

**CIVIL COVER SHEET**

The JS-44 civil cover sheet and the information contained herein are to be used for supplementing the service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**

Arthur Strausser and  
Nelson Luzzetti

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) ATTORNEYS (FIRM NAME ADDRESS AND TELEPHONE NUMBER)  
James A. Francis, Esquire  
Mark D. Mailman, Esquire  
Francis & Mailman, P.C.  
Land Title Building, 19<sup>th</sup> Floor, 100 South Broad Street  
Philadelphia, PA 19110, 215-735-8600

**DEFENDANTS**

ACB Receivables Management, Inc., d/b/a  
Affiliated Collection Bureau

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE IN LAND CONDEMNATION CASES USE THE LOCATION OF THE TRACT OF LAND INVOLVED

ATTORNEYS (IF KNOWN)

**II. BASIS OF JURISDICTION** (PLACE AN "X" IN ONE BOX ONLY)

- 1. U.S. Government Plaintiff
- 2. U.S. Government Defendant
- 3. Federal Question (U.S. Government not a party)
- 4. Diversity Indicate Citizenship of Parties in item III

**III. CITIZENSHIP OF PRINCIPLE PARTIES** (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- |                                         |                            |                            |                                                               |                            |                            |
|-----------------------------------------|----------------------------|----------------------------|---------------------------------------------------------------|----------------------------|----------------------------|
|                                         | PTF                        | DEF                        |                                                               | PTF                        | DEF                        |
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principle Place of business in this state     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principle Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation                                                | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veterans Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R R & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Acts <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of States Statutes <input checked="" type="checkbox"/> 890 Other Statutory Actions
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>HABEAS CORPUS:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt Relations <input type="checkbox"/> 730 Labor/Mgmt Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl Ret Inc Security Act	<b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (US Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609

**V. ORIGIN** (PLACE AN "X" IN ONE BOX ONLY)  
 1 Original Proceeding  
 2 Removed from State Court  
 3 Remanded from Appellate Court  
 4 Reinstated or Reopened  
 5 Transferred from another district (specify)  
 6 Multidistrict Litigation  
 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION** (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)  
 Fair Debt Collection Practices Act, 15 U.S.C. § 1692

**VII. REQUESTED IN COMPLAINT:** DEMAND \$ \_\_\_\_\_ CHECK YES only if demanded in complaint  
 CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23  **JURY DEMAND:** YES  NO

**VII. RELATED CASE (S)** (See instructions): IF ANY \_\_\_\_\_

JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_  
 DATE 11-17-06 SIGNATURE OF ATTORNEY OF RECORD \_\_\_\_\_  
 FOR OFFICE USE ONLY  
 RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG JUDGE \_\_\_\_\_

FOR THE EASTERN DISTRICT OF PENNSYLVANIA- DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 3105 Friendship Street, Philadelphia, PA 19149, 504 Passaic Avenue, Phillipsburg, NJ 08865

Address of Defendant: 19 Main Street, Asbury Park, NJ 07712

Place of Accident, Incident or Transaction: \_\_\_\_\_  
(Use Reverse Side For Additional Space)

Does this case involve multi-district litigation possibilities? Yes  No

**RELATED CASES, IF ANY:**

Case Number: \_\_\_\_\_ Judge \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?  
Yes  No

2. Does this case involve the same issue of fact or grow out of the same transaction as a prior pending or within one year previously terminated action in this court?  
Yes  No

3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?  
Yes  No

**CIVIL: (Place  in ONE CATEGORY ONLY)**

**A. Federal Question Cases:**

- 1.  Indemnity Contract, Marine Contract, and All Other Contracts
- 2.  FELA
- 3.  Jones Act-Personal Injury
- 4.  Antitrust
- 5.  Patent
- 6.  Labor-Management Relations
- 7.  Civil Rights
- 8.  Habeas Corpus
- 9.  Securities Act (s) Cases
- 10.  Social Security Review Cases
- 11.  All other Federal Questions Cases  
(Please specify)

**B. Diversity Jurisdiction Cases:**

- 1.  Insurance Contract and Other Contracts
- 2.  Airplane Personal Injury
- 3.  Assault, Defamation
- 4.  Marine Personal Injury
- 5.  Motor Vehicle Personal Injury
- 6.  Other Personal Injury (Please specify)
- 7.  Products Liability
- 8.  Products Liability-Asbestos
- 9.  All other Diversity Cases

(Please specify)

Fair Debt Collection Practices Act, 15 U.S.C. § 1692

**ARBITRATION CERTIFICATION**

(Check appropriate Category)

I, James A. Francis counsel of record do hereby certify:

Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief the damages recoverable in this civil action case exceed the sum of \$ 150,000.00 exclusive of interest and costs;  
 Relief other than monetary damages is sought

DATE: 11-17-06

[Signature]  
Attorney-at-Law

77474  
Attorney I.D. #

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 11-17-06

[Signature]  
Attorney-at-Law

77474  
Attorney I.D.#

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

Arthur Strausser  
and  
Nelson Luzzetti

**CIVIL ACTION**

vs.

