

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

<p>JAMES EVERETT SHELTON, individually, and on behalf of all others similarly situated,</p> <p style="padding-left: 40px;">Plaintiff,</p> <p style="padding-left: 40px;">v.</p> <p>COMCAST CORPORATION and COMCAST CABLE COMMUNICATIONS, LLC</p> <p style="padding-left: 40px;">Defendants.</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>Civil Action No.</p> <p>COMPLAINT – CLASS ACTION</p>
--	--	---

Plaintiff James Everett Shelton (“Plaintiff”), on behalf of himself and all other similarly situated individuals alleges the following claims against Defendants Comcast Corporation and Comcast Cable Communications, LLC (collectively “Comcast”), for violations of the Fair Credit Reporting Act, 15 U.S.C. § 1681, *et seq.* (“FCRA”).

PRELIMINARY STATEMENT

1. This class action seeks remedies under the FCRA against Comcast on behalf of consumers whose credit reports were procured by Comcast without a permissible purpose or consent after receiving telephone solicitations from Comcast. Comcast consciously engaged in this conduct as a matter of practice to surreptitiously obtain consumer’s credit reports without their knowledge resulting in an invasion of privacy to consumers and harm to their credit reputation and scores.

THE PARTIES

2. Plaintiff is an adult individual residing in King of Prussia, Pennsylvania.

3. Defendant Comcast Corporation is a Delaware corporation with its principal place of business in Philadelphia, PA.

4. Defendant Comcast Cable Communications, LLC is a Delaware corporation with its principal place of business in Philadelphia, PA and is a wholly owned subsidiary of Comcast Corporation.

JURISDICTION & VENUE

1. This Court possesses federal question jurisdiction pursuant to 28 U.S.C. §1331 as this matter is an action arising under the laws of the United States.

2. Venue is proper in this district pursuant to 28 U.S.C. §1391(b)(1) & (2) because a substantial part of the events or omissions giving rise to this action occurred in the Eastern District of Pennsylvania, and Defendants possess sufficient contacts with this District to be deemed to reside in this District.

FACTUAL ALLEGATIONS

5. On or about June 22, 2018, Comcast contacted Plaintiff via telephone in an attempt to solicit Plaintiff to purchase services through Comcast.

6. During the call, Plaintiff was never advised that Comcast desired to review his credit report, nor did Plaintiff consent in any respect to have his credit report accessed and reviewed by Comcast.

7. Notwithstanding the above, Plaintiff was then shocked to learn that Comcast had initiated an inquiry to access his Equifax credit report without his consent or knowledge.

8. On or about June 27, 2018, Plaintiff contacted Comcast to advise that he never consented to have his credit report accessed by Comcast, and demanded that Comcast request removal of the June 22nd hard inquiry from Plaintiff's Equifax credit file.

9. Comcast, however, not only failed to request removal of the initial inquiry from June 22nd, it consciously initiated a second hard inquiry of Plaintiff's Equifax credit report on June 27th.

10. In both instances, Comcast falsely certified that it was inquiring into Plaintiff's credit report for an extension of credit when no such permissible purpose existed, and Plaintiff had not otherwise consented to the review of his credit report.

11. Comcast as such had no lawful purpose for accessing Plaintiff's consumer report.

12. Comcast's actions resulted in a severe invasion of Plaintiff's privacy and caused harm to Plaintiff's credit reputation and score.

13. Comcast routinely and systematically obtains credit reports of consumer during telephone solicitations with no permissible purpose or written consent, resulting in unlawful credit inquiries on these consumers.

14. Comcast further has received complaints and had previous legal actions filed against it for the same transgressions, but Comcast nonetheless continues its practice of illegally procuring consumer reports in violation of the FCRA.

15. At all times pertinent hereto, Comcast was acting by and through its affiliates, subsidiaries, 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 Comcast.

16. At all times pertinent hereto, the conduct of Comcast, as well as that of its affiliates, subsidiaries, agents, servants and/or employees, was intentional, willful, reckless, and in grossly negligent disregard of the FCRA and the rights of Plaintiff.

