

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

JENNIFER DIXON, individually and on behalf of all others similarly situated

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

(c) Attorneys (Firm Name, Address, and Telephone Number) Robert P. Cocco, P.C., 1500 Walnut St., Ste.900, Philadelphia, PA 19102 215-351-0200

DEFENDANTS

ABILITY RECOVERY SERVICES, LLC

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)

- 01 U.S. Government Plaintiff, 02 U.S. Government Defendant, 03 Federal Question (U.S. Government Not a Party), 04 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)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, 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 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Contains various legal categories and checkboxes.

V. ORIGIN (Place an "X" in One Box Only)

- 01 Original Proceeding, 02 Removed from State Court, 03 Remanded from Appellate Court, 04 Reinstated or Reopened, 05 Transferred from Another District, 06 Multidistrict Litigation - Transfer, 08 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Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 15 U.S.C. §1692k et seq.

Brief description of cause: inaccurate credit reporting dispute

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMANDS CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE 10/29/18 SIGNATURE OF ATTORNEY OF RECORD [Signature]

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

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

CASE MANAGEMENT TRACK DESIGNATION FORM


JENNIFER DIXON, *individually and on behalf of all others* : CIVIL ACTION
similarly situated similarly situated :
 v. :
 ABILITY RECOVERY SERVICES, LLC : NO.

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 8. ()
- (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. ()

10/29/18
(Date)


Attorney-at-law

ROBERT P. COCCO, ESQ.
Attorney for Plaintiff

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 16 WEST PARKWAY, CHESTER PA 19013
 Address of Defendant: 18 Pierce Street, Kingston, Pennsylvania 18704
 Place of Accident, Incident or Transaction: 16 WEST PARKWAY, CHESTER PA 19013

RELATED CASE, IF ANY:

Case Number: n/a 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 <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 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 <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 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 of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 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 <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

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

DATE: 10/29/2018 _____ 61907
Attorney-at-Law / Pro Se Plaintiff *Attorney I.D. # (if applicable)*

CIVIL: (Place a ✓ 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 Question Cases
- (Please specify): FDCPA

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

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, ROBERT COCCO, counsel of record or pro se plaintiff, do hereby certify:

- Pursuant to Local Civil Rule 53.2, § 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: 10/29/2018 _____ 61907
Attorney-at-Law / Pro Se Plaintiff *Attorney I.D. # (if applicable)*

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

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JENNIFER DIXON, on behalf of herself and all
others similarly situated,

Plaintiff(s),

-against-

ABILITY RECOVERY SERVICES, LLC; and
JOHN DOES 1-25,

Defendant(s).

Case No.: _____

CIVIL ACTION

**CLASS ACTION
AND DEMAND FOR JURY TRIAL**

COMPLAINT

I. PRELIMINARY STATEMENT

1. Plaintiff on behalf of herself and all others similarly situated (“Plaintiff”), by and through her attorneys, alleges that the Defendant, ABILITY RECOVERY SERVICES, LLC (“ABILITY RECOVERY”) and JOHN DOES 1-25 their employees, agents and successors (collectively “Defendants”) violated 15 U.S.C. § 1692 *et seq.*, the Fair Debt Collection Practices Act (hereinafter “FDCPA”), which prohibits debt collectors from engaging in abusive, deceptive and unfair practices.

II. JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331. This is an action for violations of 15 U.S.C. § 1692 *et seq.*

3. Venue is proper in this district under 28 U.S.C. §1391(b) and 15 U.S.C. § 1692k(d) because the acts of the Defendant that give rise to this action, occurred in substantial part, in this district and at least one of the Plaintiffs resides in this jurisdiction.

III. PARTIES.

5. Plaintiff is a natural person, resides in Chester, Pennsylvania and is a “Consumer” as defined by 15 U.S.C. § 1692a(3).

6. ABILITY RECOVERY has an office at 18 Pierce Street, Kingston, Pennsylvania 18704.

7. Upon information and belief, ABILITY RECOVERY uses the mail, telephone, and facsimile and regularly engages in business the principal purpose of which is to attempt to collect debts alleged to be due another.

8. ABILITY RECOVERY is a “Debt Collector” as that term is defined by 15 U.S.C. § 1692(a)(6).

9. John Does 1-25, are currently unknown Defendants whose identities will be obtained in discovery and at that time will be made parties to this action pursuant to the Federal Rules of Civil Procedure (hereinafter “FRCP”); Rule 15, Rule 20 and Rule 21. Plaintiff’s claims against the currently unknown Defendants arise out of the same transaction, occurrence or series of transactions arising from known Defendant’s actions and are due to common questions of law and fact whose joinder will promote litigation and judicial efficiency.

