

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

PHYLLIS SALTERS, on behalf of herself and all
others similarly situated,

Plaintiff(s),

-against-

ALLIANCE ONE RECEIVABLES
MANAGEMENT INC., and JOHN DOES 1-25,

Defendant(s).

Civil Case Number: _____

CIVIL ACTION

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

Plaintiff, PHYLLIS SALTERS, on behalf of herself and all others similarly situated (hereinafter "Plaintiff") by and through her undersigned attorney, alleges against the above-named Defendants, ALLIANCE ONE RECEIVABLES MANAGEMENT INC., (hereinafter "ARM") and JOHN DOES 1-25, collectively (hereinafter "Defendants") their employees, agents, and successors the following:

PRELIMINARY STATEMENT

1. Plaintiff brings this action for damages and declaratory and injunctive relief arising from the Defendants' violation of 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.

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) because jurisdiction is not founded solely on diversity of citizenship and one of the defendants resides in this jurisdiction.

DEFINITIONS

4. As used in reference to the FDCPA, the terms “creditor,” “consumer,” “debt,” and “debt collector” are defined in § 803 of the FDCPA and 15 U.S.C. § 1692a.

PARTIES

5. The FDCPA, 15 U.S.C. § 1692 *et seq.*, which prohibits certain debt collection practices provides for the initiation of court proceedings to enjoin violations of the FDCPA and to secure such equitable relief as may be appropriate in each case.

6. Plaintiff is a natural person and a resident of the County of Essex, State of New Jersey, and is a “Consumer” as defined by 15 U.S.C. § 1692a(3).

7. ARM is a foreign limited liability company with its executive offices located at 1160 Centre Pointe Drive, Suite 1, Mendota Heights, MN 55120.

8. Upon information and belief, ARM is primarily in the business of acquiring and/or collecting debts that are allegedly due to another and is therefore a “Debt Collector” as that term is defined by 15 U.S.C. §1692a(6).

9. John Does 1-25, are fictitious names of individuals and business alleged for the purpose of substituting names of defendants whose identities will be disclosed in discovery and should be made parties to this action.

CLASS ACTION ALLEGATIONS

10. 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 herself and all New Jersey

consumers and their successors in interest (the "Class"), who have received debt collection letters and/or notices from the Defendants which are in violation of the FDCPA, as described in this Complaint.

11. This Action is properly maintained as a class action. The Class consists of:

- All New Jersey consumers who received collection letters and/or notices from the Defendants that contained at least one of the alleged violations arising from the Defendants' violation of 15 U.S.C. § 1692 *et seq.*
- The Class period begins one year to the filing of this Action.

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

- 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 have received debt collection letters and/or notices from the Defendants that violate specific provisions of the FDCPA. Plaintiff is complaining of a standard form letter and/or notice that is sent to hundreds of persons;
- 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:

a. Whether the defendants violated various provisions of the FDCPA including but not limited to:

15 U.S.C. §§1692g(a)(1) and 1692e(10);

- b. Whether Plaintiff and the Class have been injured by the Defendants' conduct;
 - c. Whether Plaintiff and the Class have sustained damages and are entitled to restitution as a result of Defendants' wrongdoing and if so, what is the proper measure and appropriate statutory formula to be applied in determining such damages and restitution; and
 - d. Whether Plaintiff and the Class are entitled to declaratory and/or injunctive relief.
- Plaintiff's claims are typical of the Class, which all arise from the same operative facts and are based on the same legal theories.
 - Plaintiff has no interest adverse or antagonistic to the interest of the other members of the Class.
 - Plaintiff will fairly and adequately protect the interest of the Class and has retained experienced and competent attorneys to represent the Class.
 - 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.
 - 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. If Defendants' conduct is allowed to proceed without remedy they will continue to reap and retain the proceeds of their ill-gotten gains.

- 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.