17. As a result of Comcast's conduct, Plaintiff and members of the Putative Class have suffered concrete injuries including but not limited to: invasion of privacy, informational injuries,

and harm to credit reputation and score, increased risk of identity theft, and consequential anxiety and emotional distress.

CLASS ACTION ALLEGATIONS

18. Pursuant to FED. R. CIV. P. 23, Plaintiff brings this action on behalf of the Class initially defined below:

All natural persons residing in the United States, who received a telephone solicitation from Comcast, whose consumer reports displays an inquiry by Comcast and for which Comcast has no open account or record of an application for an account within the last five years.

19. Excluded from the class are Comcast and any entities in which Comcast has a controlling interest, Comcast's agents and employees, the Judge to whom this action is assigned and any member of the Judge's staff and immediate family.

20. Plaintiff reserves the right to amend the definition of the Class based on discovery or legal developments.

21. **Numerosity.** The members of the Putative Class are so numerous that the individual joinder of all of its members is impracticable. Upon information and belief, Comcast has performed thousands of impermissible inquiries of consumer's credit reports in connection with telephone solicitations each year, and those persons' names and addresses are identifiable through documents maintained by Comcast. While the exact number and identities of the members of the Putative Class are unknown to Plaintiff at this time, this information can be ascertained through appropriate discovery.

22. **Commonality.** Common questions of law and fact exist as to all members of the Putative Class and predominate over any questions solely affecting individual members of the Putative Class, including but not limited to: whether Comcast obtained consumer reports without

a permissible purpose in violation of the FCRA and whether Comcast acted willfully or negligently in disregard of the rights of consumers.

23. **Typicality.** Plaintiff's claims are typical of the claims of each Class member. Plaintiff has the same or similar claims for statutory and punitive damages that he seeks for absent class members.

24. **Adequacy.** Plaintiff is an adequate representative of the Putative Class. Plaintiff's interests are aligned with and are not antagonistic to the interests of the members of the Putative Class. Plaintiff has retained competent and experienced counsel in such litigation, and he intends to prosecute this action vigorously. Plaintiff and his counsel will fairly and adequately protect the interests of members of the Class.

25. **Predominance & Superiority.** Questions of law and fact common to the Class members predominate over questions affecting only individual members, and a class action is superior to other available methods for fair and efficient adjudication of the controversy. The statutory and punitive damages sought by each member are such that individual prosecution would prove burdensome and expensive given the complex and extensive litigation necessitated by Comcast's conduct. Even if the members of the Class themselves could afford such individual litigation, it would be an unnecessary burden on the courts. Furthermore, individualized litigation presents a potential for inconsistent or contradictory judgments and increases the delay and expense to all parties and to the court system presented by the complex legal and factual issues raised by the Comcast's conduct. By contrast, the class action device will result in substantial benefits to the litigants and the Court by allowing the Court to resolve numerous individual claims based upon a single set of proofs in a unified proceeding.

COUNT I – CLASS CLAIM
VIOLATIONS OF THE FCRA

26. Plaintiff incorporates by reference the preceding paragraphs as if fully set forth herein.

27. Comcast's conduct occurring on June 22, 2018 as described above violates 15 U.S.C. § 1681b(f) by obtaining a consumer report knowingly and recklessly without a permissible purpose and without authorization from Plaintiff and the Class members.

28. The foregoing violations were willful. Comcast knew or should have known that it was not authorized to request Plaintiff's and the Class members' credit reports and acted in deliberate or reckless disregard of its obligations and the rights of Plaintiff and other Class members.

29. Plaintiff and the Class are entitled to statutory damages pursuant to 15 U.S.C. § 1681n(a)(1)(A).

30. Plaintiff and the Class are entitled to punitive damages for these violations pursuant to 15 U.S.C. § 1681n(a)(2).

31. Plaintiff and the Class are further entitled to recover their costs and attorney's fees, pursuant to 15 U.S.C. § 1681n(a)(3).

32. Alternatively, Comcast's violations were negligent and Plaintiff seeks issue certification based on Comcast's negligence under Fed. R. Civ. P. 23(c)(4).

