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245 FISCHER AVENUE, UNIT D1
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Attorneys for Plaintiff,
Ophelia Augustine

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

**OPHELIA AUGUSTINE,
Individually And On Behalf Of
All Others Similarly Situated,**

Plaintiff,

v.

**CAPITAL ONE AUTO
FINANCE, INC.,**

Defendant.

Case No.: '18CV0511 CAB MDD

CLASS ACTION

**COMPLAINT FOR DAMAGES
AND INJUNCTIVE RELIEF FOR
VIOLATION OF THE FAIR
CREDIT REPORTING ACT, 15
U.S.C. §§ 1681, ET SEQ.**

JURY TRIAL DEMANDED

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INTRODUCTION

- 1
2 1. The United States Congress has found that the banking system is dependent
3 upon fair and accurate credit reporting. Inaccurate credit reports directly
4 impair the efficiency of the banking system, and unfair credit reporting
5 methods undermine the public confidence, which is essential to the continued
6 functioning of the banking system. Congress enacted the Fair Credit
7 Reporting Act, 15 U.S.C. §§ 1681, et seq. (“FCRA”), to insure fair and
8 accurate reporting, promote efficiency in the banking system, and protect
9 consumer privacy. The FCRA requires that consumer reporting agencies
10 exercise their grave responsibilities with fairness, impartiality, and a respect
11 for the consumer’s right to privacy because consumer reporting agencies have
12 assumed such a vital role in assembling and evaluating consumer credit and
13 other information on consumers.
- 14 2. OPHELIA AUGUSTINE (“Plaintiff”), through Plaintiff’s attorneys, brings
15 this Class Action Complaint to challenge the actions of CAPITAL ONE
16 BANK USA, N.A. (“Defendant”) with regard to Defendant’s unauthorized
17 and unlawful credit inquiry.
- 18 3. Plaintiff makes these allegations on information and belief, with the exception
19 of those allegations that pertain to Plaintiff, or to a Plaintiff’s counsel, which
20 Plaintiff alleges on personal knowledge.
- 21 4. Plaintiff is informed and believes, and thereon alleges, that Defendant
22 acquired Plaintiff’s credit information through an unauthorized inquiry of
23 Plaintiff’s “consumer report” as that term is defined by 15 U.S.C. §
24 1681a(d)(1).
- 25 5. While the violations are described below with specificity, this Complaint
26 alleges violations of the statute cited in its entirety.
- 27 6. Unless otherwise stated, all the conduct engaged in by Defendant took place
28 in San Diego County and the State of California.

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1 7. Any violations by Defendant were knowing, willful, and intentional, and
2 Defendant did not maintain procedures reasonably adapted to avoid any such
3 violation.

4 8. Unless otherwise indicated, the use of Defendant’s name in this Complaint
5 includes all agents, employees, officers, members, directors, heirs, successors,
6 assigns, principals, trustees, sureties, subrogees, representatives, and insurers
7 of Defendant’s named.

8 **JURISDICTION AND VENUE**

9 9. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331 because this
10 action arises out of Defendant’s violation of the Fair Credit Reporting Act, 15
11 U.S.C. §§ 1681, et seq. (“FCRA”).

12 10. Venue is proper pursuant to 28 U.S.C. §§ 1391(b) because Defendant, at all
13 times herein mentioned, was doing business in the County of San Diego, State
14 of California, and within this judicial district. Further, venue is proper in this
15 district because Plaintiff resides and resided in this district at all times herein
16 mentioned such that a substantial part of the events giving rise to the claim
17 occurred in this district.

18 11. Because Defendant conducts business in the State of California, personal
19 jurisdiction is established.

20 **PARTIES**

21 12. Plaintiff is a natural person who resides in the County of San Diego, State of
22 California, whose credit report was affected by at least one unauthorized
23 inquiry by Defendant.

24 13. Plaintiff is a “consumer[s]” as that term is defined by 15 U.S.C. § 1681a(c).

25 14. Plaintiff is informed and believes, and thereon allege, that Defendant is, and
26 at all times mentioned herein was, a corporation formed under the laws of the
27 State of Texas with its principal place of business in the State of Texas.
28

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1 15. Plaintiff is informed and believes, and thereon allege, that Defendant is a
2 “person” as the term is defined by 15 U.S.C. § 1681a(b).

3 **STATUTORY BACKGROUND**

4 16. The FCRA is a consumer protection statute which regulates the activities of
5 credit reporting agencies and users of credit reports, and which provides
6 certain rights to consumers affected by use of the collected information about
7 them.

8 17. Congress designed the FCRA to preserve consumers’ right to privacy by
9 safeguarding the confidentiality of the information maintained by the
10 consumer reporting agencies. Congress stated in the opening section of the
11 FCRA that “[t]here is a need to insure that consumer reporting agencies
12 exercise their grave responsibilities with fairness, impartiality, and a respect
13 for the consumer’s right to privacy.” 15 U.S.C. § 1681(a)(4).

