

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

JAMES R. HAGY, III, *et al.*, : CASE NO. 2:11CV530  
Plaintiffs, : MAGISTRATE JUDGE KEMP  
v. : PLAINTIFFS' RESPONSE TO  
: MOTIONS TO DISMISS FOR LACK  
: OF JURISDICTION (Docs. 157,  
: 158)  
DEMERS & ADAMS, LLC, *et al.*, :  
Defendants. :

Now comes Plaintiff, James R. Hagy ("Mr. Hagy"), on behalf of his deceased wife, Patricia Hagy, and himself ("Plaintiffs"), and hereby submits that the motions to dismiss for lack of jurisdiction (Docs. 157, 158) Plaintiff's amended complaint (Doc. 18) and amended supplemental complaint (Doc. 155) filed by Defendant David. J. Demers, Defendant Demers & Adams, LLC (collectively "Law Firm Defendants") and Third-Party Defendant Stephanie B. Demers be overruled because this Court has jurisdiction over both complaints. In support, Plaintiffs submit the attached memorandum.

Respectfully submitted,

/s/Edward A. Icove  
Edward A. Icove (0019646)  
Harold L. Williams (0022238)  
Icove Legal Group, Ltd.  
50 Public Square  
Phone (216) 802-0000  
Fax (216) 802-0002  
[ed@icovelegal.com](mailto:ed@icovelegal.com)  
Attorneys for Plaintiffs

/s/ Kristen Finzel Lewis  
Kristen Finzel Lewis (0074392)  
Southeastern Ohio Legal Services  
332 W. High Ave.  
New Philadelphia, OH 44663  
Phone (330) 339-3998  
Fax (330) 339-6672  
[kfinzel@oslsa.org](mailto:kfinzel@oslsa.org)  
Attorneys for Plaintiffs

**MEMORANDUM IN RESPONSE TO MOTIONS TO DISMISS AND FOR  
RECONSIDERATION OF THE SUMMARY JUDGMENT DECISION**

**I. Background**

The procedural background of this case (putting aside Law Firm Defendants' two appeals and the filing of the supplemental complaint against Third-Party Defendant ProAssurance Casualty Company and the amended supplemental complaint against Third Party Defendants David J. Demers and Stephanie B. Demers (Doc. 144 and 155)) is contained in various orders of this Court. (Docs. 42, 95 at 1-4; 117 at 1-2; 153). The material facts important to the motions are as follows.

Plaintiffs plead a common set of operative facts in the amended complaint against Law Firm Defendant and Defendants Green Tree Servicing, LLC and Defendant Kevin Winehold ("Green Tree Defendants"), for preparing and executing a warranty deed in lieu of foreclosure and agreeing not to attempt to collect any deficiency balance which may be due and owing after the sale of the real property and mobile home (See letters (and deed in lieu of foreclosure) dated June 8, 2010 (letter to the Hagys making offer and enclosing deed); and June 30, 2010 (letter to the Hagys's attorney confirming receipt of executed warranty deed (executed June 24, 2010), and advising that no deficiency balance would be sought after sale). (Doc. 18 at Exhibits 3-5). After entering into the agreement and receipt of the deed, Green Tree Defendants began contacting the Hagys by phone for an alleged deficiency of over \$30,000. (Docs. 18, ¶¶ 11-21; 67 at 17-19, 22, 25-32; 69, at Exhibit 12).

On February 5, 2013, this Court issued an Opinion and Order (Doc. 95) granting in part and denying in part the motion for summary judgment filed by the Law Firm

Defendants (Doc 65) and granting a cross-motion for summary judgment filed by the Hagys on the claims under Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. §§ 1692, *et seq.*, the Ohio Consumer Sales Practices Act (“CSPA”), O.R.C. §§ 1345.01 *et seq.* (Doc. 83). In doing so, the Court found the Law Firm Defendants to be in violation of FDCPA and CSPA (Doc. 95).