STATEMENT OF FACTS

13. On or about October 27, 2008, ARM caused to be delivered to Plaintiff a collection letter addressed to Plaintiff. Upon receipt Plaintiff read said letter. Said letter demanded payment of \$883.33, on account GIA539, for debt allegedly owed to Capital One Bank (USA), N.A. A copy of said letter is annexed hereto as **Exhibit A.**

14. On or about December 12, 2008, ARM caused to be delivered to Plaintiff a collection letter addressed to Plaintiff. Upon receipt Plaintiff read said letter. Said letter demanded payment of \$921.50, on account GIA539, for debt allegedly owed to Capital One Bank (USA), N.A., A copy of said letter is annexed hereto as **Exhibit B.**

15. On or about January 19, 2009, ARM caused to be delivered to Plaintiff a collection letter addressed to Plaintiff. Upon receipt Plaintiff read said letter. Said letter demanded payment of \$940.90, on account GIA539, for debt allegedly owed to Capital One Bank (USA), N.A., A copy of said letter is annexed hereto as **Exhibit C.**

16. On or about February 20, 2009, ARM caused to be delivered to Plaintiff a collection letter addressed to Plaintiff. Upon receipt Plaintiff read said letter. Said letter

demanded payment of \$960.30, on account GIA539, for debt allegedly owed to Capital One Bank (USA), N.A., A copy of said letter is annexed hereto as **Exhibit D.**

COUNT I

**FAIR DEBT COLLECTION PRACTICES ACT 15 U.S.C. § 1692
VIOLATION OF 15 U.S.C. § 1692g et seq.**

17. Plaintiff repeats the allegations contained in paragraphs 1 through 16 as if the same were set forth at length.

18. Collection letters and/or notices such as those sent by Defendants, are to be evaluated by the objective standard of the hypothetical “least sophisticated consumer.”

19. Section 1692g of the FDCPA requires the debt collector to give what is commonly referred to as a thirty-day (30) notice within five (5) days of its communication with the consumer.

20. Section 1692g(a)(1) of the FDCPA requires the debt collector to:

“Within five days after the initial communication with a consumer in connection with the collection of any debt... send the consumer a written notice containing --- the amount of the debt.”

21. Defendants violated Section 1692g(a)(1) of the FDCPA by failing to inform Plaintiff in its initial communication of October 27, 2008, that the amount of the debt was subject to increase due to interest continuing to accrue on the unpaid principal balance. See **Exhibit A.**

22. Plaintiff suffered damages when defendants failed to provide language in the initial communication, informing Plaintiff that the amount of the alleged debt could increase over time due to the interest continuing to accrue on the unpaid principal balance.

23. By reason thereof, Defendants are liable to Plaintiff for declaratory judgment that Defendants’ conduct violated Section 1692g *et seq.* of the FDCPA, actual damages, statutory

damages, costs and attorney's fees.

COUNT II

**FAIR DEBT COLLECTION PRACTICES ACT 15 U.S.C. § 1692
VIOLATION OF 15 U.S.C. § 1692e(10)**

24. Plaintiff repeats the allegations contained in paragraphs 1 through 25 as if the same were here set forth at length.

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

26. Defendants violated Section 1692e(10) by falsely stated the amount of the alleged debt.

27. Plaintiff suffered damages when Defendants falsely stated the amount of the alleged debt in the initial communication, which she read upon receipt.

28. By reason thereof, Defendants are liable to Plaintiff for declaratory judgment that Defendants' conduct violated Section 1692e(10) of the FDCPA, actual damages, statutory damages, costs and attorney's fees.

WHEREFORE, Plaintiff demands judgment against Defendants as follows:

(a) Declaring that this action is properly maintainable as a Class Action and certifying Plaintiff as Class representative and, Joseph K. Jones, Esq., as Class Counsel;

(b) Issuing a preliminary and/or permanent injunction restraining Defendants, their employees, agents and successors from, *inter alia*, engaging in conduct and practices that are in violation of the FDCPA;

(c) Issuing a declaratory Order requiring Defendants to make corrective disclosures;

(d) Awarding Plaintiff and the Class statutory damages;

(e) Awarding Plaintiff costs of this Action, including reasonable attorney's fees and expenses; and

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

Dated: Fairfield, New Jersey
June 8, 2009

s/ Joseph K. Jones

Joseph K. Jones, Esq. (JJ5509)
Law Offices of Joseph K. Jones, LLC
375 Passaic Avenue, Suite 100
Fairfield, New Jersey 07004
(973) 227-5900 telephone
(973) 244-0019 facsimile
jkj@legaljones.com

DEMAND FOR TRIAL BY JURY

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

s/ Joseph K. Jones
Joseph K. Jones, Esq. (JJ5509)

CERTIFICATION PURSUANT TO LOCAL RULE 11.2

I, Joseph K. Jones, the undersigned attorney of record for Plaintiff, do hereby certify to my own knowledge and based upon information available to me at my office, the matter in controversy is not the subject of any other action now pending in any court or in any arbitration or administrative proceeding.

