

Ryan L. Gentile, Esq.
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Tel: 201-873-7675
Attorney for Plaintiff, Joseph Pantiliano,
on behalf of himself and all others similarly situated

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

-----X
Joseph Pantiliano, on behalf of himself
and all others similarly situated,

Plaintiffs,

CLASS ACTION
COMPLAINT

v.

Portfolio Recovery Associates, LLC

Defendant.

-----X

Plaintiff, by and through his counsel, Ryan Gentile, Esq., as and for his complaint against the Defendant, on behalf of himself and pursuant to Rule 23 of the Federal Rules of Civil Procedure all others similarly situated, alleges as follows:

INTRODUCTION

1. Plaintiff, on his own behalf and on behalf of the class he seeks to represent, brings this action to secure redress for the debt collection practices utilized by the Defendant, Portfolio Recovery Associates, LLC (“Portfolio” or “Defendant”) in connection with their attempts to collect alleged debts from the Plaintiff and others.
2. Plaintiff alleges that Portfolio’s collection practices violated the Fair Debt Collection Practices Act, 15 U.S.C. §1692 *et seq.* (“FDCPA”)

3. The FDCPA broadly prohibits conduct which harasses, oppresses or abuses any debtor; any false, deceptive or misleading statements in connection with the collection of a debt; unfair or unconscionable collection methods; and requires certain disclosures. 15 U.S.C. §§1692d, 1692e, 1692f and 1692g.
4. The FDCPA is generally characterized as a "strict liability" statute because "it imposes liability without proof of an intentional violation." Glover v. FDIC, 698 F.3d 139 (3d Cir. 2012) (citing Allen ex rel. Martin v. LaSalle Bank, N.A., 629 F.3d 364, 368 & n. 7 (3d Cir. 2011)).

JURISDICTION AND VENUE

5. This Court has jurisdiction over Plaintiff's FDCPA claim pursuant to 15 U.S.C. §1692k(d) and 28 U.S.C. §1331.
6. Venue and personal jurisdiction in this District are proper because:
 - a. The acts giving rise to this lawsuit occurred within this District; and
 - b. Defendant does business within this District.

PARTIES

7. Plaintiff, Joseph Pantiliano is an individual natural person who at all relevant times resided in the City of Little Ferry, County of Bergen, State of New Jersey.
8. Plaintiff is a "consumer" as that term is defined by 15 U.S.C. §1692a(3).
9. Defendant, Portfolio, at all times relevant hereto, is and was a Limited Liability Company with offices located at 120 Corporate Blvd Norfolk, VA 23541.
10. Portfolio is a purchaser of defaulted debt. Portfolio's business model is to pay less than ten cents on the dollar for a defaulted debt and then seek to collect the full amount.

11. The principal purpose of Portfolio is the collection of debts using the mail and telephone.
12. Debt collection is the principal purpose of Portfolio's business.
13. Debt collection is Portfolio's only business.
14. Portfolio exists solely for the purpose of purchasing and then seeking to collect defaulted debt.
15. Portfolio does not offer or extend credit, they only purchase defaulted debt and then attempt to collect said debt.
16. Portfolio is a "debt collector" as that term is defined by 15 U.S.C. §1692a(6).

FACTS

17. Sometime in May of 2010, Plaintiff allegedly incurred a debt to Capital One related to a personal credit card account in Plaintiff's name (the "Debt").
18. The Debt arose out of a transaction in which the money, property, insurance or services which are the subject of the transaction are primarily for personal, family or household purposes, namely fees emanating from a personal credit card account in Plaintiff's name.
19. The Debt arose out of a credit card account which Plaintiff opened for his personal use.
20. Plaintiff's credit card account that was issued by Capital One was neither opened nor used by Plaintiff for business purposes.
21. Plaintiff's personal credit card account Debt to Capital One is a "debt" as defined by 15 U.S.C. §1692a(5).
22. Sometime after the incurrence of the Debt, but before the initiation of this action, Plaintiff was alleged to have fallen behind on payments owed on the alleged Debt.
23. The Debt went into default because of non-payment.
24. After the Debt went into default, the Debt was purchased by Portfolio.

