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# [***In re Midland Credit Mgmt.***](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:5RNC-FK11-FBFS-S4GT-00000-00&context=)

United States District Court for the Southern District of California

February 15, 2018, Decided; February 15, 2018, Filed

MDL No.: 2286

**Reporter**

2018 U.S. Dist. LEXIS 25366 \*

IN RE: MIDLAND CREDIT MANAGEMENT, INC., TELEPHONE CONSUMER PROTECTION ACT LITIGATION

**Prior History:** [*In re Midland Credit Mgmt., 818 F. Supp. 2d 1377, 2011 U.S. Dist. LEXIS 118987 (J.P.M.L., Oct. 11, 2011)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:83DD-9T51-652X-P07K-00000-00&context=)

**Core Terms**

cause of action, Consolidated, cases

**Counsel:** **[\*1]**For Christopher Robinson, Individually and on behalf of all others similarly situated, Plaintiff: Douglas J Campion, LEAD ATTORNEY, Law Offices of Douglas J Campion, San Diego, CA; Abbas Kazerounian, Kazerounian Law Group, APC, Costa Mesa, CA; Joshua B. Swigart, Hyde & Swigart, San Diego, CA.

For Eduardo Tovar, on behalf of himself and all others similarly situated, Plaintiff: Brian J. Trenz, David P Schafer, PRO HAC VICE, Law Offices of David Schafer PLLC, San Antonio, TX.

For Nicholas Martin, on behalf of himself and others similarly situated, Plaintiff: Alexander H. Burke, LEAD ATTORNEY, PRO HAC VICE, Burke Law Offices, LLC, Chicago, IL.

For Dave Scardina, individually and on behalf of a class, Plaintiff: Daniel A. Edelman, LEAD ATTORNEY, PRO HAC VICE, Edelman Combs Latturner & Goodwin LLC, Chicago, IL; James O. Latturner, LEAD ATTORNEY, PRO HAC VICE, Cathleen M. Combs, Edelman, Combs, Latturner & Goodwin, LLC, Chicago, IL; Cassandra P. Miller, Edelman, Combs, Latturner & Goodwin LLC, Chicago, IL; Curtis Charles Warner, Warner Law Firm, LLC, Chicago, IL. Francis Richard Greene, Edelman Combs Latturner & Goodwin LLC, Chicago, IL.

For Patricia K. Ferdarko, Joseph Siddall, Individually,**[\*2]** Plaintiffs: Scott David Owens, LEAD ATTORNEY, PRO HAC VICE, Scott D. Owens, P.A., Hollywood, FL.

For Francesco Manasse, individually, Shani Marks, individually, Richard Brian Akers, Individually, Jorge Santamaria, Hamed Khah, Individually, Plaintiffs: Bret Leon Lusskin, Jr., LEAD ATTORNEY, Bret Lusskin, P.A., Hallandale Beach, FL.

For David Lowrie, Plaintiff: Jon N Robbins, LEAD ATTORNEY, Thompson Consumer Law Group, PLLC, Loon Lake, WA.

For James Doherty, Debra Roy, Natalie Huffman, Steve Huffman, Inna Borboa Badran, Tamara Sams, Guadalupe Quevedo, Mary Russell, Diann Taylor, David Toledo, Mitchell Joelson, Genevive Lorenzo Agsalud, Isaac Meyer, Jose Raposo, Beverly Raposo, Xchel Osorio, Desiree Valdez, Clinton Rusthoven, David Wayne Prows, Julie Prows, Rennicea Wright, Carmina Quevedo, Thomas Starner, Plaintiffs: Tammy Gruder Hussin, LEAD ATTORNEY, Hussin Law, Encinitas, CA.

For Jannette Herring, Robert Herring, Plaintiffs: James Salvatore Giardina, LEAD ATTORNEY, The Consumer Rights Law Group, PLLC, Tampa, FL; Kimberly Hamel Wochholz, LEAD ATTORNEY, Consumer Rights Law Group, Tampa, FL.

For Cynthia Stonemets, Plaintiff: Lark H. Fogel, LEAD ATTORNEY, Lark Fogel, Law Office of, Elizabeth,**[\*3]** CO; Sergei Lemberg, LEAD ATTORNEY, PRO HAC VICE, Lemberg Law, LLC, Wilton, CT.

For Daniel Hodges, Plaintiff: Sofia Balile, LEAD ATTORNEY, LEMBERG AND ASSOCIATES, STAMFORD, CT.

For Ramisi Gaines, Plaintiff: George Thomas Martin, III, LEAD ATTORNEY, Martin & Bontrager, APC, Los Angeles, CA.

For Devon Kulka, Jessica Soto, Linda Gagnon, Plaintiff: William John Gadd, LEAD ATTORNEY, W. John Gadd, Attorney at Law, Clearwater, FL.

For Ruby Franklin, Nancy Valente, Hiram Garcia, Lisa Bellanti, Marcus Blount, Tina-Ann Bosler, Michelle Canales, Michael Classen, Jesse Davis, Andrea Desroches, Roman Garza, Jr., Robert Gehrke, Kathy Graddy, Calvin Harris, Thea Hilversum, Larysa Lucia, Janice Murphy, Kenneth Nowlin, Timothy O'Neill, Andre Pena, Russell Skelton, Kara Swanson, Hamdi Yasin, Hillary Vogt, Doris Gibbs, Marque Wilbon, Della Allen, Javon Gilmore, Deltiwone Harris, Gary Bain, Huguette Imhuelsen, Georganne Wilson, Willie Edwards, Plaintiffs: Sergei Lemberg, LEAD ATTORNEY, PRO HAC VICE, Lemberg Law, LLC, Wilton, CT.