Dated: June 8, 2009

s/ Joseph K. Jones
Joseph K. Jones, Esq. (JJ5509)

Exhibit

A



1160 Centre Pointe Drive, Suite #1
Mendota Heights, MN 55120

↑ Please send all correspondence to the above address

Telephone : 1-800-279-3480
Oct 27, 2008

Name : PHYLLIS SALTERS
Account Number : GIA539 PIN : 8674
Client Reference Number : 5178052464545249
Client : CAPITAL ONE BANK (USA), N.A.

Fax 651-255-2197

Your account has been referred to our office for Collections.

If this has been an oversight on your behalf, mail the balance in full to our office. If you are experiencing financial difficulties, call our office and a representative will assist you in negotiating a suitable arrangement.

Telephone 1-800-279-3480

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 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. This is an attempt to collect a debt, and any information obtained will be used for that purpose.

✂ Detach Bottom Portion And Return With Payment ✂



P.O. BOX 510477
LIVONIA MI 48151-6477
RETURN SERVICE REQUESTED

↑ Mail return address only; send no letters

S-SDAMFC10 L-001 A-GIA539 O-001
P0MWUZ00200360 I00361

PHYLLIS SALTERS
16 ECKERT AVE # 2
NEWARK NJ 07112-2102



To contact us regarding your account, call:
1-800-279-3480



Regarding		
CAPITAL ONE BANK (USA), N.A.		
Client Reference Number	Account Number	Amount
5178052464545249	GIA539	\$ 883.33

ALLIANCEONE RECEIVABLES MANAGEMENT INC.
PO BOX 211128
EAGAN, MN 55121-1128



Daytime Phone # _____
Evening Phone # _____

Amount Paid: \$

↑ Please make check or money order payable to:
[] [] [] [] [] . [] []

Exhibit

B



1160 Centre Pointe Drive, Suite #100
Mendota Heights, MN 55120

↑ Please send all correspondence to the above address

Telephone : 1-800-279-3480
Dec 12, 2008

Name : PHYLLIS SALTERS
Account Number : GIA539 PIN : 8674
Client Reference Number : 5178052464545249
Client : CAPITAL ONE BANK (USA), N.A.

Dear PHYLLIS SALTERS,

YOUR ACCOUNT MAY BE ELIGIBLE FOR LEGAL ACTION.

You have not resolved your bill.

We are willing to offer you an opportunity to settle your account for 85% of the current balance. For accounting purposes, the settlement amount must be in our office no later than 10 days from the date of this letter or the offer is void. If you wish to make an offer after that time, please call us. Upon timely arrival and clearing of funds your account will be closed as settled with no further obligation to this debt.

Send certified funds overnight delivery to:

ALLIANCEONE RECEIVABLES MANAGEMENT INC.
1160 CENTRE POINTE DRIVE
MENDOTA HEIGHTS, MN 55120

Take action now! If the payment is not received within 10 days of the date on this letter, the offer is void and the account may be forwarded to Capital One's attorney network for possible legal action. NO DECISION HAS BEEN MADE AS TO WHETHER LEGAL ACTION WILL BE TAKEN; THAT DECISION CAN BE MADE ONLY BY AN ATTORNEY; NO ATTORNEY HAS YET REVIEWED YOUR ACCOUNT.

If you have any questions or require additional information, please contact us at 1-800-279-3480. Your prompt attention in this matter is appreciated.

Sincerely,
AllianceOne Receivables Management Inc.

This communication is from a debt collector. This is an attempt to collect a debt, and any information obtained will be used for that purpose.

✂ Detach Bottom Portion And Return With Payment ✂



P.O. BOX 510477
LIVONIA MI 48151-6477
RETURN SERVICE REQUESTED

↑ Mail return address only; send no letters

S-SDAMFC10 L-063 A-GIA539 O-001
P002TJ00204302 I04570

PHYLLIS SALTERS
16 ECKERT AVE # 2
NEWARK NJ 07112-2102



To contact us regarding your account, call:
1-800-279-3480



Regarding		
CAPITAL ONE BANK (USA), N.A.		
Client Reference Number	Account Number	Amount
5178052464545249	GIA539	\$ 921.50

ALLIANCEONE RECEIVABLES MANAGEMENT INC.
PO BOX 211128
EAGAN, MN 55121-1128



Daytime Phone # _____
Evening Phone # _____

↑ Please make check or money order payable to:

Amount Paid: \$.