14 18. Under the FCRA, the term “consumer report” means any written, oral, or other
15 communication of any information by a consumer reporting agency bearing
16 on a consumer’s creditworthiness, credit standing, credit capacity, character,
17 general reputation, personal characteristics, or mode of living which is used
18 or expected to be used or collected in whole or in part for the purpose of
19 serving as a factor in the underwriting of credit transactions involving the
20 consumer.

21 19. Congress has chosen to protect the consumer’s right to privacy by prohibiting
22 any release of consumer reports unless the release is for one of the permissible
23 purposes listed in 15 U.S.C. § 1681b.

24 20. 15 U.S.C. § 1681b(f) in turn provides, in pertinent part, “[a] person shall not
25 use or obtain a consumer report for any purpose unless – (1) the consumer
26 report is obtained for a purpose for which the consumer report is authorized
27 to be furnished under this section.”
28

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1 21. The permissible purposes listed in section 1681b usually arise only in
2 connection with transactions initiated by the consumer. *See* 15 U.S.C. §
3 1681b(a)(3)(A)-(F).

4 **FACTUAL ALLEGATIONS**

5 22. In or around August of 2013, Plaintiff purchased a 2012 Dodge Avenger,
6 receiving financing for said purchase through Defendant (“the Debt”).

7 23. On June 29, 2017, Plaintiff filed for Chapter Seven Bankruptcy in the United
8 States Bankruptcy Court for the Southern District of California under case
9 number 17-03839

10 24. Plaintiff’s Debt to Defendant was included in Plaintiff’s Bankruptcy Petition.

11 25. On July 1, 2017, the Bankruptcy Court sent Defendant notice of the
12 bankruptcy filing electronically.

13 26. On October 3, 2017, Plaintiff received an Order of Discharge pursuant to 11
14 U.S.C. § 727. The Debt was included in the Order of Discharge, meaning that
15 the Debt had been eliminated and Plaintiff was no longer personally liable for
16 the Debt and the account was closed.

17 27. On October 5, 2017, the Bankruptcy Court sent Plaintiff’s Order of Discharge
18 to Defendant electronically.

19 28. During Plaintiff’s Bankruptcy, Defendant did not file any proceedings to
20 declare the Debt “non dischargeable” pursuant to 11 U.S.C. §§ 523, et seq.

21 29. At no point during the pendency of the bankruptcy, did the parties enter into
22 a reaffirmation agreement.

23 30. Accordingly, the Debt was completely discharged through bankruptcy and the
24 account was closed.

25 31. However, upon review of Plaintiff’s Experian credit report dated February 5,
26 2018, Plaintiff discovered that on or around October 25, 2017, several weeks
27 after the Debt was discharged and the account was closed, Defendant
28

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1 impermissibly obtained Plaintiff’s consumer credit report by submitting an
2 unauthorized “account review” credit report inquiry to Experian.

3 32. Plaintiff did not conduct any business nor incur any additional financial
4 obligations to Defendant for which Defendant needed to inquire into
5 Plaintiff’s credit worthiness.

6 33. The account at issue was discharged and closed. There was no account to
7 review so an “account review” inquiry was not a permissible purpose.

8 34. Therefore, Defendant’s inquiry on March 25, 2017 was unauthorized and
9 unlawful.

10 35. 15 U.S.C. § 1681b delineates the only permissible uses of, or access to,
11 consumer reports.

12 36. Defendant’s inquiry for Plaintiff’s consumer report information, without
13 Plaintiff’s consent and for no permissible purpose, falls outside the scope of
14 15 U.S.C. § 1681b.

15 37. Through this conduct, Defendant violated 15 U.S.C. § 1681b by using
16 Plaintiff’s consumer report for an impermissible purpose that falls outside the
17 scope of 15 U.S.C. § 1681b.

18 **CLASS ACTION ALLEGATIONS**

19 38. Plaintiff brings this action on behalf of herself and on behalf of all others
20 similarly situated (the “Class”).

21 39. Plaintiff represents, and is a member of the Class, consisting of:

22 All persons with an address within the United States
23 whose consumer credit report was impermissibly
24 obtained by Defendant based on an unauthorized
25 inquiry within the past five (5) years from any of the
26 three major credit reporting agencies (i.e., Transunion,
27 Equifax, and Experian) where: (i) the debt of the
28 account had been discharged in bankruptcy; (ii) the
account was closed with a zero balance; or (iii) the
account had been sold or transferred to a third party.

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1 40. Defendant and its employees or agents are excluded from the Class. Plaintiff
2 does not know the number of members in the Class, but believe the Class
3 members number in the hundreds, if not more. This matter should therefore
4 be certified as a Class action to assist in the expeditious litigation of this
5 matter.