25. The Debt was in default when it was purchased by Portfolio.
26. Portfolio purchased the Debt from Capital One for less than the full amount Plaintiff allegedly owed and then sought to collect the full amount allegedly owed on the Debt.
27. At all times relevant hereto, Defendant acted in an attempt to collect the Debt.
28. On or about February 22, 2018, Portfolio mailed or caused to be mailed a letter to Plaintiff. (Annexed and attached hereto as Exhibit A is a copy of the letter dated February 22, 2018 that Portfolio mailed to the Plaintiff)
29. Portfolio mailed the letter dated February 22, 2018 attached as Exhibit A as a part of their efforts to collect the Debt.
30. Plaintiff received the letter attached as Exhibit A in the mail.
31. Plaintiff read the letter attached as Exhibit A upon receipt of the letter in the mail.
32. Exhibit A was sent in connection with the collection of the Debt.
33. Exhibit A seeks to collect the Debt.
34. Exhibit A conveyed information regarding the Debt including the Balance Due, Account number and a demand for payment.
35. The letter attached as Exhibit A is a “communication” as that term is defined by 15 U.S.C. §1692a(2).
36. The letter attached as Exhibit A is the first written communication Plaintiff received from Portfolio.
37. The letter attached as Exhibit A is the first written communication Portfolio sent to Plaintiff regarding the Debt.
38. Exhibit A represents Portfolio’s initial collection “communication” with Plaintiff as “communication” is defined by 15 U.S.C. §1692a(2).

39. Exhibit A states the balance of the Debt to be \$1,297.74.

40. The letter attached as Exhibit A later states in relevant part:

“Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid.”

(see Exhibit A)

41. The letter attached as Exhibit A then states at the bottom of the letter:

NOTICE: SEE REVERSE SIDE FOR IMPORTANT INFORMATION

42. On the reverse side of the letter attached as Exhibit A, the letter states in relevant part:

DISPUTES: Call 1-800-772-1413 or write to: Portfolio Recovery Associates, LLC, Disputes Department, 140 Corporate Blvd., Norfolk, VA 23502.

(emphasis in original)

43. Portfolio’s collection practice is a high-volume practice.

44. Portfolio’s debt collection practice is largely automated and utilizes standardized form letters.

45. Documents in the form represented by Exhibit A are regularly sent by Portfolio to collect debts from consumers.

46. Exhibit A is a standardized form letter.

47. Exhibit A is a computer-generated form letter.

48. Portfolio mailed or caused to be mailed letters in the form of Exhibit A over the course of the past year to hundreds of New Jersey consumers from whom Portfolio attempted to collect a consumer debt.

CLAIMS FOR RELIEF

COUNT I

**VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT
(15 U.S.C. §1692g)**

49. Plaintiff incorporates by reference all of the above paragraphs as though fully stated herein.

50. The conduct of the Defendant in this case violates 15 U.S.C. §§1692, 1692g, 1692g(a)(3), and 1692g(b).

51. The FDCPA at §1692g(a)(3) requires a debt collector to:

Within five days after the initial communication with a consumer in connection with the collection of any debt, a debt collector shall, unless the following information is contained in the initial communication or the consumer has paid the debt, send the consumer a written notice containing –

(3) a statement that unless the consumer, within thirty days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector

52. Collection letters and/or notices, such as Exhibit A sent by Portfolio to Plaintiff, are to be evaluated by the objective standard of the “least sophisticated consumer.”

53. It is well settled, in the Third Circuit, that a dispute of a debt, to be effective, must be in writing. *See Graziano v. Harrison*, 950 F.2d 107, 112 (3d Cir. 1991).

54. In Caprio v. Healthcare Revenue Recovery Group, LLC 709 F.3d 142 (3d Cir. 2013) the Third Circuit held that a collection letter which notified a consumer “...if you feel you do not owe this amount, please call us toll free at 800-984-9115 or write us at the above address” violated the FDCPA because it can reasonably be read by a least sophisticated consumer to mean that they could dispute the debt by calling the debt collector.