In October 22, 2013, this Court issued its Opinion and Judgment in favor of the Hagys in the amount of \$1,800.00 in statutory damages under the FDCPA and CSPA, attorney fees in the amount of \$74,195.62, and \$312.05 in expenses. (Docs. 117, 118).

Plaintiffs and the Green Tree Defendants settled, and those claims were dismissed on October 16, 2014. (Doc. 136). Law Firm Defendants filed two motions for reconsideration of the CSPA judgment. Both were overruled. (Docs. 110, 138).

On June 6, 2016 and June 14, 2016 Law Firm Defendants and Mrs. Demers filed the pending motions to dismiss the amended complaint and third-party complaint against them because this Court allegedly did not have jurisdiction over the federal or state claims, or remand the case to state court. (Docs. 157, 158).

## **II. Arguments**

### **A. Law Firm Defendants’ Failure to Provide Notice as Prescribed by Congress Is an Independent Injury for Standing Purposes.**

Law Firm Defendants argue that *Spokeo, Inc. v. Robins*, \_\_\_ U.S. \_\_\_, 136 S. Ct. 1540, 2016 WL 2842447 (U.S. May 16, 2016) (“*Spokeo*”) mandates that this Court dismiss the amended complaint for lack of standing under Article III Section 2 of the United States Constitution, and that the February 5, 2013 summary judgment decision

be vacated, and the case be dismissed (or remanded). (Docs. 157 at 4; 158).<sup>1</sup> Their position is without merit.

In *Spokeo*, the Supreme Court reiterated the three elements that form the "irreducible constitutional minimum" of standing: "The plaintiff must have (1) suffered an injury in fact, (2) that is fairly traceable to the challenged conduct of the defendant, and (3) that is likely to be redressed by a favorable judicial decision." 2016 WL 2842447, at \*5 (citations omitted) (internal quotation marks omitted). "To establish injury in fact, a plaintiff must show that he or she suffered 'an invasion of a legally protected interest' that is 'concrete and particularized' and 'actual or imminent, not conjectural or hypothetical.'" *Id.* at \*6 (citation omitted). "To establish injury in fact, a plaintiff must show that he or she suffered 'an invasion of a legally protected interest that is 'concrete and particularized' and 'actual or imminent, not conjectural or hypothetical.'" *Id.*

The Court held that the Ninth Circuit Court of Appeals' decision, 742 F.3d 409 (9<sup>th</sup> Cir. 2015), evaluated the particularity requirement of injury in fact correctly, but overlooked the concreteness requirement and had therefore failed to determine whether a consumer reporting agency's alleged violations of the Fair Credit Reporting Act ("FCRA"), 15 U.S.C. § 1681 *et seq.*, caused concrete injury. See *Carr v. Parking Solutions Inc.*, Case No. 1:16cv00202 (N.D. Ohio 2016) ("The Supreme Court did not offer a conclusive ruling," and noted that *Spokeo* means "that courts need to look at both elements.") (J. Gwin). The Court stated that injury in fact needed to be clearly stated in the pleadings and clearly supported by the evidence.

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<sup>1</sup> Although jurisdiction can never be waived, it is noteworthy that Law Firm Defendants admitted that the Court had jurisdiction over the FDCPA and CSPA claims. (Docs. 18 at 1; Doc. 54 at 1).

1. Particularity

Law Firm Defendants do not argue that the Hagys have not demonstrated a particularized injury. The Hagys have done so. Like the plaintiff in *Spokeo*, Law Firm Defendants “violated [the Hagys’] statutory rights, not just the statutory rights of other people” and “that personal interests” in the receiving notice of the notice requirements of § 1692e(11) is “individualized rather than collective.” *Spokeo*, 2016 WL 2842447, at \*5. See also: *Beaudry v. TeleCheck Servs., Inc.* 579 F.3d 702, 705-707 (6th Cir. 2009) (“*Beaudry*”). Therefore, the Hagys have met this requirement.

