

Fill in this information to identify the case:

Debtor John C. Heath, Attorney At Law PC

United States Bankruptcy Court for the: _____ District of Delaware
(State)

Case number 23-10725

Official Form 410
Proof of Claim

04/22

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. Who is the current creditor?	<u>Bertha J Evans</u> Name of the current creditor (the person or entity to be paid for this claim)	
	Other names the creditor used with the debtor _____	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
3. Where should notices and payments to the creditor be sent? Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Where should notices to the creditor be sent?	Where should payments to the creditor be sent? (if different)
	<u>Bertha J Evans</u>	
	<u>c/o Nathan Volheim, Esq.</u>	
	<u>Atlas Consumer Law</u>	
	<u>2500 S. Highland Avenue, Suite 200</u> <u>Lombard, IL 60148, USA</u>	
	Contact phone <u>630-575-8181 x113</u>	Contact phone _____
	Contact email <u>nvolheim@sulaimanlaw.com</u>	Contact email _____
	Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____	
4. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ <div style="text-align: right;">MM / DD / YYYY</div>	
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	



Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? No
 Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: ____ _

7. How much is the claim? \$ Undetermined / Contingent. Does this amount include interest or other charges?
 No
 Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.
Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).
Limit disclosing information that is entitled to privacy, such as health care information.
Consumer claim under 15 U.S.C. § 1679 et seq.

9. Is all or part of the claim secured? No
 Yes. The claim is secured by a lien on property.
Nature or property:
 Real estate: If the claim is secured by the debtor's principle residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
 Motor vehicle
 Other. Describe: _____
Basis for perfection: _____
Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)
Value of property: \$ _____
Amount of the claim that is secured: \$ _____
Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amount should match the amount in line 7.)
Amount necessary to cure any default as of the date of the petition: \$ _____
Annual Interest Rate (when case was filed) _____ %
 Fixed
 Variable

10. Is this claim based on a lease? No
 Yes. Amount necessary to cure any default as of the date of the petition. \$ _____

11. Is this claim subject to a right of setoff? No
 Yes. Identify the property: _____



12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

No

Yes. Check all that apply:

	Amount entitled to priority
<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	\$ _____
<input type="checkbox"/> Up to \$3,350* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	\$ _____
<input type="checkbox"/> Wages, salaries, or commissions (up to \$15,150*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	\$ _____
<input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	\$ _____
<input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	\$ _____
<input type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)() that applies.	\$ _____

* Amounts are subject to adjustment on 4/01/25 and every 3 years after that for cases begun on or after the date of adjustment.

13. Is all or part of the claim pursuant to 11 U.S.C. § 503(b)(9)?

No

Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

\$ _____

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

I am the creditor.

I am the creditor's attorney or authorized agent.

I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 09/07/2023
MM / DD / YYYY

/s/Nathan Volheim
Signature

Print the name of the person who is completing and signing this claim:

Name Nathan Volheim
First name Middle name Last name

Title Attorney for Creditor

Company Atlas Consumer Law
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address _____

Contact phone _____ Email _____



KCC ePOC Electronic Claim Filing Summary

For phone assistance: Domestic (888) 249-2721 | International (310) 751-2604

Debtor: 23-10725 - John C. Heath, Attorney At Law PC		
District: District of Delaware		
Creditor: Bertha J Evans c/o Nathan Volheim, Esq. Atlas Consumer Law 2500 S. Highland Avenue, Suite 200 Lombard, IL, 60148 USA Phone: 630-575-8181 x113 Phone 2: Fax: 630-575-8188 Email: nvolheim@sulaimanlaw.com	Has Supporting Documentation: Yes, supporting documentation successfully uploaded Related Document Statement:	
	Has Related Claim: No Related Claim Filed By:	
	Filing Party: Authorized agent	
Other Names Used with Debtor:	Amends Claim: No Acquired Claim: No	
Basis of Claim: Consumer claim under 15 U.S.C. § 1679 et seq.	Last 4 Digits: No	Uniform Claim Identifier:
Total Amount of Claim: Undetermined / Contingent	Includes Interest or Charges: No	
Has Priority Claim: No	Priority Under:	
Has Secured Claim: No Amount of 503(b)(9): No Based on Lease: No Subject to Right of Setoff: No	Nature of Secured Amount: Value of Property: Annual Interest Rate: Arrearage Amount: Basis for Perfection: Amount Unsecured:	
Submitted By: Nathan Volheim on 07-Sep-2023 2:18:57 p.m. Eastern Time Title: Attorney for Creditor Company: Atlas Consumer Law		



Complete this form to start arbitration under an arbitration agreement in a contract.