For Ruthchelle Sullivan, Plaintiff: Amy Lynn Bennecoff Ginsburg, LEAD ATTORNEY, Kimmel & Silverman PC, Ambler, PA.

For Glenn Childress, Plaintiff: Mark T. Lavery, LEAD ATTORNEY, Hyslip**[\*4]** and Taylor LLP, Chicago, IL.

For Samuel McKay, Plaintiff: Max Story, LEAD ATTORNEY, Max Story, P.A., Jacksonville, FL.

For Florence Arauz, Plaintiff: Christina Cowart, LEAD ATTORNEY, Seraph Legal PA, Tampa, FL.

For David Cooper, an individual, Plaintiff: Scott David Owens, LEAD ATTORNEY, PRO HAC VICE, Scott D. Owens, P.A., Hollywood, FL; Sergei Lemberg, LEAD ATTORNEY, PRO HAC VICE, Lemberg Law, LLC, Wilton, CT.

For Flor Busca, Plaintiff: Yechezkel Rodal, LEAD ATTORNEY, Loan Lawyers, LLC, Plantation, FL.

For Rhoda Fuller, Shamya Barnett, Ray Wall, Plaintiffs: Jody Berke Burton, LEAD ATTORNEY, Lemberg & Associates LLC, Stamford, CT.

For Dana Nichols, Plaintiff: Adrian Benjamin Dunning, LEAD ATTORNEY, Arguello Hope and Associates; David Andrew Christoffel, LEAD ATTORNEY, Arguello Hope And Associates PLLC, Houston, TX.

For James Cammon, Nickki Daniel, Plaintiffs: Brian Joseph Headley, LEAD ATTORNEY, Mt Pleasant, SC.

For Mary Raulerson, Plaintiff: Marcus W. Viles, LEAD ATTORNEY, Viles & Beckman, LLC, Ft Myers, FL.

For Nicole Clavesilla, an individual, Art Villasenor, an individual, Plaintiffs: Babak Semnar, LEAD ATTORNEY, Semnar & Hartman, LLP, Temecula, CA; Jared M. Hartman, LEAD ATTORNEY, Semnar**[\*5]** & Hartman LLP, Temecula, CA.

For Patrick McDonald, Plaintiff: Seth Andrews, LEAD ATTORNEY, Law Offices of Kenneth Hiller, PPLC, Amherst, NY.

For Joseph Leone, Plaintiff: Cyrus Bahram Chubineh, LEAD ATTORNEY, Law Offices of Cyrus Chubineh, Getzville, NY.

For Brian Peckinpaugh, Simona Thomas, Plaintiff: Shireen Hormozdi, LEAD ATTORNEY, LOS ANGELES, CA.

For Herman Carter, Plaintiff: Michael L. Fine, LEAD ATTORNEY, Beachwood, OH.

For Michelle McGee, Plaintiff: Sharon K Campbell, LEAD ATTORNEY, Law Office of Sharon K Campbell, Dallas, TX.

For Moses Weisberger, Plaintiff: Yitzchak Zelman, LEAD ATTORNEY, PRO HAC VICE, Marcus Zelman, LLC, Ocean, NJ.

For Sherman Jones, Plaintiff: Michael J. Vitoria, LEAD ATTORNEY, Morgan & Morgan, PA, Tampa, FL.

For Kimberly Wentworth, Plaintiff: Seth Andrews, LEAD ATTORNEY, Law Offices of Kenneth Hiller, PPLC, Amherst, NY.

For Daryl Smith, Barbara Reid, Plaintiffs: Rex C. Anderson, LEAD ATTORNEY, Rex Anderson PC, Davison, MI.

For N.L., a Minor, by and through Nicholas Linko, Plaintiff: Vicki Piontek, LEAD ATTORNEY, Piontek Law Office, Lansdale, PA.

For Allen Conder, Jose A. Sierra Garcia, ALEJANDRA BURDILES, Plaintiffs: Nicole L. Hazlett, LEAD ATTORNEY, Krohn & Moss,**[\*6]** Ltd., Manhattan Beach, CA; Shireen Hormozdi, LEAD ATTORNEY, LOS ANGELES, CA; Taylor Tieman, LEAD ATTORNEY, Krohn and Moss, Manhattan Beach, CA.

For Robin Gawel, Plaintiff: Shireen Hormozdi, LEAD ATTORNEY, LOS ANGELES, CA.

For Faye Bretz, Plaintiff: Julie A. Petrik, LEAD ATTORNEY, Lyngklip Assoc Consumer Law Center, Southfield, MI.

For Jerry K. Wong, Plaintiff: RYAN LEYLAND GENTILE, LEAD ATTORNEY, LAW OFFICES OF GUS MICHAEL FARINELLA PC, NEW YORK, NY.

For Ryan Goodell, Bryte Goodell, Plaintiffs: David James McGlothlin, LEAD ATTORNEY, Hyde & Swigart, San Diego, CA.

For Charles Gruver, Plaintiff: Amanda J. Allen, LEAD ATTORNEY, The Consumer Protection Firm, PLLC, Tampa, FL.

For Lorna Holland, Plaintiff: Clinton J. Rooney, LEAD ATTORNEY, San Diego, CA; Stephen G Recordon, LEAD ATTORNEY, Recordon & Recordon, San Diego, CA.

For Jerry Neill, Plaintiff: Jennifer M Spiegel Colson, LEAD ATTORNEY, Lighthouse Point, FL.

For Melissa Calvillo, Ernesto Valadez, Plaintiffs: Mario Kris Kasalo, LEAD ATTORNEY, The Law Office of M. Kris Kasalo, Ltd., Chicago, IL; Michael Jacob Wood, LEAD ATTORNEY, Consumer Protection Law Center, Ltd., Chicago, IL.