2. Concrete injury

Law Firm Defendants argue that the Hagys did not incur a concrete injury from the June 30, 2010 letter to the Hagys’ attorney, and therefore this Court does not have jurisdiction to rule upon the FDCPA issue. (Doc. 157 at 4-5). They are wrong.

At the outset, it is important to note that Law Firm Defendants’ argument disregards this Court’s ruling that the June 30 letter to the Hagys’ attorney is a “communication” to the Hagys under the FDCPA. (Docs. 42 at 11; 95 at 15 n. 3). See also: *Bishop v. Ross Earle & Bonan, P.A.*, \_\_\_ F.3d \_\_\_, 2016 WL 1169064 (11<sup>th</sup> Cir. 2016) (collecting cases).

In this case, injury is established because the June 30 letter to the Hagys’ attorney is an attempt to obtain information about the Hagys, who gave Green Tree Defendants a deed in lieu of foreclosure in exchange for not being liable for approximately \$30,000 due on the mortgage. The FDCPA was designed to “eliminate abusive debt collection practices by debt collectors” and “insure that those debt

collectors who refrain from using abusive debt collection practices are not competitively disadvantaged.” 15 U.S.C. § 1692(e).

Section 1692e provides that “a debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt.” Examples of conduct that violate §1692e are set forth in the statute and include “the failure to disclose in subsequent communications that the communication is from a debt collector . . . .” 15 U.S.C. §1692e(11). This key provision addresses collection abuses observed by the Senate when the FDCPA was enacted, specifically “obtaining information about a consumer through false pretense, impersonating public officials and attorneys, and simulating legal process.” S. Rep. No. 382, 95th Cong., 1st Sess. 4, at 4, *reprinted in* 1977 U.S.C.C.A.N. 1695.<sup>2</sup>

To end these abuses, Congress gave consumers, like the Hagys, the right to be informed that the entity contacting them is a debt collector and that any information obtained from the consumer will be used for collection purposes. The inclusion of this simple language would have been entirely consistent with the content and purpose of the letter: confirmation that Green Tree would reduce the balance on their mortgage loan to zero in exchange for their agreement to sign the deed.

Personal information that is obtained absent § 1692e(11) disclosures is analogous to intrusion upon seclusion violations at common law, and the consumer is harmed even if there is no publication of that information. See Hobbs, National Consumer Law Center, Fair Debt Collection §§ 5.5.14, .3 9.3.2 (8<sup>th</sup> ed. 2014 and Supp. 2016). This manual was cited by the Supreme Court in *Jerman v. Carlisle, McNellie,*

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<sup>2</sup> For an example of the harms to consumers due to the failure to provide this mandatory disclosure, see *Romine v. Diversified Collection Servs.*, 55 F.3d 1142 (9<sup>th</sup> Cir. 1998).

*Rini, Kramer Ulrich, L.P.A.* 559 U.S. 573, 593, 598, 605 (2010) (“*Jerman*”).

Moreover, obtaining information without making the necessary disclosures raises the risk of additional harms, such as paying on the mortgage deficiency, which the Hagys did not owe. The risk was magnified in this case because Law Firm Defendants violated the mandatory disclosure requirements of § 1692a, a “significant feature” of the FDCPA (which resulted in a CSPA violation). See S. Rep. No. 382, 95<sup>th</sup> Cong., 1<sup>st</sup> Sess. at 4, and *Federal Home Loan Mortgage Corp v. Lamar*, 503 F.3d 504, 509 (6<sup>th</sup> Cir. 2007) (“*Federal Home*”).

Even if no personal information was disclosed, a violation of § 1692e(11) represents congressional judgment that this injury is sufficiently concrete to confer standing. The failure to provide § 1692e(11) disclosures creates the real risk that the consumer may unwittingly disclose sensitive personal information to a debt collector.

