

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

DARRELL CARTER, individually and on  
behalf of all others similarly situated

Plaintiff,

-against-

HERSCHEL, GOLDMAN &  
ASSOCIATES, LLC, P&B CAPITAL  
GROUP, LLC and DEVILLE ASSET  
MANAGEMENT, LTD.,

Defendants.

Civil Case Number:

**CIVIL ACTION**

**CLASS ACTION COMPLAINT  
AND  
DEMAND FOR JURY TRIAL**

Plaintiff DARRELL CARTER (hereinafter, "Plaintiff"), a Pennsylvania resident, brings this class action complaint by and through the undersigned attorneys, against Defendants HERSCHEL, GOLDMAN & ASSOCIATES, LLC, P&B CAPITAL GROUP, LLC, and DEVILLE ASSET MANAGEMENT, LTD. (hereinafter "Defendants"), individually and on behalf of a class of all others similarly situated, pursuant to Rule 23 of the Federal Rules of Civil Procedure, based upon information and belief of Plaintiff's counsel, except for allegations specifically pertaining to Plaintiff, which are based upon Plaintiff's personal knowledge.

**INTRODUCTION/PRELIMINARY STATEMENT**

1. Congress enacted the FDCPA in 1977 in response to the "abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many debt collectors." 15 U.S.C. § 1692(a). At that time, Congress was concerned that "abusive debt collection practices contribute to the number of personal bankruptcies, to material instability, to the loss of jobs, and to invasions of individual privacy." *Id.* Congress concluded that "existing

laws . . . [we]re inadequate to protect consumers,” and that “the effective collection of debts” does not require “misrepresentation or other abusive debt collection practices.” 15 U.S.C. §§ 1692(b) & (c).

2. Congress explained that the purpose of the Act was not only to eliminate abusive debt collection practices, but also to “insure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged.” *Id.* § 1692(e). After determining that the existing consumer protection laws were inadequate, *id.* § 1692(b), Congress gave consumers a private cause of action against debt collectors who fail to comply with the Act. *Id.* § 1692k.
3. The Electronic Fund Transfer Act (“EFTA”) of 1978 is intended to protect individual consumers engaging in electronic fund transfers (“EFTs”). 15 U.S.C. §§ 1693. This includes the use of debit cards, automated teller machines and automatic withdrawals from a bank account.
4. Congress enacted the EFTA to establish the rights and liabilities of consumers as well as the responsibilities of all participants in EFT activities. The EFTA was implemented in Federal Reserve Board Regulation E.
5. Defendants violated various sections of the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692 *et seq.*, and the Electronic Fund Transfer Act, 15 U.S.C. § 1693 *et seq.* (“EFTA”).

#### **JURISDICTION AND VENUE**

6. The Court has jurisdiction over this action under 28 U.S.C. § 1331, 15 U.S.C. § 1692 *et seq.* and 28 U.S.C. § 2201. If applicable, the Court also has pendent jurisdiction over the state law claims in this action pursuant to 28 U.S.C. § 1367(a).

7. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2).

### **NATURE OF THE ACTION**

8. Plaintiff brings this action seeking redress for Defendants' actions of using false, deceptive and misleading representation or means in connection with the collection of an alleged debt.
9. Defendants' actions violated § 1692 et seq. of Title 15 of the United States Code, commonly referred to as the Fair Debt Collections Practices Act ("FDCPA") which prohibits debt collectors from engaging in false, deceptive or misleading practices.
10. Defendants' actions violated § 1693 et seq. of Title 15 of the United States Code, commonly referred to as the Electronic Fund Transfer Act ("EFTA"), which protects consumers engaging in electronic fund transfers.
11. Plaintiff is seeking damages, and declaratory and injunctive relief.