For MARCOS SANGERMAN, Plaintiff: Adam Theodore Hill, LEAD ATTORNEY,**[\*7]** PRO HAC VICE, Krohn & Moss, Ltd., Chicago, IL; Nicole L. Hazlett, LEAD ATTORNEY, Krohn & Moss, Ltd., Manhattan Beach, CA; Ryan Lee, LEAD ATTORNEY, Law Offices of Ryan Lee, PLLC, Scottsdale, AZ; Taylor Tieman, LEAD ATTORNEY, Krohn and Moss, Manhattan Beach, CA.

For Baraka Higgins, Plaintiff: Adam Theodore Hill, LEAD ATTORNEY, PRO HAC VICE, Krohn & Moss, Ltd., Chicago, IL; Christopher C. Hunter, LEAD ATTORNEY, Bauer & Hunter PLLC, Southfield, MI; Nicole L. Hazlett, LEAD ATTORNEY, Krohn & Moss, Ltd., Manhattan Beach, CA; Taylor Tieman, LEAD ATTORNEY, Krohn and Moss, Manhattan Beach, CA.

For Roy Dennis, Plaintiff: David McColl Tannehill, LEAD ATTORNEY, North Royalton, OH; Nicole L. Hazlett, LEAD ATTORNEY, Krohn & Moss, Ltd., Manhattan Beach, CA; Taylor Tieman, LEAD ATTORNEY, Krohn and Moss, Manhattan Beach, CA.

For Jennifer McGuire, Plaintiff: Mario Kris KasaloMario Kris Kasalo, LEAD ATTORNEY, The Law Office of M. Kris Kasalo, Ltd., Chicago, IL.

For Eric Cordua, Raquel Esparza, Plaintiffs: Nicholas J. Bontrager, LEAD ATTORNEY, Martin & Bontrager, APC, Los Angeles, CA; Suren Weerasuriya, Todd M. Friedman, LEAD ATTORNEYS, Law Offices of Todd M. Friedman, P.C. Costa Mesa, CA.

For Courtney Dotson,**[\*8]** Plaintiff: Jesse I. Redlener, LEAD ATTORNEY, Ascendant Law Group, LLC, North Andover, MA.

For Patricia Ryan, Alexandra Zenoniani, formerly known as, Alexandra Moore, Plaintiff: Nicole L. Hazlett, LEAD ATTORNEY, Krohn & Moss, Ltd., Manhattan Beach, CA; Shireen Hormozdi, LEAD ATTORNEY, LOS ANGELES, CA; Taylor Tieman, LEAD ATTORNEY, Krohn and Moss, Manhattan Beach, CA.

For Glenda Peterson, Plaintiff: Adam Theodore Hill, LEAD ATTORNEY, PRO HAC VICE, Krohn & Moss, Ltd., Chicago, IL; Christopher C. Hunter, LEAD ATTORNEY, Bauer & Hunter PLLC, Southfield, MI; Nicole L. Hazlett, LEAD ATTORNEY, Krohn & Moss, Ltd., Manhattan Beach, CA; Taylor Tieman, LEAD ATTORNEY Krohn and Moss, Manhattan Beach, CA.

For Jessica Villegas, Plaintiff: Adam Theodore Hill, LEAD ATTORNEY, PRO HAC VICE, Krohn & Moss, Ltd., Chicago, IL; Nicole L. Hazlett, LEAD ATTORNEY, Krohn & Moss, Ltd., Manhattan Beach, CA; Ryan Lee, LEAD ATTORNEY, Law Offices of Ryan Lee, PLLC, Scottsdale, AZ; Taylor Tieman, LEAD ATTORNEY, Krohn and Moss, Manhattan Beach, CA.

For MARY GAMBLE, Plaintiff: Adam Hill, LEAD ATTORNEY, Chicago, IL; Adam Theodore Hill, LEAD ATTORNEY, PRO HAC VICE, Krohn & Moss, Ltd., Chicago, IL.

For Timothy George Lawson, III,**[\*9]** Plaintiff: Nicholas J. Bontrager, LEAD ATTORNEY, Martin & Bontrager, APC, Los Angeles, CA; Todd M. Friedman, LEAD ATTORNEY, Law Offices of Todd M. Friedman, P.C., Woodland Hills, CA.

For DAVID BENARROCH, Plaintiff: Yitzchak Zelman, LEAD ATTORNEY, PRO HAC VICE, Marcus Zelman, LLC, Ocean, NJ.

For Kirby Spencer, Plaintiff: Craig K Perry, LEAD ATTORNEY, Craig K. Perry & Associates, Las Vegas, NV.

For Willette Hill, Plaintiff: Robert P. Cocco, LEAD ATTORNEY, LAW OFFICES OF ROBERT P. COCCO PC, PHILADELPHIA, PA.

For Robert Harris, Plaintiff: Michael Brandon Walker, LEAD ATTORNEY, Walker, McMullan, Birmingham, AL; Nicole L. Hazlett, LEAD ATTORNEY, Krohn & Moss, Ltd., Manhattan Beach, CA; Taylor Tieman, LEAD ATTORNEY, Krohn and Moss, Manhattan Beach, CA.

For James Valliere, Plaintiff: Michael J. Vitoria, LEAD ATTORNEY, Morgan & Morgan, PA, Tampa, FL.

For Florencio Pacleb, Plaintiff: Arvin Ratanavongse, LEAD ATTORNEY, The Law Offices of Todd M. Friedman, P.C., Beverly Hills, CA; Todd M. Friedman, LEAD ATTORNEY, Law Offices of Todd M. Friedman, P.C., Woodland Hills, CA.

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For Louis A. Quesada, Plaintiff: Michael J. Vitoria, LEAD ATTORNEY, Morgan & Morgan, PA, Tampa, FL.