**COUNT II – PLAINTIFF INDIVIDUALLY
VIOLATIONS OF THE FCRA**

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

34. Comcast's conduct occurring on June 27, 2018 as described above violates 15 U.S.C. § 1681b(f) by obtaining a consumer report knowingly without a permissible purpose and without authorization from Plaintiff and the Class members.

35. Pursuant to 15 U.S.C. § 1681n and 15 U.S.C. § 1681o, Comcast is liable to Plaintiff for willfully and negligently failing to comply with the requirements imposed on users of consumer reports pursuant to 15 U.S.C. § 1681b(f) as set forth above.

36. The conduct of Comcast is a direct and proximate cause, as well as a substantial factor, in bringing about the serious injuries, actual damages and harm to the Plaintiff that are outlined more fully above and, as a result, Comcast is liable to the Plaintiff for the full amount of statutory, actual and punitive damages, along with the attorneys' fees and the costs of litigation, as well as such further relief, as may be permitted by law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of himself and the Putative Class, prays for relief as follows:

- A. An order certifying the proposed class as to Count I herein pursuant to Fed. R. Civ. P. 23 and appointing the undersigned as class counsel;
- B. Judgment against Comcast as to Count I for statutory and punitive damages pursuant to 15 U.S.C. § 1681n;
- C. Alternatively, in accordance with Fed. R. Civ. P. 23(c)(4), an order certifying the Class as to Count I on the issue that Comcast's conduct was negligent pursuant to 15 U.S.C. § 1681o;

- D. Judgment against Comcast as to Count II for statutory, actual and punitive damages, pursuant to 15 U.S.C. §§ 1681n and 1681o.
- E. Attorneys' fees, expenses and costs; and
- F. Such other relief as may be just and proper.

JURY DEMAND

Plaintiff hereby demands a trial by jury as to all issues so triable.

Respectfully Submitted,

GORSKI LAW, PLLC

BY: /s/ Gregory Gorski
GREGORY GORSKI, ESQUIRE
1635 Market Street, Suite 1600
Philadelphia, PA 19103
(215) 330-2100

Attorneys for Plaintiff

Dated: April 2, 2020

CIVIL COVER SHEET

JS 44 (Rev. 02/19)

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

James Everett Shelton, individually, and on behalf of all others similarly situated,

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

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

Gregory Gorski, Esq., Gorski Law PLLC, 215-330-2100
1635 Market Street, Suite 1600, Philadelphia, PA 19103

DEFENDANTS

Comcast Corporatation, et al.

County of Residence of First Listed Defendant Philadelphia
(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	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<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))	<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"/> 485 Telephone Consumer Protection Act <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	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	FEDERAL TAX SUITS
<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	<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	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	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <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	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

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 et seq.

Brief description of cause:
Fair Credit Reporting Act

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 04/02/2020 SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

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: 316 Covered Bridge Road, King of Prussia, PA 19406

Address of Defendant: Comcast Center, 1701 JFK Boulevard, Philadelphia, PA 19103

Place of Accident, Incident or Transaction: _____

RELATED CASE, IF ANY:

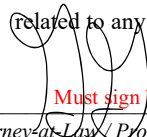
Case Number: _____ Judge: _____ Date Terminated: _____

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 checked="" type="checkbox"/> |

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

DATE: 04/02/2020


 Must sign here
 Attorney-at-Law / Pro Se Plaintiff

91365
 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, 15 U.S.C. § 1681

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, Gregory Gorski, 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: 04/02/2020


 Sign here if applicable
 Attorney-at-Law / Pro Se Plaintiff

91365
 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.

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

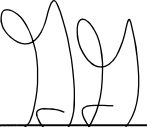
CASE MANAGEMENT TRACK DESIGNATION FORM

James Everett Shelton, individually, and on	:	CIVIL ACTION
behalf of all others similarly situated,	:	
v.	:	
	:	
Comcast Corporation, et al.	:	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>04/02/2020</u>	 _____ Attorney-at-law	<u>Gregory Gorski, Esquire</u> _____ Attorney for Plaintiff
<u>(215) 330-2100</u>	<u>(215) 893-8904</u> _____ FAX Number	<u>greg@greggorskilaw.com</u> _____ E-Mail Address
Telephone		