### **PARTIES**

12. Plaintiff is a natural person and a resident of Philadelphia, Pennsylvania, and is a "Consumer" as defined by 15 U.S.C. §1692(a)(3).
13. Defendant Herschel, Goldman & Associates, LLC is a collection agency with its principal office located at 1020 6<sup>th</sup> Avenue SE #252, Aberdeen, South Dakota 57401.
14. Upon information and belief, Defendant Herschel, Goldman & Associates, LLC is a company that uses the mail, telephone, or facsimile in a business the principal purpose of which is the collection of debts, or that regularly collects or attempts to collect debts alleged to be due another.
15. Defendant Herschel, Goldman & Associates, LLC is a "debt collector," as defined under the FDCPA under 15 U.S.C. § 1692a(6).

16. Defendant P&B Capital Group, LLC is a collection agency with its principal office located at 455 Center Road, West Seneca, NY 14224 and its registered agent located at Corporation Service Company, 80 State Street, Albany, NY 12207.
17. Upon information and belief, Defendant P&B Capital Group, LLC is a company that uses the mail, telephone, or facsimile in a business the principal purpose of which is the collection of debts, or that regularly collects or attempts to collect debts alleged to be due another.
18. Defendant P&B Capital Group, LLC is a “debt collector,” as defined under the FDCPA under 15 U.S.C. § 1692a(6).
19. Defendant Deville Asset Management, Ltd. LLC is a collection agency with its principal office located at 1132 Glad Road, Colleyville, TX 76034.
20. Upon information and belief, Defendant Deville Asset Management, Ltd. is a company that uses the mail, telephone, or facsimile in a business the principal purpose of which is the collection of debts, or that regularly collects or attempts to collect debts alleged to be due another.
21. Defendant Deville Asset Management, Ltd. is a “debt collector,” as defined under the FDCPA under 15 U.S.C. § 1692a(6).

### **ALLEGATIONS OF FACT**

22. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs above herein with the same force and effect as if the same were set forth at length herein.
23. Some time prior to August 18, 2017, an obligation was allegedly incurred to Santander.
24. The alleged Santander obligation arose out of a transaction in which money, property,

insurance or services, which are the subject of the transaction, are primarily for personal, family or household purposes.

25. The alleged Santander obligation is a "debt" as defined by 15 U.S.C. § 1692a(5).
26. Santander is a "creditor" as defined by 15 U.S.C. § 1692a(4).
27. Defendants contend that the Santander debt is past due.
28. Defendant Herschel, Goldman & Associates, LLC ("HGA") is a company that uses mail, telephone or facsimile in a business the principal purpose of which is the collection of debts, or that regularly collects or attempts to collect debts incurred or alleged to have been incurred for personal, family or household purposes on behalf of creditors.
29. Defendant P&B Capital, LLC ("P&B") is a company that uses mail, telephone or facsimile in a business the principal purpose of which is the collection of debts, or that regularly collects or attempts to collect debts incurred or alleged to have been incurred for personal, family or household purposes on behalf of creditors.
30. Defendant Deville Asset Management, Ltd. ("Deville") is a company that uses mail, telephone or facsimile in a business the principal purpose of which is the collection of debts, or that regularly collects or attempts to collect debts incurred or alleged to have been incurred for personal, family or household purposes on behalf of creditors.
31. The alleged Santander debt was sold or assigned to Deville for collections.
32. Some time around July of 2017, Defendant, Deville Asset Management, Ltd., with the assistance of the Defendant collection agencies it hired to collect on Plaintiff's alleged debt, began a campaign of calling the Plaintiff and his family members in an attempt to collect the Santander debt.
33. On one occasion, Defendants called Plaintiff's grandmother and informed her that Plaintiff

had a court date scheduled if she or the Plaintiff do not pay the alleged debt.

34. On another occasion, Defendants called Plaintiff's mother and told her that if Plaintiff did not pay that they would put a lien on her property and garnish the Plaintiff's wages.