For Michael Shearer, Plaintiff: Chad Edward Murray, LEAD ATTORNEY, Law Office of Chad E. Murray, Decatur, IL.

For Timothy Kunkel, Plaintiff: Nicole L. Hazlett, LEAD ATTORNEY, Krohn & Moss, Ltd., Manhattan Beach, CA; Taylor Tieman, LEAD ATTORNEY, Krohn and Moss, Manhattan Beach, CA.

For Marcia Harris, Plaintiff: Adam Theodore Hill, LEAD ATTORNEY, PRO HAC VICE, Krohn & Moss, Ltd., Chicago, IL; Nicole L. Hazlett, LEAD ATTORNEY, Krohn & Moss, Ltd., Manhattan Beach, CA; Taylor Tieman, LEAD ATTORNEY, Krohn and Moss, Manhattan Beach, CA.

For Fateh Jalil, Plaintiff: Suren Weerasuriya, LEAD ATTORNEY, Law Offices of Todd M. Friedman PC, Costa Mesa, CA; Todd M. Friedman, LEAD ATTORNEY, Law Offices of Todd M. Friedman, P.C., Woodland Hills, CA.

For Kimberly Feuerstein, Plaintiff: Chad Edward Murray, LEAD ATTORNEY, Law Office of Chad E. Murray, Decatur, IL.

For Melba Bush, Plaintiff: Nicole L. Hazlett, LEAD ATTORNEY, Krohn & Moss, Ltd., Manhattan Beach, CA; Ryan Lee, LEAD ATTORNEY, Law Offices of Ryan Lee,**[\*11]** PLLC, Scottsdale, AZ; Taylor Tieman, LEAD ATTORNEY, Krohn and Moss, Manhattan Beach, CA.

For Jessica Suttle, Plaintiff: Andrew J Ross, LEAD ATTORNEY, Krohn & Moss Ltd, Dallas, TX; Nicole L. Hazlett, LEAD ATTORNEY, Krohn & Moss, Ltd., Manhattan Beach, CA; Ryan Lee, LEAD ATTORNEY, Law Offices of Ryan Lee, PLLC, Scottsdale, AZ; Taylor Tieman, LEAD ATTORNEY, Krohn and Moss, Manhattan Beach, CA.

For Verizon Communications Inc., a New York Corporation, Plaintiff: Robert Franklin Springfield, LEAD ATTORNEY, Burr & Forman, LLP, Orlando, FL; Teddy Lee Sutherland, LEAD ATTORNEY, Scrudder, Bass, Quillian, Horlock, Taylor & Lazarus LLP, Atlanta, GA; Rachel R Friedman, Burr & Forman LLP, Birmingham, AL.

For Jamie Rivera, Gina Ortale, Plaintiffs: Adam Theodore Hill, LEAD ATTORNEY, PRO HAC VICE, Krohn & Moss, Ltd., Chicago, IL; Nicole L. Hazlett, LEAD ATTORNEY, Krohn & Moss, Ltd., Manhattan Beach, CA; Ryan Lee, LEAD ATTORNEY, Law Offices of Ryan Lee, PLLC, Scottsdale, AZ; Taylor Tieman, LEAD ATTORNEY, Krohn and Moss, Manhattan Beach, CA.

For Diane Floyd, Plaintiff: Andrew J Ross, LEAD ATTORNEY, Krohn & Moss Ltd, Dallas, TX; Nicole L. Hazlett, LEAD ATTORNEY, Krohn & Moss, Ltd., Manhattan Beach, CA; Ryan**[\*12]** Lee, LEAD ATTORNEY, Law Offices of Ryan Lee, PLLC, Scottsdale, AZ; Taylor Tieman, LEAD ATTORNEY, Krohn and Moss, Manhattan Beach, CA.

Adeline Vales, Plaintiff, Pro se, Smyrna, GA.

For David Moya, Ruth Moya, Plaintiffs: Aaron Michael Swift, LEAD ATTORNEY, Swift Law, P.A., St. Petersburg, FL; Gordon Tyler Bannon, Ian Richard Leavengood, LEAD ATTORNEYS, Leavengood, Dauval, Boyle & Meyer PA, St Petersburg, FL.

For Shirley Milton, Latoya Hazle, Jasminn Hamilton, Sherry Hanshaw, Plaintiffs: Nicole L. Hazlett, LEAD ATTORNEY, Krohn & Moss, Ltd., Manhattan Beach, CA; Shireen Hormozdi, LEAD ATTORNEY, LOS ANGELES, CA; Taylor Tieman, LEAD ATTORNEY, Krohn and Moss, Manhattan Beach, CA.

For Sabrina Andrews, Plaintiff: Cassandra P. Miller, Cathleen M. Combs, LEAD ATTORNEYS, Edelman, Combs, Latturner & Goodwin, LLC, Chicago, IL; Daniel A. Edelman, James O. Latturner, LEAD ATTORNEYS, PRO HAC VICE, Edelman, Combs, Latturner & Goodwin, LLC, Chicago, IL.

For Robert L Moore, Jr, Plaintiff: Mpatanishi Tayari Garrett, LEAD ATTORNEY, Tayari Law PLLC, Dallas, TX.

For Erin Glossenger, Plaintiff: Ashley D. Forest, LEAD ATTORNEY, PRO HAC VICE, Exemplar Law Partners, LLC, Boston, MA; Sergei Lemberg, LEAD ATTORNEY, PRO**[\*13]** HAC VICE, Lemberg Law, LLC, Wilton, CT.

For Kirby Spencer, Plaintiff: Craig Karl Perry, LEAD ATTORNEY, Craig K. Perry & Associates, Las Vegas, NV.