Moreover, in *Spokeo*, the Supreme Court cited two cases where the plaintiffs had standing to sue for failure to provide access to information required by law. *Spokeo*, 2016 WL 2842447, at \*8.<sup>3</sup> These cases illustrate that denial of access to information required by statute is a concrete injury under Article III. Section 1692e(11) provides consumers with a congressionally established right to basic information about the identity of the party contacting them. Violations of this right should constitute informational injuries under Article III. The Supreme Court noted that “the violation of a procedural right granted by statute can be sufficient in some circumstances to constitute

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<sup>3</sup> *Federal Election Comm’n v. Akins*, 524 U.S. 11, 20–25 (1998) (confirming that a group of voters’ ‘inability to obtain information’ that Congress had decided to make public is a sufficient injury in fact to satisfy Article III); *Public Citizen v. Department of Justice*, 491 U.S. 440, 449 (1989) (holding that two advocacy organizations’ failure to obtain information subject to disclosure under the Federal Advisory Committee Act ‘constitutes a sufficiently distinct injury to provide standing to sue.’”).

injury in fact. In other words, a plaintiff in such a case need not allege any *additional* harm beyond the one Congress has identified.” *Spokeo*, 2016 WL 2842447, at \*8.

As the Senate concluded when it enacted the FDCPA, “the vast majority of consumers who obtain credit fully intend to repay their debts. When default occurs, it is nearly always due to an unforeseen event such as unemployment, overextension, serious illness, or marital difficulties or divorce.” S. Rep. No. 382, 95th Cong., 1st Sess. 4, at 4, *reprinted in* 1977 U.S.C.C.A.N. 1695. Another legislative concern was to “eliminate the recurring problem of debt collectors” . . . “attempting to collect debts which the consumer had already paid.” *Id.* at 8. Viewed through this lens, § 1692e(11) provided struggling consumers, like the Hagys, with essential information to help them balance immediate expenses, when they were faced with a demand for repayment of the \$30,000.00 due on the mortgage, which they did not owe.

**B. The statutory violation is traceable to Law Firm Defendants.**

Law Firm Defendants argue that any injury sustained by the Hagys is not traceable to their conduct. Law Firm Defendants are wrong.

As explained above, Law Firm Defendants’ failure to provide the Hagys with the notice required by § 1692e(11) was magnified because they did not receive the § 1692a notice within five days of the initial communication.<sup>4</sup> Congress created a statutory right

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<sup>4</sup> The “civil Miranda” warning in §1692(g) requires that, within five days after the initial communication, the debt collector send written notice to the consumer containing certain information regarding the debt, including the amount of the debt, the name of the creditor to whom the debt is owed, and how to dispute the validity of the debt. See 15 U.S.C. §1692(g). “[H]ad the June 8 letter not been barred by the one-year statute of limitations applicable to FDCPA claims, this Court would have found that Law Firm Defendants’ conduct surrounding the letter also would have violated [§ 1692a.]” (Doc. 95 at 18).

to both notices. Law Firm Defendants' failure to provide the § 1692e(11) notice is traceable to them only.

The FDCPA focuses on the conduct of Law Firm Defendants, not the Hagys. *Keele v. Wexler*, 149 F.3d 589, 594 (7<sup>th</sup> Cir. 1998). The FDCPA is "extraordinarily broad" and was crafted in response to what Congress perceived "to be a widespread problem." *Frey v. Gangwish*, 970 F.2d 1516, 1521 (6<sup>th</sup> Cir. 1992) ("*Frey*") (Doc. 111 at 5). "[T]he Sixth Circuit treats the FDCPA as a strict liability statute." *Edwards v. McCormick*, 136 F.Supp.2d 795, 800 (S.D. Ohio 2001), citing *Frey*, 970 F.2d at 1518-19. Accordingly, "a consumer need not show intentional conduct by the debt collector to be entitled to damages." *Russell v. Equifax A.R.S.*, 74 F.3d 30, 33 (2<sup>nd</sup> Cir. 1996).