35. On each of these calls, Defendants failed to identify themselves or identify themselves as a debt collector.

36. Defendants made these false threats in order to intimidate the Plaintiff into paying the alleged debt.

37. Plaintiff and his mother, for fear over Defendants threats, called back the Defendant and agreed to pay \$500.00 initially and \$1,523.83 a month later.

38. On or about August 18, 2017, the Defendant Herschel, Goldman & Associates, LLC caused to be delivered to the Plaintiff a collection letter reiterating the agreed upon payment plan. *See Exhibit A.*

39. The August 18, 2017 letter was sent or caused to be sent by persons employed by Defendant Herschel, Goldman & Associates, LLC as a "debt collector" as defined by 15 U.S.C. §1692a(6).

40. Upon information and belief, P&B and Herschel, Goldman & Associates, LLC are either the same entity or separate entities working together. For example, calls placed to P&B are often transferred directly to Herschel, Goldman & Associates, LLC.

41. Two days prior to the letter being sent, on August 16, 2017, P&B withdrew directly from Plaintiff's bank account an amount in excess of what Plaintiff agreed to pay; \$502.99.

*See Exhibit B.*

42. Defendants failed to provide Plaintiff with any written authorization prior to withdrawing \$502.99 from his account on August 16, 2017.

43. On August 29, 2017, P&B withdrew directly from Plaintiff's bank account an amount in excess of what Plaintiff agreed to pay; \$1,525.82. *See Exhibit C.*
44. Upon information and belief, Plaintiff had not authorized Defendants to \$502.99 and \$1525.83 from his bank account.
45. By processing electronic funds transfer transactions for amounts other than those amounts authorized by the Plaintiff, the Defendants violated the EFTA and harmed the Plaintiff.
46. Sometime thereafter, upon the realization that Defendants threats were false, Plaintiff called his bank account and disputed the charges.
47. Defendant than called and left the following voicemail:

“Um Bill Carter this is Travis. I called you earlier today, you hung up on me like I did something wrong when you knew you had a bill. We were only trying to help you resolve this, but you jumped the gun and charged back before you did your investigation, but I can assure you that upon your investigation you will find out that everything in regards to our company and everything else was legitimate and we were willing to work with you but you blew that. Well I am just giving you a call back because I got a message that you called in and you were looking to speak with me, with that being said I am going to void out everything, thanks for the seventeen hundred dollars you already paid, you still owe seven thousand nine hundred and thirteen dollars and forty seven cents, they are going to sue you for that amount times three. So all I can say at this point is good luck, you made your decision you made this bed now you are unfortunately going to have to lie in it, but this will be a lesson learned at the end. Good day.”

48. On the voicemail, Defendants again fails to identify where they are calling from or the fact that they are a debt collector.
49. Defendants further again falsely threatens to sue the Plaintiff, and lies that the lawsuit will be three times the alleged debt.
50. Defendants conduct is part of a pattern and practice of threatening, lying, and doing whatever it takes to deceive consumers out of money.
51. Pursuant to the FDCPA, a debt collector is in violation if it fails to disclose in the initial written communication with the consumer and, in addition, if the initial communication with the consumer is oral, in that initial oral communication, that the debt collector is attempting to collect a debt and that any information obtained will be used for that purpose. See 15 U.S.C. §1692e(11). Similarly, debt collectors are require to disclose in each subsequent communication that the communication is from a debt collector. See 15 U.S.C. §1692e(11).
52. Additionally, on the voicemail described in Paragraph 40, Defendants falsely stated they were going to file suit against the Plaintiff for three times the amount allegedly owed by Plaintiff.
53. The voicemails and phone calls described in the paragraphs above were made or caused to be made by persons employed by Defendants as a “debt collector” as defined by 15 U.S.C. §1692a(6).
54. The voicemails and phone calls described in the paragraphs above are “communications” as defined by 15 U.S.C. §1692a(2).
55. Defendants could have taken the steps necessary to bring their actions within compliance with the FDCPA, but neglected to do so and failed to adequately review their actions to



ensure compliance with the law.