IV. STATEMENT OF FACTS

13. Plaintiff is, at all times to this lawsuit, a "consumer" as that term is defined by 15 U.S.C. § 1692a(3).

14. Sometime prior to December 27, 2017, Plaintiff allegedly incurred a financial obligation ("OBLIGATION") for which ABILITY RECOVERY reported information to one or more national credit reporting agencies.

15. The 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.

16. Plaintiff incurred the OBLIGATION by obtaining goods and services which were primarily for personal, family and household purposes.

17. Plaintiff did not incur the OBLIGATION for business purposes.

18. The OBLIGATION is a "debt" as defined by 15 U.S.C. § 1692a(5).

19. At some time prior to December 27, 2017, the OBLIGATION was placed with ABILITY RECOVERY for the purpose of collection.

20. At the time the OBLIGATION was placed with ABILITY RECOVERY for the purpose of collection, the balance was past due.

21. At the time the OBLIGATION was placed with ABILITY RECOVERY for the purpose of collection, the obligation was in default.

22. Plaintiff caused to be delivered to Defendant a letter dated December 27, 2017, which were addressed to Defendant. Exhibit A, which are fully incorporated herein by reference.

23. The December 27, 2017 letter was sent to Defendant in connection with the collection of the OBLIGATION.

24. The December 27, 2017 letter which was sent to the Defendant stated in part:

RE: Jennifer Dixon
Creditor: Walden University
Alleged Amount Due: \$5560

Please be advised that I dispute the above debt.

25. After the date of the dispute, Defendant knew or should have known that the credit information concerning the OBLIGATION would be communicated to creditors and other persons.

26. The credit information communicated to these creditors and other persons did not indicate that the OBLIGATION was disputed.

27. The credit information communicated to these creditors and other persons concerning the OBLIGATION was false.

28. Defendant failed to communicate to any person that the OBLIGATION is disputed.

29. As of March 7, 2018, Defendant failed to communicate to one or more national credit reporting agencies that the OBLIGATION is disputed.

30. As of March 7, 2018, Defendant has communicated to at least one person, credit information which is known or should be known to be false.

POLICIES AND PRACTICES COMPLAINED OF

31. ABILITY RECOVERY's failure to report a disputed debt as such violates the FDCPA, by *inter alia*:

- (a) Using false, deceptive or misleading representations or means in connection with the collection of a debt;
- (b) Failing to communicate that a disputed debt is disputed; and
- (c) Using a false representation or deceptive means to collect or attempt to collect a debt.

32. On information and belief, Defendant engaged in the practices described herein, to at least 50 natural persons within Pennsylvania with one year of this Complaint.

V. CLASS ACTION ALLEGATIONS

33. Plaintiff brings this action as a state-wide class action, pursuant to Rule 23 of the Federal Rules of Civil Procedure (hereinafter “FRCP”), on behalf of himself and all Pennsylvania consumers and their successors in interest (the “Class”), who were harmed by the Defendant’s conduct in violation of the FDCPA, as described in this Complaint.

34. This Action is properly maintained as a class action. The Class is initially defined as:

All Pennsylvania consumers for whom Defendant communicated to any person credit information which is known to be false and/or for whom Defendant failed to communicate to any person that a disputed debt was disputed as set forth herein.

The class definition may be subsequently modified or refined. The Class period begins one year to the filing of this Action.

35. The Class satisfies all the requirements of Rule 23 of the FRCP for maintaining a class action:

- a) Upon information and belief, the Class is so numerous that joinder of all members is impracticable because there are hundreds and/or thousands of persons who were harmed by the Defendant’s conduct in violation of the FDCPA. Plaintiff is complaining about a standard conduct;
- b) There are questions of law and fact which are common to the Class and which predominate over questions affecting any individual Class member. These common questions of law and fact include, without limitation:

- i. Whether the Defendants violated various provisions of the FDICPA including but not limited to 15 U.S.C. §§ 1692e; 1692e(8); and 1692e(10) *et seq.*
 - ii. Whether Plaintiff and the Class have been injured by the Defendant's conduct;
 - iii. Whether Plaintiff and the Class have sustained damages and are entitled to restitution as a result of Defendant's wrongdoing and if so, what is the proper measure and appropriate statutory formula to be applied in determining such damages and restitution; and
 - iv. Whether Plaintiff and the Class are entitled to declaratory and/or injunctive relief.
- c) Plaintiff's claims are typical of the Class, which all arise from the same operative facts and are based on the same legal theories.
 - d) Plaintiff has no interest adverse or antagonistic to the interest of the other members of the Class.
 - e) Plaintiff will fairly and adequately protect the interest of the Class and has retained experienced and competent attorneys to represent the Class.
 - f) A Class Action is superior to other methods for the fair and efficient adjudication of the claims herein asserted. Plaintiff anticipates that no unusual difficulties are likely to be encountered in the management of this class action.
 - g) A Class Action will permit large numbers of similarly situated persons to prosecute their common claims in a single forum simultaneously and without the duplication of effort and expense that numerous individual actions would

engender. Class treatment will also permit the adjudication of relatively small claims by many Class members who could not otherwise afford to seek legal redress for the wrongs complained of herein. Absent a Class Action, class members will continue to suffer losses of statutory protected rights as well as monetary damages.

