

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

GREGORY HARRIS,)	
on behalf of himself and all others)	
similarly situated)	
)	
Plaintiff,)	C.A. No.
vs.)	
)	CLASS ACTION
FIRST ADVANTAGE BACKGROUND)	
SERVICES CORP.,)	
)	
Defendant.)	Jury Trial Demanded
)	

CLASS ACTION COMPLAINT

I. PRELIMINARY STATEMENT

1. This is a consumer class action based upon Defendant's violation of the Fair Credit Reporting Act, 15 U.S.C. §§ 1681-1681x *et seq.* (FCRA). Plaintiff brings this action on behalf of employment applicants throughout the United States who have been the subject of prejudicial, misleading and inaccurate background reports performed by the Defendant and sold to employers. Defendant has adopted and maintained a policy and practice of inaccurately reporting the grades of criminal infractions, representing that certain offenses are more serious than they actually are. For example, Defendant routinely misreports summary offenses, a separate and less serious category of criminal offense, as misdemeanors. Defendant's practice harms consumers seeking employment by prejudicing their prospective employers with inaccurate adverse information, and harms interstate commerce as a whole.

II. JURISDICTION AND VENUE

2. Jurisdiction of this Court arises under 15 U.S.C. § 1681p, 28 U.S.C. § 1331.
3. Venue lies properly in this district pursuant to 28 U.S.C. § 1391(b).

III. PARTIES

4. Plaintiff Gregory Harris is an adult individual and citizen of the Commonwealth of Pennsylvania who resides in Philadelphia, Pennsylvania.

5. Defendant First Advantage Background Services Corp. (First Advantage) is a business entity that provides background screening services, decision-making intelligence, public record reports and operates as a consumer reporting agency. Defendant First Advantage regularly conducts business in the Commonwealth of Pennsylvania, and operates a principal place of business at 1 Concourse Parkway NE, Suite 200, Atlanta, GA 30328.

IV. FACTUAL ALLEGATIONS

A. Defendant's Practices As A Consumer Reporting Agency And Furnisher Of Consumer Reports For Employment Purposes

6. At all times pertinent hereto, Defendant First Advantage was a consumer reporting agency (CRA) as defined by section 1681a(f) of the FCRA.

7. Among other things, the FCRA regulates the collection, maintenance, and disclosure of consumer credit report information by CRAs, including public record information.

8. Defendant obtains distilled and incomplete public record information, including criminal record history, from third party databases and courthouses and maintains such data in consumer files that it creates and assembles.

9. Defendant sells such consumer files to potential employers wishing to review the background of various job applicants.

10. Upon information and belief, Defendant will, for a fee, additionally review the background reports it generates and create a "score" based on criteria provided in advance by the employer ordering the background report, and inform the employer whether the subject of the background report is eligible for hire based on those criteria.

11. Defendant, as a CRA, is required to follow reasonable procedures to assure

maximum possible accuracy of the information concerning the individual about whom the report relates. 15 U.S.C. § 1681e(b).

12. Defendant does not, however, maintain reasonable procedures designed to assure maximum possible accuracy. As a result of its standardized policies and practices, Defendant routinely fails to report the accurate grade of an offense, misrepresenting the severity of a criminal offense, so that the individual's criminal record history appears more serious than it actually is.

13. Such mischaracterization causes First Advantage to include records of offenses on reports that it would otherwise exclude, and which employers may be prohibited by law from considering.

14. Defendant's practices not only violate the FCRA as a matter of law, the practices exact serious consequences upon consumer job applicants and interstate commerce.

15. Despite its duties to maintain procedures designed to assure maximum possible accuracy of the criminal record information that it sells to prospective employers, Defendant has nonetheless deliberately, willfully, intentionally, recklessly and negligently adopted a practice that disregards this duty, in violation of the FCRA.

B. Summary Offenses in Pennsylvania

16. Pennsylvania statutory law maintains a classification system for criminal offenses whereby infractions are categorized as "felonies," "misdemeanors," and "summary offenses." 18 P.S. § 106.

17. Summary offenses are graded lower than felonies or misdemeanors. Summary offenses are either defined by statute or provide for a maximum prison sentence of not more than 90 days. 18 P.S. § 106(c).

18. Summary offenses in Pennsylvania include a variety of minor infractions such as

attaching a nail or tack to a utility pole,¹ littering,² and returning library books more than 30 days late.³ Common summary offenses include disorderly conduct, loitering and retail theft.