56. Defendants conduct caused the Plaintiff real harm.

**CLASS ALLEGATIONS**

57. Plaintiff brings claims, pursuant to the Federal Rules of Civil Procedure (hereinafter “FRCP”) Rule 23, individually and on behalf of the following consumer classes:

- CLASS A: (a) All consumers who (b) Defendants withdrew funds through an electronic fund transfer (c) in excess of that which the consumer agreed to allow to be withdrawn (d) on or after a date one year prior to the filing of this action and on or before a date 21 days after the filing of this action.
- CLASS B: (a) All consumers who (b) Defendants withdrew funds through an electronic fund transfer (c) on multiple payments (d) without written authorization (e) on or after a date one year prior to the filing of this action and on or before a date 21 days after the filing of this action.

58. The identities of all class members are readily ascertainable from the records of Defendants and those companies and entities on whose behalf they attempt to collect and/or have purchased debts.

59. Excluded from the Plaintiff Classes are the Defendants and all officers, members, partners, managers, directors, and employees of the Defendants and their respective immediate families, and legal counsel for all parties to this action and all members of their immediate families.

60. There are questions of law and fact common to the Plaintiff Classes, which common issues predominate over any issues involving only individual class members. The principal issue is whether Defendants violated the EFTA by (1) withdrawing money

directly from consumers bank accounts in excess of what was agreed upon and/or (2) withdrawing multiple payments without written and signed authorization.

61. The Plaintiffs' claims are typical of the class members, as all are based upon the same facts and legal theories.

62. The Plaintiffs will fairly and adequately protect the interests of the Plaintiff Classes defined in this complaint. The Plaintiffs have retained counsel with experience in handling consumer lawsuits, complex legal issues, and class actions, and neither the Plaintiffs nor their attorneys have any interests, which might cause them not to vigorously pursue this action.

63. This action has been brought, and may properly be maintained, as a class action pursuant to the provisions of Rule 23 of the Federal Rules of Civil Procedure because there is a well-defined community interest in the litigation:

- (a) **Numerosity:** The Plaintiffs are informed and believe, and on that basis allege, that the Plaintiff Classes defined above are so numerous that joinder of all members would be impractical.
- (b) **Common Questions Predominate:** Common questions of law and fact exist as to all members of the Plaintiff Classes and those questions predominate over any questions or issues involving only individual class members. The principal issue is whether the Defendants' attempt to collect an amount they were not legally entitled to violated 15 U.S.C. § 1693.
- (c) **Typicality:** The Plaintiffs' claims are typical of the claims of the class members. The Plaintiffs and all members of the Plaintiff Classes have claims arising out of the Defendants' common uniform course of conduct complained of herein.

(d) **Adequacy:** The Plaintiffs will fairly and adequately protect the interests of the class members insofar as Plaintiffs have no interests that are averse to the absent class members. The Plaintiffs are committed to vigorously litigating this matter. Plaintiffs have also retained counsel experienced in handling consumer lawsuits, complex legal issues, and class actions. Neither the Plaintiffs nor their counsel have any interests which might cause them not to vigorously pursue the instant class action lawsuit.

(e) **Superiority:** A class action is superior to the other available means for the fair and efficient adjudication of this controversy because individual joinder of all members would be impracticable. Class action treatment will permit a large number of similarly situated persons to prosecute their common claims in a single forum efficiently and without unnecessary duplication of effort and expense that individual actions would engender.

64. Certification of a class under Rule 23(b)(3) of the Federal Rules of Civil Procedure is also appropriate in that the questions of law and fact common to members of the Plaintiff Classes predominate over any questions affecting an individual member, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

65. Depending on the outcome of further investigation and discovery, Plaintiffs may, at the time of class certification motion, seek to certify a class(es) only as to particular issues pursuant to Fed. R. Civ. P. 23(c)(4).