For Chloe Armstrong, Plaintiff: Nicole L. Hazlett, LEAD ATTORNEY, Krohn & Moss, Ltd., Manhattan Beach, CA; Taylor Tieman, LEAD ATTORNEY, Krohn and Moss, Manhattan Beach, CA.

For SHANEL WILKES, Plaintiff: Nicole L. Hazlett, LEAD ATTORNEY, Krohn & Moss, Ltd., Manhattan Beach, CA; Ryan Lee, LEAD ATTORNEY, Law Offices of Ryan Lee, PLLC, Scottsdale, AZ.

For Lavanchy Johnson, Plaintiff: Nicole L. Hazlett, LEAD ATTORNEY, Krohn & Moss, Ltd., Manhattan Beach, CA; Ryan Lee, LEAD ATTORNEY, Law Offices of Ryan Lee, PLLC, Scottsdale, AZ; Taylor Tieman, LEAD ATTORNEY, Krohn and Moss, Manhattan Beach, CA.

For Thomas Blotzer, Plaintiff: Michael J. Vitoria, LEAD ATTORNEY, Morgan & Morgan, PA, Tampa, FL.

For Elie Love, Plaintiff: Jared D Kemper, LEAD ATTORNEY, Dykema Gossett, PLLC, Mpls, MN.

For Dorothy King, Plaintiff: Seth Andrews, LEAD ATTORNEY, Law Offices of Kenneth Hiller, PPLC, Amherst, NY.

For Charles Ludwig, Plaintiff: Charles R. Pinkerton, LEAD ATTORNEY, Compton & Associates, PLLC, Morgantown, WV.

For Ayza Corujo Canter, Plaintiff: Steven M. Canter, LEAD**[\*14]** ATTORNEY, Steven M. Canter, Esq., Delray Beach, FL.

For Heather Moynihan, formerly known as Heather Stewart, Plaintiff: Clayton S. Morrow, LEAD ATTORNEY, Morrow & Artim, PC, Pittsburgh, PA.

For Dawn Ash, Plaintiff: Michael Alan Siddons, LEAD ATTORNEY, The Law Office of Michael Alan Siddons, Esquire, MEDIA, PA; Nicole L. Hazlett, LEAD ATTORNEY, Krohn & Moss, Ltd., Manhattan Beach, CA; Taylor Tieman, LEAD ATTORNEY, Krohn and Moss, Manhattan Beach, CA.

For Peter Howard, Plaintiff: Aaron Michael Swift, LEAD ATTORNEY, Swift Law, P.A., St. Petersburg, FL; Gordon Tyler Bannon, Gregory Harrison Lercher, Ian Richard Leavengood, LEAD ATTORNEYS, Leavengood, Dauval, Boyle & Meyer PA, St Petersburg, FL.

For Michael P. Glover, Plaintiff: Christopher E. Lestak, LEAD ATTORNEY, PRO HAC VICE, Law Office of Christopher Lestak, Buffalo, NY.

For Henry Gaddis, Plaintiff: J Neal Prevost, LEAD ATTORNEY, Louis A Shaff, Prevost & Shaff, Frisco, TX.

For Susan Hall, Plaintiff: Amanda J. Allen, LEAD ATTORNEY, The Consumer Protection Firm, PLLC, Tampa, FL.

For Bethany Wickham, Robert Wickham, Plaintiffs: Chris Carson, LEAD ATTORNEY, Potter Handy, San Diego, CA; Dennis J. Price, II, LEAD ATTORNEY, Potter Handy LLP, San**[\*15]** Diego, CA; Mark D. Potter, Raymond G. Ballister, Jr., LEAD ATTORNEYS, Center for Disability Access, San Diego, CA.

Seth Miller, Plaintiff, Pro se, Grand Rapids, MI.

David E Mack, Plaintiff, Pro se, Dallas, TX.

For Angela Welch, Plaintiff: Thomas Lash, LEAD ATTORNEY, Lash & Wilcox, PL, Tampa, FL.

For Dana A. Doyle, an individual, Plaintiff: David Paul Force, LEAD ATTORNEY, LAW OFFICES OF MICHAEL LUPOLOVER PC, ENGLEWOOD CLIFFS, NJ; Matthew Taylor Sheffield, LEAD ATTORNEY, LAW OFFICES OF MICHAEL LUPOLOVER, ENGLEWOOD CLIFFS, NJ.

For Danilo Villavicencio, Plaintiff: Daniel Harris Kohn, LEAD ATTORNEY, RC Law Group PLLC, Hackensack, NJ.

For Kari A Peterson, Plaintiff: Adam R Strauss, LEAD ATTORNEY, Skolnick & Shiff, P.A., Minneapolis, MN.

For Deborah Neal, Plaintiff: Kenneth R. Hiller, LEAD ATTORNEY, Law Offices of Kenneth Hiller, Amherst, NY; Seth Andrews, LEAD ATTORNEY, Law Offices of Kenneth Hiller, PPLC, Amherst, NY.

For Antuan J. Foxx, Plaintiff: William M. Kaludis, LEAD ATTORNEY, Shield Law Group, Nashville, TN.

For Deane-Ellen Valkerie, Plaintiff: Shireen Hormozdi, LEAD ATTORNEY, LOS ANGELES, CA.

For Cynthia Farley, Ephrom Cray, Jr, Rachell Permenter, Plaintiffs: Amanda J. Allen, LEAD ATTORNEY**[\*16]** The Consumer Protection Firm, PLLC, Tampa, FL.

For Deusmarie Velez, Plaintiff: Yaakov Saks, LEAD ATTORNEY, Revaz Chachanashvili Law Group. P.C., Hackensack, NJ.