19. Often, summary offenses are issued for “quality of life” issues such as sitting on the steps of an abandoned house, riding a bike on the payment, or drinking a beer in public.

20. A defendant facing a summary offense that does not potentially carry a jail sentence does not have a right to a lawyer.

21. Each year, there are tens of thousands of convictions for summary offenses in Pennsylvania. Between 2013 and 2017, more than 60,000 citations were issued for summary offenses in Philadelphia alone.

22. Summary offenses frequently are initiated by citation. Defendants often simply resolve such citations by paying them without even going to court.

23. Sentences of imprisonment for summary offenses are rare. Often sentences are limited to fines and costs.

24. Pennsylvania law recognizes that summary offenses are significantly less serious than felonies or misdemeanors by treating them differently than felonies or misdemeanors in post-conviction matters.

25. A Pennsylvania statute permits employers to consider felonies and misdemeanor convictions to the extent that they relate to a job applicant’s suitability for a job. 18 P.S. § 9125. However, the statute does not permit employers to consider summary offenses. *Cisco v. United Parcel Servs., Inc.*, 476 A.2d 1340, 1343 (Pa. Super. 1984).

26. Felony and misdemeanor convictions almost never can be expunged in

¹ 18 Pa. C.S.A. § 6905.

² 18 Pa. C.S.A. § 6501.

³ 18 Pa. C.S.A. § 6708.

Pennsylvania. However, summary offense convictions can be expunged after the defendant has been free of arrest or prosecution for five years following the conviction for that offense. 18 P.S. § 9122(b)(3)(i).

C. Electronic Case Records for Summary Offenses in Pennsylvania

27. The Administrative Office of Pennsylvania Courts (AOPC) provides electronic information about Pennsylvania criminal cases, including summary offenses, to the public.

28. Information about an individual's criminal cases in Pennsylvania can be obtained by any member of the public by searching the Unified Judicial System of Pennsylvania's web portal. *See* <https://ujportal.pacourts.us/docketsheets.aspx>.

29. Information can also be obtained through bulk distribution of electronic case records. AOPC sells this information on a recurring basis.

30. Upon information and belief, Defendant obtains electronic case record data generated by AOPC through a reseller.

31. One of the data elements that is provided by AOPC for each electronic case record, where available, is the grade of the offense. Thus, many electronic case records specifically report the classification of a summary offense. If the grade of the offense is not available, it is left blank.

32. Moreover, the grade of a summary offense in the First Judicial District, which comprises the courts of Philadelphia, can often be identified based upon the assigned case number.

33. All case numbers in the First Judicial District are formatted as XX-00-XX-0000000-0000, and contain two-letter codes which identify the court in which the case was tried and the nature of the case.

34. The code for a case tried in the Philadelphia Court of Common Pleas is "CP," while the code for a case in the Philadelphia Municipal Court is "MC."

35. Felony and misdemeanor cases are identified in a separate portion of the case

number as “CR.” In contrast, if a case relates solely to a summary offense, the same portion of the case number will bear the code “SU.”

36. Thus, a misdemeanor criminal case brought in the Philadelphia Municipal Court would bear a case number such as MC-51-CR-1234567-2018.

37. In contrast, a case consisting solely of summary offense(s) brought in the Philadelphia Municipal Court would bear a case number such as MC-51-SU-1234567-2018.

38. A finding of guilt on a summary offense in Philadelphia Municipal court can be appealed to the Court of Common Pleas. Those cases also are assigned case numbers that are distinct from cases involving felonies and misdemeanors. Those cases will bear the code “SA.”

39. Despite these clear and systematic indications of the grade of summary offenses in Pennsylvania, Defendant First Advantage frequently fails to distinguish between summary offenses and more serious criminal charges and instead reports summary offenses from Pennsylvania as misdemeanors.

40. First Advantage is familiar with its duty to maintain reasonable procedures to assure the maximum possible accuracy of the information it sells about consumers, including the grade(s) of any criminal offense(s) it includes on reports about consumers.

41. First Advantage was placed on direct notice of the problems with its practices for identifying the grades of offenses in the form of a class action lawsuit on the subject, *Ghorab v. First Advantage LNS Screening Systems, Inc. d/b/a First Advantage Background Services Corp.*, No. 2:14-cv-05105 (E.D. Pa.).