**COUNT I**  
**VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT**  
**15 U.S.C. §1692e et seq.**  
**(Individually)**

66. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs above herein with the same force and effect as if the same were set forth at length herein.
67. Defendants' debt collection efforts attempted and/or directed towards the Plaintiff violated various provisions of the FDCPA, including but not limited to 15 U.S.C. § 1692e.
68. Pursuant to 15 U.S.C. § 1692e, a debt collector may not use any false, misleading and/or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer.
69. The Defendants violated said section in its letter to the Plaintiff by:
- a. Using a false, deceptive, and misleading representations or means in connection with the collection of a debt;
  - b. Making a false representation of the legal status of an alleged debt in violation of § 1692e(2)(A);
  - c. Making a false representation or using deceptive means to collect a debt in violation of § 1692e(10);
  - d. Failing to identify itself as a debt collector attempting to collect a debt in violation of § 1692e(11).
70. By reason thereof, Defendant is liable to Plaintiff for judgment that Defendant's conduct violated Section § 1692e et seq. of the FDCPA, actual damages, statutory

damages, costs and attorneys' fees.

**COUNT II**  
**VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT**  
**15 U.S.C. §1692d *et seq.***

71. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs above herein with the same force and effect as if the same were set forth at length herein.
72. Defendants' debt collection efforts attempted and/or directed towards the Plaintiff violated various provisions of the FDCPA, including but not limited to 15 U.S.C. § 1692c.
73. Pursuant to 15 U.S.C. § 1692d(6), a debt collector may not place telephone calls to a consumer in an attempt to collect a debt without meaningful disclosure of the caller's identity.
74. The Defendants violated said section in its communications to the Plaintiff by leaving a voicemail on the Plaintiff's telephone without disclosing their identity.
75. By reason thereof, Defendant is liable to Plaintiff for judgment that Defendants' conduct violated Section 1692d *et seq.* of the FDCPA, actual damages, statutory damages, costs and attorneys' fees.

**COUNT III**  
**VIOLATIONS OF THE ELECTRONIC FUNDS TRANSFER ACT**  
**15 U.S.C. § 1693**  
**(Individually and on behalf of all others similarly situated)**

76. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs above herein with the same force and effect as if the same were set forth at length

herein.

77. Defendants violated said section by:

- a. Failing to provide consumers in writing at least three business days prior to the scheduled electronic fund transfer in violation of 1693(e);
- b. Failing to get written authorization to withdraw multiple payments in violation of 1693(e)(a);
- c. Withdrawing amounts in excess of what was agreed to.

78. By reason thereof, Defendants' are liable to Plaintiff for judgment that Defendants' conduct violated the EFTA, actual damages, statutory damages, costs and attorneys' fees.

**DEMAND FOR TRIAL BY JURY.**

79. Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff hereby request a trial by jury on all issues so triable.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff demands judgment against Defendants as follows:

- (a) Declaring that this action is properly maintainable as a Class Action and certifying Plaintiff as Class representative and undersigned as Class Counsel;
- (b) Awarding Plaintiff and the Class statutory damages;
- (c) Awarding Plaintiff and the Class actual damages;
- (d) Awarding Plaintiff costs of this Action, including reasonable attorneys' fees and expenses;
- (e) Awarding pre-judgment interest and post-judgment interest; and

(f) Awarding Plaintiff and the Class such other and further relief as this Court may deem just and proper.