6 41. Plaintiff reserves the right to redefine the Class and to add subclasses as
7 appropriate based on discovery and specific theories of liability.

8 42. Plaintiff and members of the Class were harmed by the acts of Defendant in
9 at least the following ways: Defendant, either directly or through its agents,
10 engaged in unlawful and deceptive practices, when it submitted an
11 unauthorized consumer report inquiry and impermissibly obtained Plaintiff's
12 consumer credit report under 15 U.S.C. §§ 1681, et seq. Plaintiff and the Class
13 members were damaged thereby.

14 43. This suit seeks only recovery of actual and statutory damages on behalf of the
15 Class, and it expressly is not intended to request any recovery for personal
16 injury and claims related thereto. Plaintiff reserves the right to expand the
17 Class definition to seek recovery on behalf of additional persons as warranted
18 as facts are learned in further investigation and discovery.

19 44. The joinder of the Class members is impractical and the disposition of their
20 claims in the Class action will provide substantial benefits both to the parties
21 and to the court. The Class can be identified through Defendant's records or
22 Defendant's agents' records.

23 45. There is a well-defined community of interest in the questions of law and fact
24 involved affecting the parties to be represented. The questions of law and fact
25 to the Class predominate over questions which may affect individual Class
26 members, including the following:

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- 1 a. Whether, within the five years prior to the filing of this Complaint,
- 2 Defendant or its agents, impermissibly obtained consumers' credit
- 3 reports based upon Defendant's unlawful inquiry;
- 4 b. Whether Plaintiff and the Class members were damaged thereby, and
- 5 the extent of damages for such violations;
- 6 c. Whether Plaintiff and the Class members are entitled to statutory
- 7 damages as a result of Defendant's conduct;
- 8 d. Whether Plaintiff and the Class members are entitled to injunctive
- 9 relief; and
- 10 e. Whether Plaintiff and the Class members are entitled to an award of
- 11 reasonable attorneys' fees and costs.

12 46. As a person that suffered an unauthorized consumer credit report inquiry by
13 Defendant on her credit report(s), Plaintiff is asserting claims that are typical
14 of the Class. Plaintiff will fairly and adequately represent and protect the
15 interest of the Class in that Plaintiff has no interests antagonistic to any
16 member of the Class.

17 47. Plaintiff and the members of the Class have all suffered irreparable harm as a
18 result of the Defendant's unlawful and wrongful conduct. Absent a class
19 action, the Class will continue to face the potential for irreparable harm. In
20 addition, these violations of law will be allowed to proceed without remedy
21 and Defendant will likely continue such illegal conduct. Because of the size
22 of the individual Class member's claims, few, if any, Class members could
23 afford to seek legal redress for the wrongs complained of herein.

24 48. Plaintiff has retained counsel experienced in handling class action claims and
25 claims involving violations of the Fair Credit Reporting Act.

26 49. A class action is a superior method for the fair and efficient adjudication of
27 this controversy. Class-wide damages are essential to induce Defendant to
28 comply with federal and California law. The interest of Class members in

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1 individually controlling the prosecution of separate claims against Defendant
2 is small because the maximum statutory damages in an individual action for
3 FCRA violations are minimal. Management of these claims is likely to present
4 significantly fewer difficulties than those presented in many class claims.

5 50. Defendant has acted on grounds generally applicable to the Class, thereby
6 making appropriate declaratory relief with respect to the Class as a whole.

7 **FIRST CAUSE OF ACTION**
8 **NEGLIGENT VIOLATION OF THE FCRA**
9 **15 U.S.C. §§ 1681, ET SEQ.**

10 51. Plaintiff incorporates by reference all of the above paragraphs of this Class
11 Action Complaint as though fully stated herein.

12 52. The foregoing acts and omissions constitute numerous and multiple violations
13 of the FCRA, including but not limited to each and every one of the above-
14 cited provisions of 15 U.S.C. §§ 1681, et seq.

15 53. As a result of Defendant’s negligent violation of 15 U.S.C. § 1681, et seq.,
16 Plaintiff and the Class is entitled to actual damages, pursuant to 15 U.S.C. §
17 1681o(a)(1); and reasonable attorneys’ fees and costs pursuant to 15 U.S.C. §
18 1681o(a)(2).

19 **SECOND CAUSE OF ACTION**
20 **WILLFUL VIOLATION OF THE FCRA**
21 **15 U.S.C. §§ 1681, ET SEQ.**

22 54. Plaintiff incorporates by reference all of the above paragraphs of this Class
23 Action Complaint as though fully stated herein.

24 55. The foregoing acts and omissions of Defendant constitute numerous and
25 multiple willful violations of the FCRA, including but not limited to each and
26 every one of the above-cited provisions of 15 U.S.C. §§ 1681, et seq.