Exhibit

C



1160 Centre Pointe Drive, Suite #100
Mendota Heights, MN 55120

↑ Please send all correspondence to the above address

Telephone : 1-800-279-3480

Jan 19, 2009

Name : PHYLLIS SALTERS

Account Number : GIA539

PIN : 8674

Client Reference Number : 5178052464545249

Client : CAPITAL ONE BANK (USA), N.A.

Dear PHYLLIS SALTERS,

YOUR ACCOUNT MAY BE ELIGIBLE FOR LEGAL ACTION.

You have not resolved your bill.

We are willing to offer you an opportunity to settle your account for **70%** of the current balance. For accounting purposes, the settlement amount must be in our office no later than 10 days from the date of this letter or the offer is void. If you wish to make an offer after that time, please call us. Upon timely arrival and clearing of funds your account will be closed as settled with no further obligation to this debt.

Send certified funds overnight delivery to:

ALLIANCEONE RECEIVABLES MANAGEMENT INC.
1160 CENTRE POINTE DRIVE
MENDOTA HEIGHTS, MN 55120

Take action now! If the payment is not received within 10 days of the date on this letter, the offer is void and the account may be forwarded to Capital One's attorney network for possible legal action. NO DECISION HAS BEEN MADE AS TO WHETHER LEGAL ACTION WILL BE TAKEN; THAT DECISION CAN BE MADE ONLY BY AN ATTORNEY; NO ATTORNEY HAS YET REVIEWED YOUR ACCOUNT.

If you have any questions or require additional information, please contact us at 1-800-279-3480. Your prompt attention in this matter is appreciated.

Sincerely,
AllianceOne Receivables Management Inc.

This communication is from a debt collector. This is an attempt to collect a debt, and any information obtained will be used for that purpose.

✂ Detach Bottom Portion And Return With Payment ✂



P.O. BOX 510477
LIVONIA MI 48151-6477
RETURN SERVICE REQUESTED

↑ Mail return address only; send no letters

S-SDAMFC10 L-062 A-GIA539 O-001
P00ZGF00213115 I13117

PHYLLIS SALTERS
16 ECKERT AVE # 2
NEWARK NJ 07112-2102



To contact us regarding your account, call:
1-800-279-3480



Regarding		
CAPITAL ONE BANK (USA), N.A.		
Client Reference Number	Account Number	Amount
5178052464545249	GIA539	\$ 940.90

ALLIANCEONE RECEIVABLES MANAGEMENT INC.
PO BOX 211128
EAGAN, MN 55121-1128



↑ Please make check or money order payable to:

Amount Paid: \$

_____.____

Daytime Phone # _____
Evening Phone # _____

Exhibit

D

↑ Please send all correspondence to the above address

Telephone : 1-800-279-3480
Feb 20, 2009

Name : PHYLLIS SALTERS
Account Number : GIA539 PIN : 8674
Client Reference Number : 5178052464545249
Client : CAPITAL ONE BANK (USA), N.A.

Our Client, CAPITAL ONE BANK (USA), N.A., has retained us to work with you to help you to repay your account. We understand you didn't mean to fall behind on your payments, but it seems that you have.

IT'S TAX RETURN TIME! You will soon be filing your tax return. This is an excellent time for you to make arrangements to clear your account.

We know you may have other creditors competing for your tax return dollars. In order to assist you in committing those dollars to pay our client's account, we are prepared to **OFFER YOU A DEEP SETTLEMENT** to substantially reduce the balance of your outstanding account.

Don't miss out! As long as you haven't yet made other arrangements to repay this debt, you are eligible for this settlement offer. **Just call toll free, 1-800-279-3480.** Don't put it off. Call today!

This communication is from a debt collector. This is an attempt to collect a debt, and any information obtained will be used for that purpose.

✂ Detach Bottom Portion And Return With Payment ✂



P.O. BOX 510477
LIVONIA MI 48151-6477
RETURN SERVICE REQUESTED

↑ Mail return address only; send no letters

S-SDAMFC10 L-047 A-GIA539 O-001
POPUEM00609465 I09470

PHYLLIS SALTERS
16 ECKERT AVE # 2
NEWARK NJ 07112-2102



To contact us regarding your account, call:
1-800-279-3480



Regarding		
CAPITAL ONE BANK (USA), N.A.		
Client Reference Number	Account Number	Amount
5178052464545249	GIA539	\$ 960.30

ALLIANCEONE RECEIVABLES MANAGEMENT INC.
PO BOX 211128
EAGAN, MN 55121-1128



Daytime Phone # _____
Evening Phone # _____

↑ Please make check or money order payable to:

Amount Paid: \$

_____ . _____