D. The Experience Of The Representative Plaintiff

42. In March of 2010, Plaintiff Gregory Harris was charged with two misdemeanors. He ultimately pled guilty to a single summary offense.

43. The case number for Mr. Harris's case was MC-51-CR-0010494-2010.⁴

44. AOPC's database accurately reported that the charge for which Mr. Harris pled guilty was a summary offense.

45. In or around February of 2017, Mr. Harris applied for employment with Lowe's.

46. Mr. Harris truthfully stated in the application process that he had no previous felony or misdemeanor convictions.

47. In connection with Mr. Harris's application, Lowe's purchased a background screening report from Defendant First Advantage.

48. Using its usual practices and procedures, First Advantage compiled and furnished a consumer background report regarding Plaintiff to Lowe's on or about February 16, 2017.

49. The report that First Advantage furnished to Lowe's inaccurately identified the case as a "misdemeanor" despite the fact that public record of the offense clearly demonstrates that the disposition of the case as a summary offense.

50. Defendant's inaccurate reporting furthermore gave the misimpression that Plaintiff had failed to disclose a misdemeanor conviction on his employment application.

51. Lowe's denied Plaintiff's application for employment based upon Defendant's inaccurate report.

52. Had Lowe's known that Plaintiff's offense was a summary offense, it would have been on notice that it could not consider the offense under Pennsylvania law.

53. Had the grade of Plaintiff's offense been reported accurately as a summary offense, the case would not properly have been reported at all in the "Felony Including Misdemeanor" section of Defendant's report.

⁴ On August 10, 2017, Mr. Harris obtained an expungement of the offense pursuant to 18 P.S. § 9122(b)(3)(i).

54. Plaintiff subsequently communicated to First Advantage that the information on the report was not accurate, and included supporting documentation demonstrating the accurate disposition of a summary offense in the public record.

55. Defendant's practices and procedures described herein affected not only the Plaintiff but also other consumers about whom Defendant inaccurately reported the grade of an offense.

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

57. At all times pertinent hereto, the conduct of the Defendant, as well as that of its agents, servants and/or employees, was intentional, willful, reckless, and in grossly negligent disregard for federal laws and the rights of the Plaintiff herein.

V. CLASS ACTION ALLEGATIONS

58. Plaintiff brings this action individually and as a class action for Defendant's violation of the FCRA, pursuant to Rules 23(a) and 23(b) of the Federal Rules of Civil Procedure, on behalf of the following Classes:

- a. **Nationwide Class:** All natural persons residing in the United States and its Territories who, within two (2) years prior to the filing of the Complaint and continuing through the resolution of this case, were the subjects of consumer reports prepared by Defendant which included a criminal offense, and for whom the reports inaccurately identified the grade or level of the offense.
- b. **Notice of Inaccuracy Subclass:** All natural persons residing in the United States and its Territories whom within two (2) years prior to the filing of the Complaint and continuing through the resolution of this case, were the subject of consumer reports prepared by Defendant which included a criminal offense, for whom the reports did not accurately identify the grade or level of the offense, and who subsequently sent Defendant a communication indicating that the report did not accurately identify the grade or level of the offense.

- c. **Pennsylvania Records Subclass:** All natural persons residing in the United States and its Territories who, within two (2) years prior to the filing of the Complaint and continuing through the resolution of this case, were the subjects of background reports prepared by Defendant which disclosed a Pennsylvania summary offense as a misdemeanor or more serious offense.

59. The Class is so numerous that joinder of all members is impracticable. Although the precise number of Class members is known only to Defendant, Plaintiff avers upon information and belief that the Class numbers in the hundreds or thousands. Defendant sells criminal history record information to thousands of businesses throughout the country, and their reports to such businesses are standardized, form documents, produced by the same practices and procedures applicable to all subjects of the reports.

60. There are questions of law and fact common to the Class that predominate over any questions affecting only individual Class members. The principal questions include whether Defendant, by employing a policy and practice of misidentifying summary offenses as misdemeanors or more serious offenses, violated section 1681e(b) by failing to follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom the report relates.

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

62. Plaintiff will fairly and adequately protect the interests of the Class. Plaintiff is committed to vigorously litigating this matter. Plaintiff has secured counsel experienced in handling consumer class actions. Neither Plaintiff nor his counsel has any interests which might cause them not to vigorously pursue this claim.