For V. John Brook, Plaintiff: Thomas Lash, LEAD ATTORNEY, Lash & Wilcox, PL, Tampa, FL.

For Bart Paschke, Plaintiff: Sergei Lemberg, LEAD ATTORNEY, PRO HAC VICE, Lemberg Law, LLC, Wilton, CT; Trinette G. Kent, LEAD ATTORNEY, Lemberg Law, LLC, Phoenix, AZ.

Angela Basham, Plaintiff, Pro se, Leasburg, MO.

Ashok Arora, Plaintiff, Pro se, Schaumburg, IL.

For Virginia Williams, Plaintiff: Patrick A. Sheehan, LEAD ATTORNEY, SHEEHAN LAW FIRM, Ocean Springs, MS.

For Clarence Covington, Sr., Plaintiff: Aryeh Eliezer Stein, LEAD ATTORNEY, Meridian Law, LLC, Baltimore, MD.

For Robert Banks, Rachael Treshan, Plaintiffs: Joseph Mauro, LEAD ATTORNEY, The Law Office of Joseph Mauro, LLC, West Islip, NY.

For Joseph Nelson, Evena Jesula, Plaintiffs: Anthony C. Norman, LEAD ATTORNEY, Loan Lawyers, LLC, Fort Lauderdale, FL.

For Anthony Reitano, Plaintiff: Hashim Rahman, LEAD ATTORNEY, Brooklyn, NY.

For Jason Barrios, Teresa Baudour, Felicia Bonser, Shantell Brown, Joanne Collins, Leonard Daniels, Uwana Davis, Kirstie Dewitt, David Fenstermaker, Plaintiffs:**[\*17]** David M. Menditto, LEAD ATTORNEY, UpRight Law, Chicago, IL; Jeffrey Hyslip, HYSLIP & TAYLOR, LLC, LPA, Chicago, IL.

ForDeb Frantz, Kristine Froschl, Latasha Gage, Damari Gonzalez, Misty Goodyear, Lisa Greenberg, Becky Gress, Angelika Guilbe, Rodney Hall, Letisha Hart, Melanie Johnson, Savonna King, Debra Kopelic, Tammy Major, Steffany Maple, Christina Matteson, Glenn Miller, Michelle Miller, Derrick Morris, Carleshia Oliver, Liliana Ortiz, Marcos Ortiz, Tamica Parham, Castillo Petric, Edwin Plaza, Aaron Rissinger, Donna Sabatino, Doris Santiago, Nicole Sears, Plaintiffs: David M. Menditto, LEAD ATTORNEY, UpRight Law, Chicago, IL; Jeffrey Hyslip, HYSLIP & TAYLOR, LLC, LPA, Chicago, IL.

For Tynika Spillman, Joe Henry Thomas, Wendy Tonnies, John Veruiebe, Carmen Villanueva, Harvey Williams, Kanika Young, Plaintiffs: David M. Menditto, LEAD ATTORNEY, UpRight Law, Chicago, IL; Jeffrey Hyslip, HYSLIP & TAYLOR, LLC, LPA, Chicago, IL.

Isabel Domonic Jean-Pierre (Meyers), Plaintiff, Pro se, Atlanta, GA.

Marie Ena Williams, Plaintiff, Pro se, Decatur, GA.

For Evelynn Survis, Plaintiff: Michael Alan Siddons, LEAD ATTORNEY, The Law Office of Michael Alan Siddons, Esquire, MEDIA, PA; Nicole L. Hazlett,**[\*18]** LEAD ATTORNEY, Krohn & Moss, Ltd., Manhattan Beach, CA; Taylor Tieman, LEAD ATTORNEY, Krohn and Moss, Manhattan Beach, CA.

For Naeem Betz, Plaintiff: Daniel James Hornal, LEAD ATTORNEY, TALOS LAW, Washington, DC.

For Jeremy R. Johnson, Plaintiff: Mark L Heaney, LEAD ATTORNEY, Heaney Law Firm, LLC, Minnetonka, MN.

For Tami Coleman, Plaintiff: Mark L Heaney, LEAD ATTORNEY, Heaney Law Firm, LLC, Minnetonka, MN; Sharina Talbot Romano, LEAD ATTORNEY, Hyslip & Taylor LLC, LPA, Chicago, IL.

For Maybelline Illas, Maria Torres, James Wangler, Plaintiffs: Mark T. Lavery, LEAD ATTORNEY, Hyslip and Taylor LLP, Chicago, IL.

For Christina Parsons, William Seymour, Cindy Walski, Tina Guidry, Gayl Hayes, Mary Ruckman, Barry Thomas, Plaintiffs: Mark T. Lavery, Sharina Talbot Romano, LEAD ATTORNEYS, Hyslip and Taylor LLP, Chicago, IL.

For Kimberly Smith Galindo, Plaintiff: Jonathan Stieglitz, LEAD ATTORNEY, Los Angeles, CA.

For Nicholas (Nick) Linko, Plaintiff: Vicki Piontek, LEAD ATTORNEY, Piontek Law Office, Lansdale, PA.

For Arico Sumrall, Plaintiff: Thomas A. Addleman, LEAD ATTORNEY, Addleman Law Firm, Lee's Summit, MO.

For Robin McCulley, Gina Cockman, Plaintiffs: Creighton P Mayo, LEAD ATTORNEY, Lee's**[\*19]** Summit, MO.

For Laquan M. Ford, Plaintiff: Brian L Shrader, LEAD ATTORNEY, Centrone & Shrader, PLLC, Tampa, FL; Gus M Centrone, LEAD ATTORNEY, PRO HAC VICE, Centrone & Shrader, PLLC, Tampa, FL.