Dated: January 17, 2018

By: /s/ Ari H. Marcus  
Ari H. Marcus, Esq.  
MARCUS & ZELMAN, LLC  
1500 Allaire Avenue, Suite 101  
Ocean, New Jersey 07712  
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*Attorneys for Plaintiff*

# Herschel, Goldman & Associates LLC

1020 6TH AVE SE #252  
ABERDEEN, SD 57401

CARTER, DARRELL

Toll Free : (866) 237-7030

EMail : settlementdivision@herschelgoldman.com

08/18/2017

**A Privileged and Confidential Communication**

SSN# .....: XXX-XX-  
OUR FILE# .....:   
ACCOUNT# .....: 1000  
ORIGINAL CREDITOR .....: SANTANDER CO - 766

CURRENT BALANCE .....: \$9,637.30  
**SETTLEMENT AMOUNT .....: \$6,746.11**

Dear: Mr. Darrell Carter,

The balance of your account is as listed above. The current creditor has authorized a full settlement of the above referenced debt for the sum of **\$6,746.11** .

Your first payment of **\$500.00** will be due in this office on or before **08/15/17** . Your second payment of **\$1,523.83** will be due in this office on or before **08/31/17** . After these two payments, you have agreed to do payments of **\$200.00** that will be due in this office on or before the **Third Friday** of each consecutive month thereafter until the settlement amount is paid in full. Please note that the settlement offer is contingent on these payments being made on time. If this arrangement is not adhered to as set forth above, you will not be given the benefit of the reduced settlement amount.

Upon clearance of funds, the above creditor will be notified with the correct adjustments made to your records. In the event that the current creditor has already reported this account to the credit bureau(s), they should also update their tradeline on your bureau to reflect the new status.

Yours Truly,

Settlement Division,

**Herschel, Goldman & Associates LLC**

*This is a communication from a debt collector. Federal law requires we notify you that this is an Attempt to collect a debt and any information obtained will be used for that purpose.*



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# Accounts

One Deposit Checking

XXXXXX)

Date Range

Available Balance:

August 18, 2017

<b>Direct Deposit</b>	
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

August 16, 2017

<b>DBT Purchase</b>	(\$502.99)
P & B CAPITAL GROU716-8915800 NY 9000	
[REDACTED]	[REDACTED]

August 15, 2017

<b>Withdrawal</b>	[REDACTED]
DDA DEBIT	
[REDACTED]	[REDACTED]

August 14, 2017

<b>DBT Purchase</b>	(\$7.92)
[REDACTED]	
9000	
[REDACTED]	[REDACTED]

<b>POS Debit</b>	(\$6.81)
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### Accounts

One Deposit Checking  
Available Balance

XXXXX

Date Range

[Redacted]

[Redacted]

[Redacted]

**Online Transfer**

(\$50.00)

[Redacted]

[Redacted]

August 29, 2017

[Redacted]

**Preauthorized Debit**

(\$1,525.82)

[Redacted]

[Redacted]

August 28, 2017

[Redacted]

**DBT Purchase**

(\$5.00)

[Redacted]

[Redacted]

[Redacted]

**DBT Purchase**

(\$21.00)

[Redacted]

[Redacted]

[Redacted]

**POS Debit**

(\$19.88)

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.)

I. (a) PLAINTIFFS

DARRELL CARTER, individually and on behalf of all others similarly situated

(b) County of Residence of First Listed Plaintiff Philadelphia (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

MARCUS & ZELMAN, LLC 1500 Allaire Ave Suite 101 Ocean NJ 07712 Tel: 732.695.3282 Email: ari@marcuszelman.com

DEFENDANTS

HERSCHEL, GOLDMAN & ASSOCIATES, LLC, P&B CAPITAL GROUP, LLC and DEVILLE ASSET MANAGEMENT, LTD.

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 PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- PTF DEF Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories and checkboxes.

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): 15 U.S.C. § 1692 and 15 U.S.C. § 1693. Brief description of cause: Defendant violated the FDCPA and the EFTA

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 01/17/2018 SIGNATURE OF ATTORNEY OF RECORD /s/ Ari Marcus

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.