55. Portfolio violated §1692g because the letter attached as Exhibit A (like the letter at issue in Caprio) can reasonably be read by a least sophisticated consumer to mean that they could dispute a debt by calling Portfolio. Exhibit A can reasonably be read by a least sophisticated consumer to mean that they could dispute a debt by calling Portfolio because the front of the letter specifically tells the consumer to “SEE REVERSE SIDE FOR IMPORTANT INFORMATION” and on the reverse side of the letter it specifically tells the consumer that they may dispute their debt by calling Portfolio by stating: “**DISPUTES:** Call 1-800-772-1413 or write to: Portfolio Recovery Associates, LLC, Disputes Department, 140 Corporate Blvd., Norfolk, VA 23502.”
56. Exactly like the letter at issue in Caprio, Portfolio’s letter attached as Exhibit A gave Plaintiff the option to dispute the Debt by telephone by stating, “**DISPUTES:** Call 1-800-772-1413 or...”, and thus like the letter at issue in Caprio, the letter attached as Exhibit A violates the FDCPA.
57. A least sophisticated consumer upon reading the instructions in the February 22, 2018 letter attached as Exhibit A would be misled into believing that if they wished to effectively dispute their alleged debt or any portion thereof, they may either (1) call Portfolio at 1-800-772-1413 or (2) write to Portfolio at 140 Corporate Blvd., Norfolk, VA 23502.
58. The letter attached as Exhibit A by stating “**DISPUTES:** Call 1-800-772-1413 or write to: Portfolio Recovery Associates, LLC, Disputes Department, 140 Corporate Blvd., Norfolk, VA 23502” overshadowed the validation notice by providing an alternative option to dispute a debt by phone that is not in accordance with the statutory validation notice.

59. Like the Defendant in Caprio, Portfolio violated the FDCPA because the statement in their letter: “**DISPUTES**: Call 1-800-772-1413 or write to: Portfolio Recovery Associates, LLC, Disputes Department, 140 Corporate Blvd., Norfolk, VA 23502”, can reasonably be read by a least sophisticated consumer to mean that they could dispute their debt by calling the number that Portfolio specifically provided in the letter to call in the event a consumer wished to dispute their debt.
60. Portfolio is liable to the Plaintiff and the proposed class pursuant to 15 U.S.C. §1692k because of the FDCPA violations.

CLAIMS FOR RELIEF

COUNT II

**VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT
(15 U.S.C. §1692e)**

61. Plaintiff incorporates by reference all of the above paragraphs as though fully stated herein.
62. The conduct of the Defendant in this case violates 15 U.S.C. §§1692 and 1692e.
63. The FDCPA at § 1692e provides:

§1692e. False or Misleading Representations

A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

(10) The use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer

64. Portfolio’s debt collection letter attached as Exhibit A hereto is misleading or deceptive to the “least sophisticated consumer”, and therefore violates 15 U.S.C. § 1692e(10) because Portfolio’s instructions and statements in the letter are false, deceptive, and

misleading because, when read by the least sophisticated consumer, they could be read to have two or more meanings, where at least one or more meanings are inaccurate.

According to Portfolio's letter attached as Exhibit A, if Plaintiff wished to dispute their alleged "\$1,297.74" Debt, he may either:

- (1) notify Portfolio of the dispute by calling the telephone number 1-800-772-1413 that Portfolio provided in the letter for disputes; or
- (2) write to: Portfolio Recovery Associates, LLC, Disputes Department, 140 Corporate Blvd., Norfolk, VA 23502.

65. As stated above, the statement that Plaintiff may call Portfolio at 1-800-772-1413 to dispute the Debt is false, misleading and deceptive because as Caprio explained, only a written dispute is legally effective, and as per the Third Circuit in Caprio, a letter that can reasonably be read by a least sophisticated consumer to mean that they could dispute a debt by calling a debt collector violates the FDCPA.
66. Like the letter at issue in Caprio, Portfolio's letter attached as Exhibit A is deceptive because it can be reasonably read to have two or more different meanings, one of which is inaccurate, *i.e.*, that Plaintiff could dispute the Debt by making a telephone call to the number that Portfolio provided in Exhibit A for making a dispute. Like in Caprio, the Validation Notice in Exhibit A was overshadowed and contradicted because the least sophisticated debtor would be uncertain as to their rights.
67. Plaintiff has alleged a particularized injury because the letter attached as Exhibit A was were mailed and directed to him.
68. Plaintiff has alleged a concrete harm because the FDCPA creates a substantive right to be free from abusive debt communications and Defendant's violations of the FDCPA results in concrete harm to Plaintiff.