- h) Defendants have acted on grounds generally applicable to the entire Class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the Class as a whole.

COUNT I
FAIR DEBT COLLECTION PRACTICES ACT, 15 U.S.C. §
1692 *et seq.* VIOLATIONS

36. Plaintiff, on behalf of herself and others similarly situated, repeats and realleges all prior allegations as if set forth at length herein.

37. Defendant violated 15 U.S.C. § 1692e of the FDCPA by using any false, deceptive or misleading representation or means in connection with its attempts to collect debts from Plaintiff and others similarly situated.

38. Defendant violated 15 U.S.C. § 1692e of the FDCPA in connection with Plaintiff and others similarly situated.

39. By failing to communicate that the OBLIGATION was disputed to one or more of the credit reporting bureaus, Defendant engaged in a false, deceptive or misleading representation or means in connection with the collection of the debt.

40. Defendant violated 15 U.S.C. § 1692e(2)(A) of the FDCPA by falsely representing the character or legal status of the debt.

41. By failing to communicate that a disputed debt was disputed, Defendant made a false representation of the character or legal status of the debt.

42. By communicating credit information which is known to be false or should be known to be false, Defendant made a false representation of the character or legal status of the debt.

43. Section 1692e(8) of the FDCPA prohibits a debt collector from communicating to any person credit information which is known to be false or should be known to be false, including the failure to communicate that a disputed debt is disputed.

44. Defendant violated 15 U.S.C. § 1692e(8) of the FDCPA by communicating to any person credit information which is known to be false or should be known to be false.

45. Defendant violated 15 U.S.C. § 1692e(8) of the FDCPA by failing to communicate to any person that the OBLIGATION was disputed.

46. Defendant violated 15 U.S.C. § 1692e(8) of the FDCPA by failing to communicate to one or more of the credit reporting bureaus that the OBLIGATION was disputed.

47. Section 1692e(10) prohibits the use of any false representation or deceptive means to collect or attempt to collect any debt.

48. By failing to communicate that the OBLIGATION was disputed as described herein, Defendant engaged in a false representation or deceptive means to collect or attempt to collect the debt.

49. Congress enacted the FDCPA in part to eliminate abusive debt collection practices by debt collectors.

50. Plaintiff and others similarly situated have a right to free from abusive debt collection practices by debt collectors.

51. Plaintiff and others similarly situated have a right to have the Defendant abide by its obligations under the FDCPA and those specifically found at 15 U.S.C. § 1692e(8).

52. Plaintiff and others similarly situated have suffered harm as a direct result of the abusive, deceptive and unfair collection practices described herein.

53. Plaintiff has suffered damages and other harm as a direct result of the Defendants' actions, conduct, omissions and violations of the FDCPA described herein.

54. Defendant's failure to act as described herein caused harm to the credit of Plaintiff and others similarly situated.

PRAYER FOR RELIEF


Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

- a. Declaring that this action is properly maintainable as a Class Action and certifying Plaintiff as Class representative and his attorneys as Class Counsel;
- b. Awarding Plaintiff and the Class statutory damages;
- c. Awarding Plaintiff and the Class actual damages;
- d. Awarding pre-judgment interest;
- e. Awarding post-judgment interest.
- f. Awarding Plaintiff costs of this Action, including reasonable attorneys' fees and expenses; and
- g. Awarding Plaintiff and the Class such other and further relief as the Court may deem just and proper.

DEMAND FOR TRIAL BY JURY

Plaintiff demands trial by jury on all issues so triable.

Dated: October 29, 2018



Robert P. Cocco, Esq. (xxxxxxx)
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Philadelphia, Pennsylvania 19102
(215) 351-0200 telephone
(215) 261-6055 facsimile
rcocco@rcn.com

JENNIFER DIXON
16 WEST PARKWAY
CHESTER, PA 19013

December 27, 2017

VIA FAX 5702072682

Ability Recovery Service, LLC
1 Montage Mountain Rd. Ste A
Moosic, PA 18507-1777

RE: Jennifer Dixon
Creditor: Walden University
Alleged Amount Due: \$5560

Dear Sir or Madam:

Please be advised that I dispute the above debt. I also request verification of same. The verification should include proof of the balance you claim is due, which should include a breakdown of that balance.

Lastly, you are notified to cease all further attempts to reach me via any telephone number you may have. Any such authorization that you believe you have is hereby revoked. All further communications shall be in writing only.

Sincerely yours,

Jennifer Dixon

ClassAction.org

This complaint is part of ClassAction.org's searchable [class action lawsuit database](#)