63. This action should be maintained as a class action because the prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications with respect to individual members which would establish incompatible standards

of conduct for the parties opposing the Class, as well as a risk of adjudications with respect to individual members which would as a practical matter be dispositive of the interests of other members not parties to the adjudications or substantially impair or impede their ability to protect their interests.

64. A class action is a superior method for the fair and efficient adjudication of this controversy. The interest of Class members in individually controlling the prosecution of separate claims against Defendant is small. Management of the Class claims is likely to present significantly fewer difficulties than those presented in many individual claims. The identities of the Class members may be obtained from Defendant's records.

VI. CAUSES OF ACTION

COUNT ONE – FCRA § 1681e(b) (Class Claim)

65. Plaintiff incorporates the foregoing paragraphs as though the same were set forth at length herein.

66. Defendant is a “person” and “consumer reporting agency” as defined by sections 1681a(b) and (f) of the FCRA.

67. Plaintiff is a “consumer” as defined by section 1681a(c) of the FCRA.

68. The above-mentioned reports are “consumer reports” as defined by section 1681a(d).

69. Pursuant to sections 1681n and 1681o, Defendant is liable for willfully and negligently violating the FCRA by failing to follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom a consumer report relates, in violation of section 1681e(b).

COUNT TWO – FCRA 1681i (Individual Claim)

70. Plaintiff incorporates the foregoing paragraphs as though the same were set forth at

length herein.

71. Pursuant to sections 1681n and 1681o, Defendant is liable for willfully and negligently violating the FCRA by failing to conduct a reasonable reinvestigation to determine the completeness and/or accuracy of information disputed by Plaintiff, in violation of section 1681i.

VII. JURY TRIAL DEMAND

72. Plaintiff demands trial by jury on all issues so triable.

VIII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff seeks relief in favor of himself and the Class and against the Defendant as follows:

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

(b) That judgment be entered against Defendant for statutory damages in the amount of not less than \$100 and not more than \$1,000 per violation per Class member, pursuant to 15 U.S.C. § 1681n(a);

(c) That judgment be entered against Defendant for actual damages, pursuant to 15 U.S.C. §§ 1681n and 1681o;

(d) That judgment be entered against Defendant for punitive damages pursuant to 15 U.S.C. § 1681n(a)(2);

(e) That the Court award costs and reasonable attorney's fees pursuant to 15 U.S.C. § 1681n and 1681o; and

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

Dated: February 15, 2019

Respectfully submitted,

FRANCIS & MAILMAN, P.C.

By: s/ James A. Francis
James A. Francis
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Attorneys for Plaintiff and the Class

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

Gregory Harris

(b) County of Residence of First Listed Plaintiff Philadelphia

(EXCEPT IN U.S. PLAINTIFF CASES)

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

James A. Francis

Francis & Mailman, P.C.

1600 Market Street; 25th Floor; Philadelphia, PA 19103

DEFENDANTS

First Advantage Background Services Corp.

County of Residence of First Listed Defendant Fulton County, GA

(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
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 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 | | 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 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)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	PERSONAL INJURY <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	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <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 LABOR <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 IMMIGRATION <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 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <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)) FEDERAL TAX SUITS <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
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

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. §§ 1681-1681x, et seq.

Brief description of cause:

Defendant's violation of Fair Credit Reporting Act adversely affected employment opportunities

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

02/15/2019

SIGNATURE OF ATTORNEY OF RECORD

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.

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

CASE MANAGEMENT TRACK DESIGNATION FORM

Gregory Harris	:	CIVIL ACTION
	:	
v.	:	
	:	
First Advantage Background Services Corp.	:	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 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) (X)
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ()

<u>February 15, 2019</u>	<u>James A. Francis</u>	<u>Plaintiff Gregory Harris</u>
Date	Attorney-at-law	Attorney for
<u>215-875-3600</u>	<u>215-940-8000</u>	<u>jfrancis@consumerlawfirm.com</u>
Telephone	FAX Number	E-Mail Address

**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.

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: 5527 Angora Terrace, Philadelphia, PA 19143
Address of Defendant: 1 Concourse Parkway NE, Suite 200, Atlanta, GA 30328
Place of Accident, Incident or Transaction: Philadelphia, PA

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 <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 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: 02/15/2019 _____ 77474
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): Fair Credit Reporting Act

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, James A. Francis, 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: 02/15/2019 _____ 77474
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.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [First Advantage Background Services Sued Over Allegedly Inaccurate Consumer Report](#)