In this case, the non-disclosure was caused by Law Firm Defendants, not by the Hagys or their counsel. Since the injury in fact is a violation of § 1692e(11), from the "existence of a private cause of action, causation and redressability will usually be satisfied." *Spokeo*, 742 F.3d at 414; and *Edwards v. First Am. Corp.*, 610 F.3d 514, 517 (9<sup>th</sup> Cir. 2010) (standing requirements boiling down to "essentially" the injury in fact prong). Also, this is not a negligence case. See *Morris v. Credit Bureau of Cincinnati, Inc.*, 563 F.Supp. 962, 963, 967 (S. D. Ohio 1983) (under 15 U.S.C. § 1681e(b)). Therefore, Law Firm Defendants' argument is without merit.

To accept Law Firm Defendants' argument would effectively render unenforceable statutory notice requirements under the FDCPA and a variety of consumer statutes. For example, a lender could simply bypass the Truth in Lending Act's ("TILA") requirement that it prominently disclose a loan's annual percentage rate in an offer of credit by disclosing the rate in the borrower's first monthly statement. Under

this scenario, a debt collector could avoid disclosing that it is attempting to collect a debt as long as the fact is disclosed at some point before the borrower makes a payment. Lenders under those and other consumer statutes could always argue that the information required to be provided by notice was conveyed in some other way and thus that the statutory right to notice at the time and in the form prescribed by Congress is unenforceable.

As this Court explained: “the mandatory notice provision in 15 U.S.C. §1692e(11) serves the important purpose of eliminating abusive debt collection practices by debt collectors.” (Doc. 42 at 8). “Congress made clear that the FDCPA was intended to be a ‘primarily self-enforcing’ statute, with private individual and class actions providing collectors with a powerful incentive to comply with the statute.” FEDERAL TRADE COMMISSION, COLLECTING CONSUMER DEBTS: THE CHALLENGE OF CHANGE 66 (2009) (quoting S. Rep. 95-382 at 5, *as reprinted in* 1977 U.S.C.C.A.N. 1695, 1699).<sup>5</sup> See also: *Baker v. G.C. Services Corp.*, 677 F.2d 775, 780 (“1982), *citing* 123 Cong.Rec. 28112-13 (1977) (remarks of Rep. Annuzio); and *F.T.C. v. Shaffner*, 626 F.2d 32, 35 (7<sup>th</sup> Cir. 1980); and *Jerman*, 559 U.S. at 602-604. To “create an exception for debtors who have actual knowledge of their rights” would “undermine [those] purpose[s].” *Weeden v. Auto Workers Credit Union, Inc.*, 173 F.3d 857 (6th Cir. 1999) (holding that the plaintiff’s actual knowledge of the right to rescind a transaction did not excuse the defendants’ failure to provide statutorily required notice of the right).

The Sixth Circuit Court of Appeals, and others, has thus consistently rejected arguments that a plaintiff’s actual knowledge of information required to be disclosed

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<sup>5</sup> See *Parker v. I&F Insulation Co.* 89 Ohio St.3d 261, 263-264, n. 1 (2000) (CSPA).