69. Portfolio is liable to the Plaintiff and the proposed class pursuant to 15 U.S.C. §1692k because of the FDCPA violations.

CLASS ALLEGATIONS

70. Plaintiff incorporates by reference all of the above paragraphs as though fully stated herein.

71. This action is brought as a class action. Plaintiff brings this action on behalf of himself and on behalf of all other persons similarly situated pursuant to Rule 23 of the Federal Rules of Civil Procedure.

72. The Class consists of (a) all individuals (b) with a New Jersey address (c) who were sent a letter from Portfolio in a form materially identical or substantially similar to letter attached as Exhibit A to the Complaint (d) which was not returned as undeliverable (e) on or after a date one year prior to the filing of this action and on or before a date 20 days after the filing of this action (f) where the letter stated in relevant part: “**DISPUTES**: Call 1-800-772-1413 or write to: Portfolio Recovery Associates, LLC, Disputes Department, 140 Corporate Blvd., Norfolk, VA 23502”.

73. The class definition above may be subsequently modified or refined.

74. The proposed class specifically excludes the United States of America, the states of the Third Circuit, counsel for the parties, the presiding United States District Court Judge, the Judges of the United States Court of Appeals for the Third Circuit and the United States Supreme Court.

75. 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:

- i. **Numerosity**: The Plaintiff is informed and believes and on that basis alleges, that the Plaintiff class defined above is so numerous that joinder of all members would be impracticable. Upon information and belief, based on the fact that the complaint involves a form collection letter, there are at least 40 members of the class. The exact number of class members is unknown to Plaintiff at this time and can be ascertained only through appropriate discovery. The class is ascertainable in that the names and addresses of all class members can be identified in business records maintained by the Defendant.
- ii. **Common Questions Predominate**: There exists a well-defined community of interest in the questions of law and fact involved that affect the parties to be represented. These common questions of law and fact predominate over questions that may affect individual class members. Such issues include, but are not limited to: (a) The existence of the Defendant's identical conduct particular to the matter at issue; (b) Defendant's violations of the FDCPA, specifically 15 U.S.C. §1692e and 15 U.S.C. §1692g; (c) The availability of statutory penalties; and (d) Attorneys' fees and costs.
- iii. **Typicality**: The claims of the Plaintiff are typical of those of the class they seek to represent. The claims of the Plaintiff and of each class member originate from the same conduct, practice, and procedure, on the part of the Defendant. Thus, if brought and prosecuted individually, the claims of each class member would require proof of the same material and

substantive facts. Plaintiff possesses the same interests and has suffered the same injuries as each class member. Plaintiff asserts identical claims and seeks identical relief on behalf of the unnamed class members.

- iv. **Adequacy**: Plaintiff will fairly and adequately protect the interests of each class and has no interest adverse to or which directly and irrevocably conflicts with the interests of other members of each class. Plaintiff is willing and prepared to serve this Court and the proposed class. The interests of the Plaintiff are co-extensive with and not antagonistic to those of the absent class members. Plaintiff has retained the services of counsel who are experienced in FDCPA litigation and will adequately prosecute this action, and will assert, protect and otherwise represent Plaintiff and all absent class members. Neither the Plaintiff nor their counsel have any interests which might cause them to not vigorously pursue the instant class action lawsuit.
- v. **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.

76. Certification of a class under Rule 23(b)(3) of the Federal Rules of Civil Procedure is appropriate in that the questions of law and fact common to members of each of the Plaintiff Class 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.

77. A class action is superior for the fair and efficient adjudication of this matter, in that:

- a. Individual actions are not economically feasible;
- b. Members of the class are likely to be unaware of their rights;
- c. Congress intended class actions to be the principal enforcement mechanism under the FDCA.

WHEREFORE, the Court should enter judgment in favor of Plaintiff and the class and against Defendant for:

1. An order certifying that Counts I & II may be maintained as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure and appointing Plaintiff and the undersigned counsel to represent the Plaintiff Class as previously set forth and defined above.
2. Adjudging that Portfolio violated 15 U.S.C. §§ 1692e, 1692e(10); 1692g, 1692g(a)(3), and 1692g(b).
3. An award of statutory damages for Joseph Pantiliano and the Plaintiff Class pursuant to 15 U.S.C. §1692k;
4. Attorney's fees, litigation expenses and costs of suit pursuant to 15 U.S.C. §1692k; and
5. Such other and further relief as the Court deems proper.