For Daisy Pugh, Plaintiff: Kenneth R. Hiller, LEAD ATTORNEY, Law Offices of Kenneth Hiller, Amherst, NY; Seth Andrews, LEAD ATTORNEY, Law Offices of Kenneth Hiller, PPLC, Amherst, NY.

For Michael French, Plaintiff: Frank Howard Kerney , III, LEAD ATTORNEY, Morgan & Morgan, PA, Tampa, FL.

For Margarita Serrano, Plaintiff: Todd M. Friedman, LEAD ATTORNEY, Law Offices of Todd M. Friedman, P.C., Woodland Hills, CA.

For Paul Gray, Josue Gerena, Plaintiffs: Corinne Orquiola, Taylor Tieman, LEAD ATTORNEYS, Krohn and Moss, Manhattan Beach, CA; Nicole L. Hazlett, LEAD ATTORNEY, Krohn & Moss, Ltd., Manhattan Beach, CA.

For Brett Martin, Plaintiff: Rory C. Leisinger, LEAD ATTORNEY, Leisinger Law, LLP, Covina, CA.

For Vadim Gazanchiyants, Plaintiff: Patric Alexander Lester, LEAD ATTORNEY, Lester & Associates, San Diego, CA.

For Michael Maitlen, Plaintiff: Clinton J. Rooney, LEAD ATTORNEY, San Diego, CA; Stephen G Recordon, LEAD ATTORNEY, Recordon & Recordon, San Diego, CA.

For Hilton Graham, Plaintiff: Sergei Lemberg,**[\*20]** LEAD ATTORNEY, PRO HAC VICE, Lemberg Law, LLC, Wilton, CT; Trinette G. Kent, LEAD ATTORNEY, Lemberg Law, LLC, Phoenix, AZ.

For Maybelline Illas, Plaintiff: Sharina Talbot Romano, LEAD ATTORNEY, Hyslip & Taylor LLC, LPA, Chicago, IL.

For Curtis Bentley, Plaintiff: David E. Bower, LEAD ATTORNEY, Monteverde & Associates P.C., Culver City, CA; John D. Blythin, Stephen Ademi, LEAD ATTORNEYS, Ademi & O'Reilly, LLP, Cudahy, WI; Mark A Eldridge, LEAD ATTORNEY, Ademi & O'Reilly LLP, Cudahy, WI.

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**Judges:** Hon. Michael M. Anello, United States District Judge.

**Opinion by:** Hon. Michael M. Anello

**Opinion**

**ORDER STRIKING FDCPA CAUSE OF ACTION FROM CONSOLIDATED AMENDED COMPLAINT**

On October 20, 2017, Plaintiffs Curtis Bentley and William Baker, individually and on behalf of all others similarly situated, filed a Consolidated Amended Complaint ("CAC") against Defendants Midland Credit Management, Inc., Midland Funding LLC, and Encore Capital Group, Inc. (collectively, "Midland") for violations of the**[\*34]** [*Telephone Consumer Protection Act, 47 U.S.C. § 227, et seq.*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:4YF7-GJ81-NRF4-43TT-00000-00&context=) (hereinafter, "TCPA"), and the [*Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq.*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:4YF7-GHC1-NRF4-407T-00000-00&context=) (hereinafter "FDCPA") in this multidistrict litigation ("MDL"). Doc. No. 538 ("CAC"). With respect to the FDCPA cause of action, Plaintiffs allege that Defendant Midland Credit Management, Inc. "failed to provide to Plaintiffs the required notice" pursuant to the FDCPA and seek to represent a class of "[a]ll natural persons in the United States who were not sent an initial collection letter containing the validation notice required by [*15 U.S.C. § 1692g*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:4YF7-GMR1-NRF4-4215-00000-00&context=), within five days after the first telephone communication from [Midland Credit Management, Inc.], seeking to collect a debt for personal, family, or household purposes, on or after August 5, 2015, (e) that was not returned by the postal service." CAC, ¶¶ 104-09, 113.

The Transfer Order creating this MDL specifies the plaintiffs in the member actions allege that Midland "violated the federal [TCPA] by placing debt collection calls to debtors' cell phones using an automated system, without the debtors' consent." Doc. No. 1 at 1. Based on the TCPA allegations, the Judicial Panel on Multidistrict Litigation ("the Panel"), found that "[d]iscovery into the**[\*35]** defendants' policies and practices with respect to *calling procedures* likely will be necessary across the . . . actions, and centralization will eliminate duplicative discovery and prevent inconsistent pretrial rulings." *Id.* (emphasis added). The Panel did not transfer cases into this MDL to handle FDCPA claims or to coordinate any discovery, other than that related to Midland's use of an automated telephone dialing system ("ATDS"). *See id.* Accordingly, the Court ordered Lead Plaintiffs and Midland to file a brief addressing why the FDCPA claim in the CAC should not be stricken for exceeding the boundaries of the Panel's Transfer Order. Doc. No. 561.