excuses the defendant from liability for failure to comply with a statutory notice requirement. See *Purtle v. Eldridge Auto Sales, Inc.*, 91 F.3d 797, 800 (6th Cir. 1996) (a consumer did not need to show that she “was actually misled or deceived” to prevail on a TILA claim for statutory damages); *Beaudry*, 579 F.3d at 705-707 (the FCRA “permits a recovery when there are no identifiable or measurable actual damages”); *Federal Home*, 503 F.3d at 513 (“a consumer may recover statutory damages if the debt collector violates the FDCPA even if the consumer suffered no actual damages”). See also: *Dryden v. Lou Budke’s Arrow Fin. Co.*, 661 F.2d 1186, 1190-91 (8th Cir. 1981) (TILA); *Edwards v. Your Credit, Inc.*, 148 F.3d 427, 441 (5<sup>th</sup> Cir. 1998) (TILA); *Martinez v. Shinn*, 992 F.2d 997 (9<sup>th</sup> Cir. 1993); *Murray v. GMAC Mortg. Corp.*, 434 F.3d 948, 952-953 (7<sup>th</sup> Cir. 2006) (ruling that the FCRA “provide[s] for modest damages without proof of injury”); *Charvat v. Mutual First Federal Credit Union*, 725 F.3d 819 (8<sup>th</sup> Cir. 2013) (Electronic Fund Transfer Act); *Robey v. Shapiro Marianos & Cejda, L.L.C.*, 434 F.3d 1208, 1212 (10th Cir. 2006) (“actual damages not required for standing under the FDCPA”); *Miller v. Wolpoff & Abramson, L.L.P.*, 321 F.3d 292, 307 (3<sup>rd</sup> Cir. 2003) (same); *Palm Beach Golf Ctr.-Boca, Inc. v. John G. Sarris, D.D.S., P.A.*, 781 F.3d 1245, 1252 (11th Cir. 2015) (standing in a junk-fax scenario under the TCPA, despite the fact that there was no evidence that anyone ever printed or saw the junk faxes at issue. It was enough that the junk faxes made the fax line unavailable for legitimate purposes.); *Eustace v. Cooper Agency, Inc.*, 741 F.2d 294, 300–01 (10th Cir. 1984) (holding that the plaintiff’s admission “that all material facts were known to her before she entered into the transaction” did “not excuse a failure to comply with the mandatory disclosure requirements, or prevent recovery”): *Whitlock v. Midwest Acceptance Corp.*, 575 F.2d

652, 654 (8th Cir. 1978) (holding that the defendant was liable under TILA for failing to “clearly identif[y]” a creditor in the transaction regardless of the plaintiff’s “actual knowledge of the [other creditor’s] precise role in the financing transaction”).

C. This Court has Supplemental Jurisdiction Over the CSPA Decision and the Supplemental Complaints.

Law Firm Defendants and Mrs. Demers further argue that this Court should dismiss the CSPA decision (or remand it to state court) because it did not have federal jurisdiction. (Doc. 157 at 6-7). They are wrong.

Pursuant to the provisions of 28 U.S.C. § 1367(a), federal district courts have supplemental jurisdiction "over all other claims that are so related to claims [over which the courts have original jurisdiction] that they form part of the same case or controversy under Article III of the United States Constitution." Law Firm Defendants do not contest that the June 30 letter was a part of a common nucleus of operative facts.

In this case, the Hagys raised two CSPA claims for the failure to make mandatory disclosures under the FDCPA in the June 6 and June 30 letters. The CSPA claims are “so related” because they are “derived from a common nucleus of operative facts.” See 28 U.S.C. § 1367(a); and *United Mine Workers v. Gibbs*, 383 U.S. 715, 725 (1966). Therefore, supplemental jurisdiction existed, and exists today.

Assuming *arguendo* that this Court does not have federal jurisdiction, this Court should continue to exercise its jurisdiction over the CSPA claims and supplemental complaint. This Court’s ability to exercise “supplemental jurisdiction does not disappear when the federal claim that gave rise to original jurisdiction in the first place is dismissed.” *Orton v. Johnny’s Lunch Franchise, LLC*, 668 F.3d 843, 850 (6th Cir. 2012) (citation omitted). “Following such a dismissal, the district court in its discretion may

properly choose whether to exercise § 1367(a) jurisdiction over the supplemental state-law claims,” but “such a decision is ‘purely discretionary.’” *Orton*, 668 F.3d at 850; *Carlsbad Tech., Inc. v. HIF Bio, Inc.*, 556 U.S. 635, 639 (2009). *Bennett v. CMH Homes, Inc.*, 770 F.3d 511, 516 (6th Cir. 2014) (stating that following dismissal of federal claims, “the district court in its discretion may properly choose whether to exercise § 1367(a) jurisdiction over the supplemental state-law claims” (quoting *Orton*, 668 F.3d at 850)).