Dated: Floral Park, New York
March 16, 2018

/s/ Ryan Gentile
By: _____
Ryan Gentile, Esq.

Attorney for Plaintiff
110 Jericho Turnpike – Suite 100
Floral Park, NY 11001
Tel: (201) 873-7675
Fax: (212) 675-4367
rlg@lawgmf.com

NOTICE OF ASSIGNMENT

Please be advised that all rights relating to attorney's fees have been assigned to counsel.

The Law Offices of Gus Michael Farinella, PC

/s/ Ryan Gentile

By: _____
Ryan Gentile

EXHIBIT A



Portfolio Recovery Associates, LLC

Seller: CAPITAL ONE BANK (USA) N.A.
Original Creditor: HSBC BANK NEVADA N.A.
Original Creditor Address: 26525 N. RIVERWOODS BLVD, SUITE 100, METTAWA IL 60045
Creditor to Whom Debt is Owed: PORTFOLIO RECOVERY ASSOCIATES, LLC
Account Number: 4663090119319144
Current Balance: \$1,297.74

February 22, 2018

JOSEPH PANTILIANO,

Welcome to PORTFOLIO RECOVERY ASSOCIATES, LLC ("PRA, LLC")! We want to help you resolve this account, so call us at 1-800-772-1413 for low payment options. If paying off this debt is difficult for you please call anyway, because we have payment options for almost every budget.

PRA, LLC purchased account 4663090119319144 on 02/16/2018. All future payments for this account, including credit counseling service payments, should be directed to us.

**Call toll-free at 1-800-772-1413 to discuss payment arrangements.
 8 AM to 11 PM Mon.-Fri., 8 AM to 8 PM Sat., 11 AM to 10 PM Sun. (EST)
 Contact us at help@portfoliorecovery.com to communicate with us by e-mail.**

Various Payment Options Available Including:

Pay by Phone: ☎	Mail: ✉	Online: 💻
<ul style="list-style-type: none"> Authorize automatic withdrawals from your bank account Complete a debit card payment 	<ul style="list-style-type: none"> Complete the attached coupon Make all checks and payments to: PORTFOLIO RECOVERY ASSOCIATES, LLC P.O. Box 12914 Norfolk, VA 23541 	<ul style="list-style-type: none"> Complete a payment from your checking account Pay us online at: www.prapay.com

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice that you dispute the validity of this debt or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor if different from the current creditor.

**This communication is from a debt collector and is an attempt to collect a debt.
 Any information obtained will be used for that purpose.
 NOTICE: SEE REVERSE SIDE FOR IMPORTANT INFORMATION**



MAKE ALL CHECKS PAYABLE TO: PORTFOLIO RECOVERY ASSOCIATES, LLC
SEND ALL PAYMENTS TO: PORTFOLIO RECOVERY ASSOCIATES, LLC, P.O. Box 12914, Norfolk, VA 23541

COMPANY ADDRESS: PORTFOLIO RECOVERY ASSOCIATES, LLC, 120 Corporate Boulevard, Norfolk, VA 23502

DISPUTES: Call 1-800-772-1413 or write to: Portfolio Recovery Associates, LLC, Disputes Department, 140 Corporate Blvd., Norfolk, VA 23502

DISPUTES E-MAIL ADDRESS: PRA_Disputes@portfoliorecovery.com

QUALITY SERVICE AVAILABLE Mon. - Fri. 8 AM to 6 PM (EST)

Not happy with the way you were treated? Our company strives to provide professional and courteous service to all our customers. Contact one of our staff to discuss issues related to our quality of service to you by phone at 1-800-772-1413 or by e-mail at PRACustomerCare@portfoliorecovery.com.

PRIVACY NOTICE: We collect certain personal information about you from the following sources: (a) information we received from you; (b) information about your transactions with our affiliates, others, or us; (c) information we receive from consumer reporting agencies. We do not disclose any nonpublic personal information about our customers or former customers to anyone, except as permitted by law. We restrict access to nonpublic information about you to those ~~employees and entities that need to know that information in order to collect your account. We maintain physical, electronic~~ and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

NOTICE: If this account is eligible to be reported to the credit reporting agencies by our company, we are required by law to notify you that a negative credit report reflecting on your credit records may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit obligation.