[*Federal Rule of Civil Procedure 12(f)*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:5GYC-1WP1-6N19-F0YW-00000-00&context=) empowers the Court to "strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter." [*Fed. R. Civ. P. 12(f)*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:5GYC-1WP1-6N19-F0YW-00000-00&context=). The Court may do so on its own motion and deciding whether to strike all or a portion of a pleading lies within the Court's discretion. *Id.*; *see also* [*In re Beef Industry* ***Antitrust*** *Litigation, 600 F.2d 1148, 1168-69 (5th Cir. 1979)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4W-V7C0-0039-M4B0-00000-00&context=) (citing 5 C. Wright & A. Miller, Federal Practice and Procedure § 1382 at 807 (1969)). "An 'impertinent' allegation is neither responsive nor relevant to the issues involved in the action and which could not be put in issue or given in evidence between the parties.**[\*36]** An 'impertinent' matter consists of statements that do not pertain and are unnecessary to the issues in question." [*Wilkerson v. Butler, 229 F.R.D. 166, 170 (E.D. Cal. 2005)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:4H2P-KJ00-TVSH-3292-00000-00&context=) (citing [*Gilbert v. Eli Lilly & Co., Inc., 56 F.R.D. 116, 120 n.6 (D. P.R. 1972)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4V-MP40-003B-308V-00000-00&context=); [*Fogerty v. Fantasy, Inc., 984 F.2d 1524, 1527 (9th Cir. 1993)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3RTX-FGR0-003B-P06H-00000-00&context=), *rev'd on other grounds,* [*Fogerty v. Fantasy, Inc., 510 U.S. 517, 114 S. Ct. 1023, 127 L. Ed. 2d 455 (1994))*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S65-JXW0-003B-R35X-00000-00&context=).

Lead Plaintiffs argue that the FDCPA cause of action should not be stricken from the CAC for three reasons. Doc. No. 566. First, the Court has federal question jurisdiction over FDCPA claims. *Id.* at 2. Second, the Panel contemplated this MDL to include FDCPA claims because FDCPA claims may involve common questions of fact with TCPA claims and because two of the four original complaints contained FDCPA causes of action. *Id.* at 3; *see also Martin v. Midland Credit Management, Inc., et al.*, No. 1:11-cv-03104 (N.D. Ill. Filed July 14, 2011), Doc. No. 17; *Scardina v. Midland Credit Management, Inc., et al.*, No. 1:11-cv-03149 (N.D. Ill Filed Aug. 18, 2011), Doc. No. 43. Third, the Court lacks authority to strike the FDCPA cause of action under [*Federal Rule of Civil Procedure 12(f)*](https://advance.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:5GYC-1WP1-6N19-F0YW-00000-00&context=). *Id.* at 4-5. However, Lead Plaintiffs contend that "if the Court is concerned that [FDCPA] claims are outside the scope of the MDL, the proper course of action would be either to proceed to discovery with the complaint as-is, or to stay the FDCPA claims until the TCPA claims are resolved." *Id.* at 5. Midland "has no objection to the**[\*37]** Court striking the FDCPA claim from the [CAC] . . . [and] has no objection to Lead Plaintiffs' suggestion that the Court stay the FDCPA claim until the TCPA claims are resolved." Doc. No. 567.

Lead Plaintiff's argument with respect to the Court's jurisdiction over the claim misses the Court's concern. The Court's concern is that this MDL was created to address TCPA causes of action and no other causes of action. While Lead Plaintiff is correct that two of the original member cases in this MDL contained FDCPA causes of action, Lead Plaintiff omits the fact that the first Consolidated Complaint only raised causes of action under the TCPA. Doc. No. 23, Consolidated Complaint ("CC"), ¶¶ 75-84 (raising negligent violations of the TCPA and knowing and/or willful violations of the TCPA). Moreover, the prior class settlement resolved all claims under the TCPA and the ***regulations*** promulgated thereunder or related thereto, and any and all claims for violation of any laws of any state that ***regulate***, govern, prohibit or restrict the making, placing, dialing or initiating of calls using an ATDS, an artificial or prerecorded voice, or any automated process or technology brought by Class Members against**[\*38]** Midland. Doc. No. 434 at 3-4; Doc. No. 281-3. Accordingly, the Court dismissed with prejudice TCPA claims of Plaintiffs who are members of the settlement class who did not timely exclude themselves from the class settlement and suggested those cases be remanded to their original districts. *See* Doc. No. 563 at 3-4. The Court noted that the remaining claims in each of those cases "no longer pertain to this TCPA MDL action." *Id.* at 4. Several of those cases contained FDCPA causes of action. *See Fuller v. Midland Credit Management, Inc.*, No. 3:14-cv-00385-MMA (MDD), Doc. No. 1; *Colter v. Midland Credit Management, Inc.*, No. 3:14-cv-00397-MMA (MDD), Doc. No. 1; *Barnett v. Midland Credit Management, Inc.*, No. 3:14-cv-00589-MMA (MDD), Doc. No. 1; *Wilbon v. Midland Credit Management, Inc.*, No. 3:14-cv-00719, Doc. No. 1; *Thomas Starner v. Midland Credit Management, Inc., et al.*, No. 3:14-cv-00774-MMA (MDD), Doc. No. 1; *Harris v. Midland Credit Management, Inc., et al.*, No. 3:14-cv-00956-MMA (MDD), Doc. No. 1; *Cavillo, et al. v. Midland Funding, LLC, et al.*, No. 3:14-cv-01664- MMA (MDD), Doc. No. 1.

Based on the Panel's Transfer Order and the procedural history of this MDL, the Court finds that the FDCPA**[\*39]** cause of action contained in the CAC does not pertain to and is not necessary to the issues in question with respect to this TCPA MDL. *See* [*In re Smith Patent Litigation, 407 F. Supp. 1403, 1404 n.3 (J.P.M.L 1976)*](https://advance.lexis.com/api/document?collection=cases&id=urn:contentItem:3S4V-K4Y0-0054-61BG-00000-00&context=) (stating that "[t]he scope of the coordinated or consolidated pretrial proceedings and the extent to which discovery is permitted are matters exclusively within the control of the transferee judge"). Accordingly, the Court **STRIKES** Lead Plaintiff's FDCPA cause of action from the CAC. The Court notes that this does not affect FDCPA causes of action contained within the individual member cases' complaints, including Lead Plaintiff Bentley's underlying complaint.

**IT IS SO ORDERED**.

Dated: February 15, 2018

/s/ Michael M. Anello

Hon. Michael M. Anello

United States District Judge

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