Section 1367 provides:

**(c)** The district courts may decline to exercise supplemental jurisdiction over a claim under subsection (a) if—

- (1)** the claim raises a novel or complex issue of State law,
- (2)** the claim substantially predominates over the claim or claims over which the district court has original jurisdiction,
- (3)** the district court has dismissed all claims over which it has original jurisdiction, or
- (4)** in exceptional circumstances, there are other compelling reasons for declining jurisdiction.

In this case, there is no novel or complex issue of Ohio law. (Doc. 65). The CSPA claims do not predominate over the FDCPA claim. There are no compelling reasons for declining jurisdiction. “Interests of judicial economy and the avoidance of multiplicity of litigation” weigh in favor of exercising supplemental jurisdiction, especially since the CSPA claims have been decided. *Landefeld v. Marion Gen. Hosp., Inc.*, 994 F.2d 1178, 1182 (6th Cir. 1993). See: *Blakely v. United States*, 276 F.3d 853 (6th Cir. 2002) (considering whether litigants had already argued the merits of state law claims); and *Taylor v. First of Am. Bank-Wayne*, 973 F.2d 1284, 1287-88 (6<sup>th</sup> Cir. 1992) (considering whether a case was already ripe for a ruling on the merits).

Accordingly, even if this Court dismisses the FDCPA claim, it should exercise its discretion over the CSPA claims which resulted in a judgment against Law Firm Defendants. *E.g.*, *Clayton v. McCary*, 426 F.Supp. 248 (N.D. Ohio 1976) (J. Contie) (dismissal of claim under Motor Vehicle Information and Cost Savings Act and entered \$100.00 judgment under CSPA claim for statutory damages).

Furthermore, this Court should continue to exercise jurisdiction over the supplemental complaints. Although § 1367 governs jurisdiction over claims that do not have an independent basis for jurisdiction, jurisdiction over proceedings that do not have an independent basis for jurisdiction is still governed by case law. 13 Wright & Miller § 3523.2, at 213 (3<sup>rd</sup> ed. 2008); and 16 *Moore's Federal Practice* ¶ 106.05[9][c] (3d ed.) (noting that “there is some indication that the Supreme Court considers ancillary jurisdiction with regard to post-judgment proceedings to survive as a continuing non-statutory concept...”).

“Under this concept, a district court acquires jurisdiction of a case or controversy in its entirety, and, as an incident to the full disposition of the matter, may hear collateral proceedings when necessary to allow it to vindicate its role as a tribunal.” 13 Wright & Miller § 3523.2, at. 213 (3d ed. 2008). The purpose of this type of jurisdiction is to “enable a court to function successfully, that is, to manage its proceedings, vindicate its authority, and effectuate its decrees.” *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 380 (1994) (citations omitted).

### **III. Conclusion**

For these reasons, it is requested that this Court deny the motions, and award Plaintiffs any and all other relief to which they are entitled.

Respectfully submitted,

/s/Edward A. Icove  
Edward A. Icove (0019646)  
Harold L. Williams (0022238)  
Icove Legal Group, Ltd.  
50 Public Square  
Phone (216) 802-0000  
Fax (216) 802-0002  
[ed@icovelegal.com](mailto:ed@icovelegal.com)  
Attorneys for Plaintiffs

/s/ Kristen Finzel Lewis  
Kristen Finzel Lewis (0074392)  
Southeastern Ohio Legal Services  
332 W. High Ave.  
New Philadelphia, OH 44663  
Phone (330) 339-3998  
Fax (330) 339-6672  
[kfinzel@oslsa.org](mailto:kfinzel@oslsa.org)  
Attorneys for Plaintiffs

### **CERTIFICATE OF SERVICE**

On June 27, 2016, this document was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this through the Court's system.

/s/ Edward A. Icove  
Edward A. Icove