1. Which party is sending in the filing documents? <i>(check one)</i> Consumer Business		
2. Briefly explain the dispute:		
3. Specify the amount of money in dispute, if any: \$		
4. State any other relief you are seeking: Attorney Fees Interest Arbitration Costs Other; explain:		
5. Identify the requested city and state for the hearing if an in-person hearing is held: City: _____ State: _____		
6. Please provide contact information for both the Consumer and the Business. Attach additional sheets or forms as needed.		
Consumer:		
Name:		
Address:		
City:	State:	Zip Code:
Telephone:	Fax:	
Email Address:		
Consumer's Representative (if known):		
Name:		
Firm:		
Address:		
City:	State:	Zip Code:
Telephone:	Fax:	
Email Address:		
Business:		
Name:		
Address:		
City:	State:	Zip Code:
Telephone:	Fax:	
Email Address:		



Business' Representative (if known):		
Name:		
Firm:		
Address:		
City:	State:	Zip Code:
Telephone:	Fax:	
Email Address:		
Date:		

7. Send a copy of this completed form to the AAA together with:

- A clear, legible copy of the contract containing the parties' agreement to arbitrate disputes;
- The proper filing fee (filing fee information can be found in the Costs of Arbitration section of the Consumer Arbitration Rules); and
- A copy of the court order, if arbitration is court-ordered.

8. Send a copy of the completed form and any attachments to all parties and retain a copy of the form for your records.

To file by mail, send the initial filing documents and the filing fee to: AAA Case Filing Services, 1101 Laurel Oak Road, Suite 100, Voorhees, NJ 08043.

To file online, visit www.adr.org and click on **File or Access Your Case** and follow directions. To avoid the creation of duplicate filings, the AAA requests that the filing documents and payment be submitted together. When filing electronically, no hard copies are required.

Pursuant to Section 1284.3 of the California Code of Civil Procedure, consumers with a gross monthly income of less than 300% of the federal poverty guidelines are entitled to a waiver of arbitration fees and costs, exclusive of arbitrator fees. This law applies to all consumer agreements subject to the California Arbitration Act, and to all consumer arbitrations conducted in California. If you believe that you meet these requirements, you must submit a completed Affidavit for Waiver of Fees, available on our website.

Exhibit A

**THE ARBITRATION TRIBUNALS
OF THE AMERICAN ARBITRATION ASSOCIATION**

BERTHA J. EVANS,

Claimant,

v.

American Arbitration Association

JOHN C. HEATH, ATTORNEY AT LAW,
PC d/b/a LEXINGTON LAW,

Respondent.

DEMAND FOR ARBITRATION

NOW comes BERTHA J. EVANS (“Claimant”), by and through the undersigned, complaining as to the conduct of JOHN C. HEATH, ATTORNEY AT LAW, PC d/b/a LEXINGTON LAW (“Respondent”) as follows:

NATURE OF THE ACTION

1. Claimant bring this action for damages pursuant to the Credit Repair Organizations Act (“CROA”) under 15 U.S.C. § 1679 *et seq.*, and the Georgia Fair Business Practices Act (“GFBPA”) under O.C.G.A. § 10-1-390 *et seq.*, in connection with Respondent’s unlawful conduct.

PARTIES

2. Claimant is a consumer over 18 years of age residing in Atlanta, Georgia.

3. Respondent is a credit repair organization that claims to “help [consumers] meet [their] credit score goals.”¹ Respondent is a professional corporation that maintains its principal place of business at 2875 Decker Lake Drive, Suite 200, West Valley City, Utah.

¹ <https://www.lexingtonlaw.com/credit-repair-services>

4. Respondent acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives and insurers at all times relevant to the instant action.

FACTS SUPPORTING CAUSES OF ACTION

5. In approximately 2020, Claimant had some issues on her credit report that she wanted addressed and removed, and began looking into various credit repair companies.

6. It was represented to Claimant that Respondent would go about getting items removed from her credit report and improve Claimant's credit.

7. Respondent affirmatively represented that it would be able to successfully get the desired negative information removed from Claimant's credit report and improve her credit score.

8. Respondent further represented that Claimant would have her dispute letters sent out by actual attorneys knowledgeable in the law and who would be able to provide certain expertise as to the disputes being submitted, bolstering the chances of such disputes' success.

9. Claimant subsequently entered into a contract for Respondent's provision of credit repair services, and began making monthly payments of approximately \$79.99 to Respondent

10. Despite Claimant maintaining payments with Respondent for months, Respondent failed to get any of the negative information removed from Claimant's credit score and failed to improve Claimant's credit score in any meaningful respect.

11. Claimant followed up with the credit bureaus regarding Respondent's purported disputes, and Claimant was told that none of her accounts were in dispute despite Respondent representing that it was actively disputing the debts Claimant enrolled in Respondent's program.