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: 153 Dearborn St., Philadelphia, PA 19139

Address of Defendant: 1020 6th Ave SE #252, Aberdeen, SD 57401

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

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock? (Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes [ ] No [X]

Does this case involve multidistrict litigation possibilities? Yes [ ] No [X]

RELATED CASE, 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 [X]
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes [ ] No [X]
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 [X]
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? Yes [ ] No [X]

CIVIL: (Place [X] 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. [X] All other Federal Question Cases (Please specify) FDCPA/EFTA

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)

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Ari Marcus, 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: January 17, 2018 Ari Marcus, Esq. 322283 Attorney-at-Law 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: January 17, 2018 Ari Marcus, Esq. 322283 Attorney-at-Law Attorney I.D.#


**CASE MANAGEMENT TRACK DESIGNATION FORM**

DARRELL CARTER, individually and on : CIVIL ACTION  
 behalf of all others similarly situated, :  
 v. :  
 HERSCHEL, GOLDMAN & ASSOCIATES, :  
 LLC, P&B CAPITAL GROUP, LLC and : NO.

**DEVILLE ASSET MANAGEMENT LTD.**  
 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, that 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.) ( )
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

	Ari Marcus, Esq.	
January 17, 2018		Plaintiff, Darrell Carter
<b>Date</b>	<b>Attorney-at-law</b>	<b>Attorney for</b>
732.695.3282	732.298.6256	ari@marcuszelman.com
<b>Telephone</b>	<b>FAX Number</b>	<b>E-Mail Address</b>

**Civil Justice Expense and Delay Reduction Plan**  
**Section 1:03 - Assignment to a Management Track**

(a) The clerk of court will assign cases to tracks (a) through (d) based on the initial pleading.

(b) In all cases not appropriate for assignment by the clerk of court to tracks (a) through (d), the plaintiff shall submit to the clerk of court and serve with the complaint on all defendants a case management track designation form specifying that the plaintiff believes the case requires Standard Management or Special Management. In the event that a defendant does not agree with the plaintiff regarding said designation, that 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.

(c) The court may, on its own initiative or upon the request of any party, change the track assignment of any case at any time.

(d) Nothing in this Plan is intended to abrogate or limit a judicial officer's authority in any case pending before that judicial officer, to direct pretrial and trial proceedings that are more stringent than those of the Plan and that are designed to accomplish cost and delay reduction.

(e) Nothing in this Plan is intended to supersede Local Civil Rules 40.1 and 72.1, or the procedure for random assignment of Habeas Corpus and Social Security cases referred to magistrate judges of the court.

**SPECIAL MANAGEMENT CASE ASSIGNMENTS**  
**(See §1.02 (e) Management Track Definitions of the**  
**Civil Justice Expense and Delay Reduction Plan)**

Special Management cases will usually include that class of cases commonly referred to as "complex litigation" as that term has been used in the Manuals for Complex Litigation. The first manual was prepared in 1969 and the Manual for Complex Litigation Second, MCL 2d was prepared in 1985. This term is intended to include cases that present unusual problems and require extraordinary treatment. See §0.1 of the first manual. Cases may require special or intense management by the court due to one or more of the following factors: (1) large number of parties; (2) large number of claims or defenses; (3) complex factual issues; (4) large volume of evidence; (5) problems locating or preserving evidence; (6) extensive discovery; (7) exceptionally long time needed to prepare for disposition; (8) decision needed within an exceptionally short time; and (9) need to decide preliminary issues before final disposition. It may include two or more related cases. Complex litigation typically includes such cases as antitrust cases; cases involving a large number of parties or an unincorporated association of large membership; cases involving requests for injunctive relief affecting the operation of large business entities; patent cases; copyright and trademark cases; common disaster cases such as those arising from aircraft crashes or marine disasters; actions brought by individual stockholders; stockholder's derivative and stockholder's representative actions; class actions or potential class actions; and other civil (and criminal) cases involving unusual multiplicity or complexity of factual issues. See §0.22 of the first Manual for Complex Litigation and Manual for Complex Litigation Second, Chapter 33.



# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [PA Man Files FDCPA Suit Over Debt Collectors' 'False Threats'](#)

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