27 56. As a result of each and every willful violation of the FCRA, Plaintiff and the
28 Class is entitled to actual damages of not less than \$100 and not more than
\$1,000, pursuant to 15 U.S.C. § 1681n(a)(1)(A); punitive damages as the court

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1 may allow, pursuant to 15 U.S.C. § 1681n(a)(2); and reasonable attorneys’
2 fees and costs pursuant to 15 U.S.C. § 1681n(a)(3).

3 **PRAYER FOR RELIEF**

4 **WHEREFORE**, Plaintiff respectfully requests the Court to grant Plaintiff and
5 the Class the following relief against Defendant:

- 6
- 7 • Certify the Class as requested herein;
 - 8 • Appoint Plaintiff to serve as the Class Representative in this matter;
 - 9 • Appoint Plaintiff’s Counsel as Class Counsel in this matter;
 - 10 • Any such further relief as may be just and proper.

11 In addition, Plaintiff prays for further judgment as follows against Defendant
12 for Plaintiff and the Class:

13 **NEGLIGENT VIOLATION OF**
14 **THE FCRA, 15 U.S.C. §§ 1681, ET SEQ.**

- 15
- 16 • As a result of Defendant’s negligent violations of 15 U.S.C. §§ 1681, et
17 seq., Plaintiff seeks for himself and each Class member actual damages,
18 pursuant to 15 U.S.C. § 1681o(a)(1);
 - 19 • Reasonable attorneys’ fees and costs pursuant to 15 U.S.C. § 1681o(a)(2);
20 and
 - 21 • Any other relief the Court may deem just and proper.

22 **WILLFUL VIOLATION OF**
23 **THE FCRA, 15 U.S.C. §§ 1681, ET SEQ.**

- 24
- 25 • As a result of Defendant’s willful violations, Plaintiff seeks for himself and
26 each Class member actual damages of not less than \$100 and not more than
27 \$1,000, pursuant to 15 U.S.C. § 1681n(a)(1)(A);
 - 28 • Punitive damages as the court may allow pursuant to 15 U.S.C. §
1681n(a)(2);

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- The costs of the action together with reasonable attorneys’ fees as determined by the court, pursuant to 15 U.S.C. §§ 1681n(a)(3); and
- Any other relief the Court may deem just and proper.

TRIAL BY JURY

57. Pursuant to the Seventh Amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Dated: March 9, 2018

Respectfully submitted,

KAZEROUNI LAW GROUP, APC

By: s/ Abbas Kazerounian
ABBAS KAZEROUNIAN, ESQ.
AK@KAZLG.COM
ATTORNEYS FOR PLAINTIFF

JS 44 (Rev. 06/17)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and 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 NEXT PAGE OF THIS FORM.)

<p>I. (a) PLAINTIFFS</p> <p>Ophelia Augustine</p> <p>(b) County of Residence of First Listed Plaintiff <u>San Diego County, CA</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys <i>(Firm Name, Address, and Telephone Number)</i> See "attachment"</p>	<p>DEFENDANTS</p> <p>Capital One Auto Finance, Inc.</p> <p>County of Residence of First Listed Defendant <u>Collin County, TX</u> <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys <i>(If Known)</i> unknown at this time</p> <p style="text-align: right; font-weight: bold; font-size: 1.2em;">'18CV0511 CAB MDD</p>
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<p>II. BASIS OF JURISDICTION <i>(Place an "X" in One Box Only)</i></p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input checked="" type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i></p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i></p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES <i>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</i></p> <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:33%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal 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 Principal 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
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[Click here for: Nature of Suit Code Descriptions.](#)

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 (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<p>PERSONAL INJURY</p> <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 <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<p>PERSONAL INJURY</p> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <p>PERSONAL PROPERTY</p> <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"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <p style="text-align: center;">LABOR</p> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <p style="text-align: center;">IMMIGRATION</p> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <p style="text-align: center;">PROPERTY RIGHTS</p> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <p style="text-align: center;">SOCIAL SECURITY</p> <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)) <p style="text-align: center;">FEDERAL TAX SUITS</p> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

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 - Transfer
 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity)*:
 Fair Credit Reporting Act, 15 U.S.C. §§ 1681, et seq.

Brief description of cause:
 Defendant Capital One Auto Finance, Inc. impermissibly obtained Plaintiff Ophelia Augustine's credit report.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. **DEMAND \$** _____

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY *(See instructions):*

JUDGE _____ DOCKET NUMBER _____

DATE: March 9, 2018 SIGNATURE OF ATTORNEY OF RECORD: /s/ Abbas Kazerounian

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading 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. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

Attachment

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ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Capital One Auto Finance Accused of Making Unauthorized Credit Inquiry](#)
