

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**  
 Javier Guzman, individually and on behalf of all others similarly situated

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

**(c)** Attorneys (Firm Name, Address, and Telephone Number)  
 Cary L. Flitter, Esq., Andrew Milz, Esq., Jody López-Jacobs, Esq.  
 Flitter Milz, P.C., 450 N. Narberth Avenue, Narberth, PA 19072, (610) 266-7863

**DEFENDANTS**  
 Escallate, LLC

County of Residence of First Listed Defendant \_\_\_\_\_  
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

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	REMEDIAL/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	<b>PERSONAL INJURY</b> <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	<b>PERSONAL INJURY</b> <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 <b>PERSONAL PROPERTY</b> <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 <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"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <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"/> 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	PROPERTY RIGHTS	
<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	<b>Habens Corpus:</b> <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 <b>Other:</b> <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"/> 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"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark	
FEDERAL TAX SUITS	IMMIGRATION				
<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions				

**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

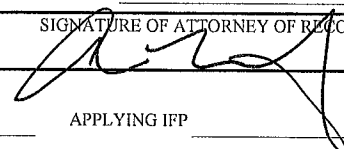
**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
15 U.S.C. § 1692

Brief description of cause:  
Violation of Fair Debt Collection Practices 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 12/13/17    SIGNATURE OF ATTORNEY OF RECORD 

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_    AMOUNT \_\_\_\_\_    APPLYING IFP \_\_\_\_\_    JUDGE \_\_\_\_\_    MAG. JUDGE \_\_\_\_\_

APPENDIX I

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

CASE MANAGEMENT TRACK DESIGNATION FORM

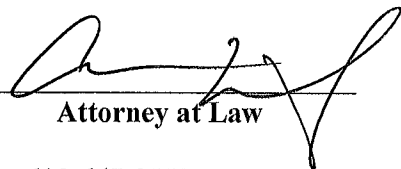
JAVIER GUZMAN, individually & on behalf of all others : CIVIL ACTION  
similarly situated :  
v. :  
ESCALLATE, LLC : NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. §2241 through §2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 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. ( )

12/13/17  
Date

  
Attorney at Law

Andrew M. Milz  
Attorney for Plaintiff

610-822-0781  
Telephone  
(Civ.660) 10/02

610-667-0552  
Fax Number

amilz@consumerslaw.com  
E-Mail Address

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 12521 Biscayne Drive, Philadelphia, PA 19154

Address of Defendant: 50 West Broad Street, Ste 1330, Columbus, OH 43215

Place of Accident, Incident or Transaction: Philadelphia, PA 19154

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes  No

Does this case involve multidistrict litigation possibilities?

Yes  No

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  No
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  No
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 in this court?  
Yes  No
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  No

CIVIL: (Place  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 Debt Collection Practices 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

(Check Appropriate Category)

I, ANDREW M. MILZ, counsel of record do hereby certify:

Pursuant to Local Civil Rule 53.2, Section 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: 12/13/17

[Signature]  
Attorney-at-Law

207715

Attorney I.D.#

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

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

DATE: 12/13/17

[Signature]  
Attorney-at-Law

207715  
Attorney I.D.#

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

JAVIER GUZMAN, *individually and on  
behalf of all others similarly situated*  
12521 Biscayne Drive  
Philadelphia, PA 19154

Plaintiff

vs.

ESCALLATE, LLC  
50 West Broad Street, Suite 1330  
Columbus, OH 43215

Defendant

CIVIL ACTION

NO.

**CLASS ACTION COMPLAINT**

**I. INTRODUCTION**

1. The FDCPA prohibits debt collectors from engaging in deceptive and unfair practices in the collection of a consumer debt.

2. Consistent with Congress's privacy concerns, the FDCPA prohibits debt collectors from including "any language or symbol," except the debt collector's address and, in some cases, business name, "on any envelope." 15 U.S.C. § 1692f(8).

3. Defendant mailed to Plaintiff and the putative class of Philadelphia consumers collection correspondence bearing a bar code symbol. When scanned, the bar code reveals personal identifying information.