**NO.**

ACB Receivables Management, Inc., d/b/a  
Affiliated Collection Bureau

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, the defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus--Cases brought under 28 U.S.C. § 2241 through §2255. ( )
- (b) Social Security--Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration--Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )
- (d) Asbestos--Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management--Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( X )
- (f) Standard Management—Cases that do not fall into any one of the other tracks. ( )

11-17-06

Date

James A. Francis

Attorney at law

Attorney for Plaintiff



6. Defendant ACB Receivables Management, Inc., d/b/a Affiliated Collection Bureau is a business entity regularly engaged in the business of collecting debts in this Commonwealth with its principal place of business located at 19 Main Street, Asbury Park, NJ 07712. The principal purpose of Defendant is the collection of debts using the mails and telephone, and Defendant regularly attempts to collect debts alleged to be due another.

#### IV. Factual Allegations

7. Defendant reports its collection accounts to national consumer reporting agencies, such as Trans Union, LLC, Experian Information Solutions and Equifax Information Services, Inc. (the "CRAs").

8. As a debt collector regulated by the FDCPA, Defendant is legally required to communicate to the CRAs that a collection account is "disputed" when it is notified that a consumer disputes the validity of the debt or the accuracy of the collection account information that the Defendant has reported.

9. However, as a matter of policy, Defendant does not mark the debts and/or collection accounts it reports to the CRAs as disputed after being notified of a consumer dispute from a CRA.

10. When a consumer disputes a debt or collection account to a CRA, the CRA is required, among other things, to notify the debt collector of the dispute and provide it with all relevant information regarding the dispute. Pursuant to the Fair Credit Reporting Act, 15 U.S.C. §§ 1681 *et seq.*, as amended ("FCRA"), once a notice of dispute has been received by the debt collector, the debt collector is required to, among other actions, perform the following tasks: a) conduct an investigation regarding the disputed information, b) review all relevant information provided by the CRA, and c) report the results of the investigation to the CRA. 15 U.S.C. § 1681

s-(2)(b).

11. Additionally, pursuant to the FDCPA, once an alleged debt has been disputed by a consumer, for whatever reason, the debt collector must report "that a disputed debt is disputed." 15 U.S.C. § 1692e(8). Defendant fails to comply with this legal requirement.

12. Defendant's unlawful conduct exacts harm on consumers. Under most credit-scoring models, a collection account will negatively impact a consumer's credit score. Conversely, when such an account is marked as disputed, it has no negative impact on the consumer's credit score and/or is not scored as all.

13. Defendant is a "debt collector" as defined by 15 U.S.C. § 1692a(6) of the FDCPA.

14. Upon Information and belief, Defendant receives hundreds if not thousands of disputes from consumers stating that the tradeline(s) Defendant is reporting on the individual's credit reports are inaccurate.

15. Defendant's practice and policy, upon completion of its "investigation," is to report the results to the CRA(s) without updating the tradeline to report as "disputed."

16. The experience of Plaintiffs demonstrates Defendant's practice.

17. Plaintiff Luzzetti viewed his consumer report from Experian in or about November 2005. After examining his consumer report, Plaintiff Luzzetti learned that Defendant was reporting false and derogatory information about him, namely that Plaintiff had a derogatory account with Warren Hospital. Accordingly, Plaintiff Luzzetti immediately disputed the accuracy of the account.

18. On or about December 10, 2005, Experian sent Plaintiff Luzzetti a revised consumer disclosure that described the results of his dispute regarding the account with

Defendant. The Experian disclosure revealed that the Defendant had verified the account as accurate and failed to mark the account as “disputed.”

19. Plaintiff Strausser viewed his consumer report from Equifax in or about August 2006. After examining his consumer report, Plaintiff Strausser learned that Defendant was reporting false and derogatory information about him, namely that Plaintiff Strausser had a derogatory account with Trinity Imaging. Accordingly, Plaintiff Strausser immediately disputed the accuracy of the account.

20. On or about September 2006, Equifax sent Plaintiff Strausser a revised consumer disclosure that described the results of his dispute regarding the account with Defendant. The Equifax disclosure revealed that the Defendant verified the account as accurate and failed to mark the account as “disputed.”

21. Defendant did not mark the debt as “disputed” to either Experian or Equifax, nor did Defendant otherwise mark the debt as “disputed.”

22. At all times pertinent hereto, Defendant was acting by and through its agents, servants and/or employees who were acting within the course and scope of their agency or employment, and under the direct supervision and control of the Defendant herein.

23. As a result of Defendant’s unlawful practice, Plaintiffs have suffered damages, including but not limited to, a reduction of their credit score.