We are required under state law to notify consumers of the following rights. This list does not include a complete list of rights consumers have under state and federal laws:

CALIFORNIA: The state Rosenthal Fair Debt Collection Practices Act and the federal Fair Debt Collection Practices Act require that, except under unusual circumstances, collectors may not contact you before 8 a.m. or after 9 p.m. They may not harass you by using threats of violence or arrest or by using obscene language. Collectors may not use false or misleading statements or call you at work if they know or have reason to know that you may not receive personal calls at work. For the most part, collectors may not tell another person, other than your attorney or spouse, about your debt. Collectors may contact another person to confirm your location or enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission at 1-877-FTC-HELP or www.ftc.gov. Nonprofit credit counseling services may be available in the area.

COLORADO: Office located at 4600 South Syracuse Street, Suite 966, Denver, CO 80237. Telephone 1-866-508-4751. FOR INFORMATION ABOUT THE COLORADO FAIR DEBT COLLECTION PRACTICES ACT, SEE WWW.COAG.GOV/CAR. A consumer has the right to request in writing that a debt collector or collection agency cease further communication with the consumer. A written request to cease communication will not prohibit the debt collector or collection agency from taking any other action authorized by law to collect the debt.

MAINE: Telephone number at licensed location is 1-800-772-1413. Hours of operation at licensed location are 8 AM to 11 PM Mon.-Fri., 8 AM to 8 PM Sat., 11 AM to 10 PM Sun. (EST).

MASSACHUSETTS: Office located at 49 Winter St., Weymouth, MA 02188. Telephone 1-800-772-1413. Hours of operation are 9 AM to 6 PM Monday through Thursday (EST). **NOTICE OF IMPORTANT RIGHTS:** You have the right to make a written or oral request that telephone calls regarding your debt not be made to you at your place of employment. Any such oral request will be valid for only ten days unless you provide written confirmation of the request postmarked or delivered within seven days of such request. You may terminate this request by writing to the debt collector.

NEW YORK CITY: City of New York License Numbers 1096994, 1394695, 1394697, 1394696, 1394698, 2045465, 2052875, 2061138, 2063671.

NORTH CAROLINA: Collection Agency Permit No. 4132.

TENNESSEE: This collection agency is licensed by the Tennessee Collection Service Board of the Department of Commerce and Insurance. (#00000770)

JS 44 (Rev. 06/17)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS Joseph Pantiliano, on behalf of himself and all others similarly situated (b) County of Residence of First Listed Plaintiff <u>Bergen</u> (EXCEPT IN U.S. PLAINTIFF CASES) (c) Attorneys (Firm Name, Address, and Telephone Number) Ryan Gentile, Esq. 201-873-7675 110 Jericho Turnpike - Suite 100 Floral Park, NY 11001	DEFENDANTS Portfolio Recovery Associates, LLC County of Residence of First Listed Defendant <u>N/A</u> (IN U.S. PLAINTIFF CASES ONLY) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED. Attorneys (If Known)
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II. BASIS OF JURISDICTION (Place an "X" in One Box Only) <input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 2 U.S. Government Defendant <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 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) (For Diversity Cases Only) <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:33%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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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 <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	TORTS 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 <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	FORFEITURE/PENALTY <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	BANKRUPTCY <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	OTHER STATUTES <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 checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input 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)

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from Another District (specify)	<input type="checkbox"/> 6 Multidistrict Litigation - Transfer	<input type="checkbox"/> 8 Multidistrict Litigation - Direct File
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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 et seq.

Brief description of cause:
Defendant's letter violated various provisions of the Fair Debt Collection Practices Act

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. **DEMAND \$** 50000 CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE _____ DOCKET NUMBER _____

DATE: 03/16/2018 SIGNATURE OF ATTORNEY OF RECORD: /s/ Ryan Gentile

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.

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Joseph Pantiliano, on behalf of himself and all others similarly situated

Plaintiff

Portfolio Recovery Associates, LLC

Defendant

)
)
)
)
)
)
)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 12/09) Summons in a Civil Action (Page 2)

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Portfolio Recovery Associates Facing Lawsuit Over Debt Dispute Instructions](#)