4. Defendant is subject to strict liability for sending a collection letter which violates the provisions of the FDCPA.

**II. JURISDICTION**

5. Jurisdiction arises under 15 U.S.C. § 1692k, and 28 U.S.C. § 1331.

**III. PARTIES**

6. Plaintiff Javier Guzman (“Plaintiff”) is a consumer who resides in Philadelphia, Pennsylvania at the address captioned.

7. Defendant Escallate, LLC (“Escallate”) is an Ohio collection firm, which has an office for the regular transaction of business at the address captioned.

8. Defendant regularly engages in the collection of consumer debts in the Eastern District of Pennsylvania using the mails and telephone.

9. Defendant regularly attempts to collect consumer debts alleged to be due another.

10. Defendant is a “debt collector” as that term is contemplated in the FDCPA, 15 U.S.C. § 1692a(6).

**IV. STATEMENT OF CLAIM**

11. On or about January 27, 2017, Escallate sent a collection letter to Plaintiff. The letter was addressed to “Javier Guzman” at the address captioned above. The letter was an effort to collect on a consumer debt. *See Exhibit A, attached.*

12. On the front of the envelope is a bar code that can be readily scanned. When scanned, the consumer’s account number is revealed. *See id.*

13. 15 U.S.C. § 1692f(8) prohibits a collector from:

“Using any language or symbol, other than the debt collector’s address, on any envelope when communicating with a consumer by use of the mails or telegram, except that a debt collector may use his business name if such name does not indicate that he is in the debt collection business.”

14. The collection envelope utilized by Escallate displayed a symbol which conveyed private information, thereby violating this provision of the Act.

V. **CLASS ALLEGATIONS**

15. Plaintiff brings this action on his own behalf and on behalf of a class designated pursuant to Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure.

16. Plaintiff proposes to define the class (the “Class”) as:

- a. All persons with addresses within the City of Philadelphia;
- b. who were sent one or more collection letter(s) from Defendant Escallate;
- c. attempting to collect a consumer debt;
- d. where the envelope displayed a bar code symbol on or visible through the window of the envelope that, when scanned, reveals the addressee’s account number;
- e. where the letter(s) bears a send date December 13, 2016 through December 13, 2017.

17. The Class is believed to be so numerous that joinder of all members is impractical. This Complaint concerns mass-produced form collection letters.

18. There are questions of law or fact common to the Class. These include:

- a. Whether Defendant used any language or symbol on envelopes sent to consumers that reveal information other than the debt collector’s address;
- b. Whether the presence of a bar code used on Defendant’s collection correspondence violates § 1692f; and,
- c. Whether and what amount of statutory damages are recoverable by Plaintiff and the class for Defendant’s violation.

19. Plaintiff’s claims are typical of the claims of the Class. All are based on the same factual and legal theories, and there are no individualized issues.

20. Plaintiff will fairly and adequately protect the interests of the Class. Plaintiff has no interests antagonistic to those of the class and Plaintiffs' counsel is competent and experienced in consumer credit cases and class actions.

21. The questions of law or fact common to the Class predominate over any questions affecting only individual members, and a class action is superior to other available methods for the fair and efficient adjudication of this controversy. The Class members are consumer debtors, who may be unable to locate or afford to hire lawyers. Most are probably unaware that their rights, and the FDCPA, have been violated.

22. The Class may be certified under Fed. R. Civ. P. 23(b)(3), as such represents a superior method for the fair and efficient adjudication of this controversy in that:

- a. Congress specifically contemplated FDCPA class actions as a principal means of enforcing the statute by private attorneys general. 15 U.S.C. § 1692k.
- b. The interest of Class members in individually controlling the prosecution of separate claims against debt collectors is small because the maximum statutory damages available in an individual action under the Act is \$1,000.00.
- c. This class action covering consumers within the geographic boundaries of the city of Philadelphia is likely to be easily manageable.

**VI. COUNT I - FAIR DEBT COLLECTION PRACTICES ACT**

23. Plaintiff repeats the allegations contained above as if the same were here set forth at length.

24. Defendant Escallate's collection tactics which entail use of the collection letter envelopes as described violates the provisions of the FDCPA, 15 U.S.C. § 1692f(8).