#### V. Class Allegations

24. Plaintiffs bring this action individually and as a class action, pursuant to Rules 23(a) and 23(b) of the Federal Rules of Civil Procedure, on behalf of the following Class: All consumers in the Commonwealth of Pennsylvania and the State of New Jersey for whom, following its receipt of a dispute from a consumer reporting agency, Defendant failed to mark an

account as disputed during the period beginning one year prior to the filing of this action and up through the date of judgment.

25. The Class is so numerous that joinder of all members is impracticable. Although the precise number of Class members is known only to Defendant, Plaintiffs aver upon information and belief that Defendant handles hundreds if not thousands of consumer disputes and investigations and that Defendant's uniform practice and procedure is not to list the account as "disputed" following such investigations. Accordingly, Plaintiffs estimate that the class size numbers in the hundreds, if not thousands.

26. There are questions of law and fact common to the Class that predominate over any questions affecting only individual Class members. The principal question is whether the Defendant violated the FDCPA by failing to list an account as disputed following a consumer dispute received from a CRA.

27. Plaintiffs' claims are typical of the claims of the Class, which all arise from the same operative facts and are based on the same legal theories.

28. Plaintiffs will fairly and adequately protect the interests of the Class. Plaintiffs are committed to vigorously litigating this matter and has retained counsel experienced in handling class actions and claims involving unlawful business practices. Neither Plaintiffs nor their counsel have any interests which might cause them not to vigorously pursue this claim.

29. This action should be maintained as a class action because the prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications with respect to individual members which would establish incompatible standards of conduct for the parties opposing the Class, as well as a risk of adjudications with respect to individual members which would as a practical matter be dispositive of the interests of

other members not parties to the adjudications or substantially impair or impede their ability to protect their interests.

30. Whether Defendant unlawfully failed to list an account as disputed as to Plaintiffs and the Class can be easily determined by a ministerial inspection of Defendant's business records.

31. A class action is a superior method for the fair and efficient adjudication of this controversy. The interest of Class members in individually controlling the prosecution of separate claims against Defendant is slight because actual damages of being improperly charged for a consumer report are relatively small, and the maximum statutory damages are limited to \$1,000.00 under the FDCPA. Management of the Class claims is likely to present significantly fewer difficulties than those presented in many individual claims. The identities of the Class members may be obtained from Defendant's records.

**Count One - FDCPA**

32. Plaintiffs incorporate the foregoing paragraphs as though the same were set forth at length herein.

33. Defendant is a "debt collector" as defined by section 1692a(6) of the FDCPA.

34. Plaintiffs are "consumers" as defined by section 1692a(3) of the FDCPA.

35. The above disputes by Plaintiffs and the reporting of the inaccurate information to credit reporting agencies by Defendant are "communications" relating to a "debt" as defined by sections 1692a(2) and 1692a(5) of the FDCPA.

36. Any alleged debts at issue arose out of a transaction which was primarily for personal, family or household purposes.

37. Defendant violated the FDCPA. Defendant's violations include, but are not limited to, violations of 15 U.S.C. §§ 1692e, 1692e(8), 1692e(10), and 1692f, as evidenced by the following conduct:

a) Communicating or threatening to communicate to any person credit information which is known or which should be known to be false, including the failure to communicate that a disputed debt is disputed; and

b) Otherwise using false, deceptive, misleading and unfair or unconscionable means to collect or attempt to collect a debt from the Plaintiffs.

38. Defendant's acts as described above were done intentional and negligent disregard for Plaintiffs' rights under the law and with the purpose of coercing Plaintiffs to pay monies relating to the inaccurate information.

39. As a result of the above violations of the FDCPA, Defendant is liable to Plaintiffs in the sum of Plaintiffs' statutory damages, actual damages and attorney's fees and costs

#### **VI. Jury Trial Demand**

40. Plaintiffs demand trial by jury on all issues so triable.

#### **VII. Prayer For Relief**

WHEREFORE, Plaintiffs respectfully pray that relief be granted as follows:

(a) That an order be entered certifying the proposed Class under Rule 23 of the Federal Rules of Civil Procedure and appointing Plaintiffs and their counsel to represent the Class;

(b) That an order be entered declaring that Defendant's actions as described above are in violation of the FDCPA;

(c) That judgment be entered against Defendant for actual damages, pursuant to 15 U.S.C. § 1692k(a)(1);

(d) That judgment be entered against Defendant for statutory damages pursuant to 15 U.S.C. § 1692k(a)(2)(A) and (B);


(e) That the Court award costs and reasonable attorneys' fees, pursuant to 15 U.S.C. § 1692k(a)(3); and

(f) That the Court grant such other and further relief as may be just and proper.

**RESPECTFULLY SUBMITTED,**

**FRANCIS & MAILMAN, P.C.**

BY:



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DATE: November 17, 2006