraphs of this Complaint as though fully stated herein.

58. Repossessions are governed by Wis. Stat. § 425.206(2), which states, “In taking possession of collateral or leased goods, no merchant may do any of the following: (a) Commit a breach of the peace. (b) Enter a dwelling used by the customer as a residence except at the voluntary request of a customer.”

59. A breach of the peace occurs when the property is taken over the objection of the debtor. *Hollibush v. Ford Motor Credit Co.*, 508 N.W.2d 449 (WI Ct. App. 1993).

60. A breach of the peace occurred when the car was taken after Mr. Bednarz protested its taking.

61. Additionally, Defendant WATL, Lovald, Rydzewski, and Asset Towing could not use Defendant City of West Allis to accomplish repossessing the car in violation of the Wisconsin Consumer Act through the use of the police entering the Bednarz’s house and then overseeing the repossession.

62. Under Wis. Stat. 425, Mr. and Mrs. Bednarz are seeking to have the lien avoided, seeking the return of payments already made towards the car, and seeking reimbursement of attorney fees and costs.

**Count 3 – Violations of the Wisconsin Consumer Act**  
**(Wis. Stat. 427), as to Defendants WATL, Lovald, Rydzewski, and Asset Towing**

63. Plaintiffs incorporate by reference all of the above paragraphs of this Complaint as though fully stated herein.

64. The amount that the Defendants were attempting to collect constitutes a “claim” as that term is defined at Wis. Stat. § 427.103(1).

65. The Defendants’ conduct violated § 427.104(1)(h) in that the conduct as described herein could reasonably be expected to harass a person since the Defendants had no right to repossess the vehicle once they were on notice that Mr. Bednarz protested the repossession.

66. The Defendants’ conduct violated § 427.104(1)(j) in that they did not have a right to repossess the vehicle as Mr. Bednarz was protesting the repossession.

67. Additionally, they did not have the right to use police to repossess the vehicle.

68. As a result of the Defendants’ illegal conduct, Mr. and Mrs. Bednarz have suffered emotional distress and mental anguish.

69. The Defendants are liable to Plaintiff for actual damages, statutory damages, punitive damages (if the evidence at trial so warrants), actual costs, and attorneys’ fees, under Wis. Stat. § 427.105.

**Count 4 – Violations of the Civil Rights Act of 1871**  
**(42 U.S.C. §1983 et. seq.) – all Defendants**

70. Plaintiffs incorporate by reference all of the above paragraphs of this Complaint as though fully stated herein.

71. The Defendants conduct violated the Federal Civil Rights Act, 42 U.S.C. § 1983, in that they deprived Mr. and Mrs. Bednarz of their Fourteenth Amendment rights.

72. The repossession happened under the color of state law, in that the police officers kept Mr. and Mrs. Bednarz inside (with Mr. Bednar in handcuffs) in order to allow the taking of the Bednarz’s property.

73. Additionally, they made Mr. Bednarz move his truck to allow the repossession agent to take the car.

74. The acts of the police officers were not neutral, as they prevented Mr. and Mrs. Bednarz from exercising their rights to protest the taking of the car under Wis. Stat. § 425.206(2).

75. Defendant City of West Allis failed to properly train the police officers as to when they could assist in nonjudicial recovery.

76. Defendant City of West Allis is responsible for the actions of the police officers, as they are agents of Defendant City of West Allis.

77. Defendants WATL, Lovald, and Asset Towing used state actors to accomplish repossession of the vehicle.

78. Mr. and Mrs. Bednarz are entitled to actual damages, punitive damages, and attorney's fees/costs under 42 U.S.C. § 1988.

### **Trial by Jury**

79. Plaintiffs are entitled to, and hereby respectfully demand a trial by jury on all issues so triable.

WHEREFORE, Mr. and Mrs. Bednarz pray that this Court will enter judgment against the Defendants as follows:

A. for an award of actual damages pursuant to 15 U.S.C. §1692k(a)(1) against Defendants Lovald, Rydzewski, and Asset Towing;

B. for an award of statutory damages of \$1,000.00 pursuant to 15 U.S.C. §1692k(a)(2)(A) against Defendants Lovald, Rydzewski, and Asset Towing;

C. for an award of costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C. §1692k(a)(3) against Defendants Lovald, Rydzewski, and Asset Towing;

D. for the vehicle lien to be avoided, the return of payments already made towards the car, and seeking reimbursement of attorney fees and costs under Wis. Stat. § 425;

E. for an award of actual damages, statutory damages, punitive damages (if the evidence at trial so warrants), actual costs, and attorneys' fees, under Wis. Stat. § 427.105 against Defendants WATL, Lovald, Rydzewski, and Asset Towing;

F. Actual damages, punitive damages, costs, disbursements, and reasonable attorney's fees, pursuant to 42 U.S.C. § 1988 against all Defendants;

G. Punitive damages pursuant to 42 U.S.C. § 1988 against all Defendants; and

H. for such other and further relief as may be just and proper.

Dated this 17<sup>th</sup> day of April, 2015.

s/ Heidi N. Miller

Nathan E. DeLadurantey, 1063937

Heidi N. Miller, 1087696

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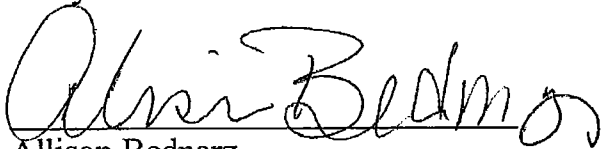


**VERIFICATION OF COMPLAINT AND CERTIFICATION**

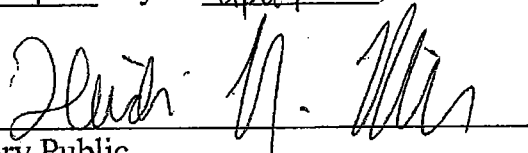
STATE OF WISCONSIN                    )  
  ) ss  
COUNTY OF MILWAUKEE            )

Plaintiff Alison Bednarz, having first been duly sworn and upon oath, deposes and says as follows:

1. I am a Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification, or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this civil Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified, or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

  
Allison Bednarz

Subscribed and sworn to before me  
this 17 day of April, 2015.

  
\_\_\_\_\_  
Notary Public  
My commission is permanent