**WHEREFORE**, Plaintiff Javier Guzman asks that this matter be certified as a class action and demands judgment against Defendant Escallate, LLC. for:

(a) Awarding damages to Plaintiff and to the Class as provided in 15 U.S.C. § 1692k(a);

(b) Awarding Plaintiff and the Class their costs and reasonable attorney's fees; and

(c) Granting such other relief as may be deemed just and proper.

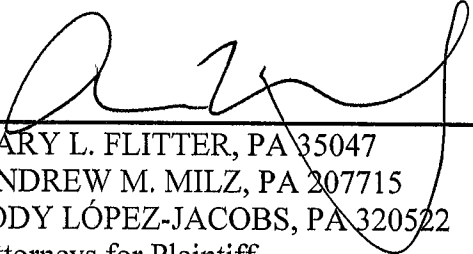
**VII. DEMAND FOR JURY TRIAL**

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

Respectfully submitted:

Date:

12/13/17

  
\_\_\_\_\_  
CARY L. FLITTER, PA 35047  
ANDREW M. MILZ, PA 207715  
JODY LÓPEZ-JACOBS, PA 320522  
Attorneys for Plaintiff

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Narberth, PA 19072  
(610) 822-0782  
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[amilz@consumerslaw.com](mailto:amilz@consumerslaw.com)  
[jlopez-jacobs@consumerslaw.com](mailto:jlopez-jacobs@consumerslaw.com)



Exhibit "A"

# ESCALLATE LLC

Toll Free: 866-449-8832  
Fax: (330) 232-8168

www.paypastdue.com

24 Hour Tele-Pay:  
(877) 237-7788

Provider/Creditor:	AHN ER GROUP INDIANA CNTY, LTD	Account Nbr:	076
Location:	INDIANA REGIONAL MEDICAL CNTR	Purchase/Service Date:	10-13-16
Amount Assigned:	\$	Patient name:	JAVIER GUZMAN
Accrued Interest:	\$0.00		
Balance Due:	\$		

Dear JAVIER GUZMAN

This letter has been sent to you by Escallate, LLC a collection agency. 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.

The account shown above has been listed with our office for collection.

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 of 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.

If you have not contacted Escallate within 30 days after receiving this notice to dispute the validity of this debt and if your total debt is \$50.00 or more, you are hereby notified that a negative credit report may be submitted to national credit reporting agencies if you fail to fulfill the terms of your credit obligations.

You may be charged a \$20.00 Non-Sufficient Funds Fee for any payment that is not honored because sufficient funds are not available in the account on which the payment was drawn.

Open Monday through Friday 9:00 a.m. EST - 6:00 p.m. EST  
SEND ONLY PAYMENTS TO: ESCALLATE, LLC. • PO BOX 845425 • CINCINNATI OH 45264-5425  
ALL OTHER MAIL TO: ESCALLATE, LLC. • 5200 STONEHAM RD STE 200 • NORTH CANTON OH 44720

DEPT 101A  
PO BOX 3521  
AKRON OH 44309-3521  
ADDRESS SERVICE REQUESTED



Please check box if address is incorrect or changed, and indicate change(s) on reverse side

IF PAYING BY CREDIT CARD, PLEASE CHECK CARD AND FILL OUT BELOW.

<input type="checkbox"/> VISA	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CARD NUMBER				CVC CODE			
SIGNATURE				EXP. DATE			
LETTER/DATE		BALANCE DUE		ACCOUNT NUMBER			
01-27-17		\$		076			
ESCALLATE Toll Free: 866-449-8832 Fax: (330) 232-8168						SHOW AMOUNT \$ PAID HERE	

MIXED AADC 440 4915 1 MB 0.423  
004913

JAVIER GUZMAN  
12521 BISCAYNE DR  
PHILADELPHIA PA 19154-3014

Send Payments To:  
ESCALLATE, LLC  
PO BOX 845425  
CINCINNATI OH 45264-5425

076 640 300 9

TR-00004917012770115F00527N

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Man Claims Collection Letter Envelope Revealed Protected Debt Information](#)

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