12. Furthermore, it became evident after Claimant made months of payments that it was not actual attorneys drafting and sending the dispute letters on Claimant's behalf.

13. Claimant eventually cancelled her agreement with Respondent, and Respondent failed to refund Claimant for payments she made for services Respondent ultimately failed to perform.

14. Furthermore, throughout the parties' dealings, Respondent persistently attempted to charge Claimant multiple times for services, with these multiple charges resulting in Claimant's bank account being locked.

15. Respondent further attempted to charge Claimant for services after Claimant had clearly expressed her desire to cancel her agreement with Respondent.

16. Frustrated, distressed, and concerned over Respondent's conduct, Claimant spoke with the undersigned regarding her rights.

17. Claimant has suffered concrete harm as a result of Respondent's actions, including but not limited to, emotional distress, aggravation, mental anguish, pecuniary loss stemming from the payments made to Respondent, further out of pocket expenses, as well as numerous violations of her state and federally protected interests to be free from deceptive and misleading conduct on the part of purported credit repair organizations.

COUNT I – VIOLATIONS OF THE CREDIT REPAIR ORGANIZATIONS ACT

18. Claimant repeats and realleges paragraphs 1 through 17 as though fully set forth herein.

19. Claimant is a "consumer" as defined by 15 U.S.C. § 1679a(1) of the CROA.

20. Respondent is a "credit repair organization" as defined by §1679a(3) of the CROA, as it is a person who uses any instrumentality of interstate commerce or the mails to sell, provide, or perform any service, in return for the payment of money or other valuable consideration, for the express or implied purpose of improving a consumer's credit, credit history, or credit rating, or providing assistance to any consumer with regard to any activity or service for the purpose of improving a consumer's credit.

a. Violations of CROA § 1679b(a)

21. The CROA, pursuant to 15 U.S.C. § 1679b(a)(3) prohibits any person from “mak[ing] or us[ing] any untrue or misleading representation of the services of the credit repair organization.” Additionally, pursuant to 15 U.S.C. § 1679b(a)(4), any person is prohibited from “engag[ing], directly or indirectly, in any act, practice, or course of business that constitutes or results in the commission of, or an attempt to commit, a fraud or deception on any person in connection with the offer or sale of the services of the credit repair organization.”

22. Respondent violated the above referenced provisions of the CROA through its misrepresentations and deception as to the nature of the credit repair services it could provide Claimant. In order to get Claimant to agree to utilize Respondent’s services, Respondent represented that its services would result in negative items being removed from her credit report and that her credit score would improve; however, Respondent failed to follow through on the full extent of promises or deliver the results it represented it would perform for Claimant in the manner it represented such services would be performed.

23. Respondent further violated the above provisions of the CROA through its generally deceptive and fraudulent conduct in making certain representations regarding the efficacy and nature of its services, yet cutting against those representations through contractual language contradicting the representations made to induce consumers into utilizing Respondent’s services.

24. Further, Respondent violated the CROA when it deceptively represented to Claimant that its disputes would be responded to by the credit reporting agencies. Inherent with Respondent’s representations was the notion that there would be an obligation for an investigation to be triggered by Respondent’s submission of a credit dispute on Claimant’s behalf. However, pursuant to 12

C.F.R. § 1022.43(b)(2), the credit reporting agencies are under no obligation to respond to disputes submitted by credit repair organizations like Respondent.

25. Additionally, Respondent violated the above provisions of the CROA through its fraudulent and deceptive representations regarding the attorneys that would be working on Claimant's behalf. Respondent represented that it would be attorneys sending the letters, but it became apparent after months that Respondent did not have attorneys sending the disputes on Claimant's behalf as originally represented. Respondent engages in this fraudulent and deceptive conduct in order to convince consumers that its services are of a particular quality despite knowing such representations to be false.

26. Respondent further violated the above provisions of the CROA through its fraudulent and deceptive billing practices. Respondent repeatedly charged Claimant multiple times, causing Claimant's bank account to lock, and requiring Claimant to get a new card so as to prevent Respondent's repeated charges.

b. Violations of CROA § 1679b(b)

27. The CROA, pursuant to 15 U.S.C. § 1679b(b), provides that “[n]o credit repair organization may charge or receive any money or other valuable consideration for the performance of any service which the credit repair organization has agreed to perform for any consumer before such service is fully performed.”

28. Respondent violated § 1679b(b) through its charging and receiving of money for services agreed to perform before such services are fully performed. Despite Claimant paying Respondent for various services, Respondent failed to perform the services it represented it would perform while simultaneously retaining Claimant's payments for fees it ultimately never performed.

Respondent further charged Claimant initial up-front fees prior to performing any work for Claimant.

c. Violations of CROA § 1679f(b)

29. The CROA, pursuant to 15 U.S.C. § 1679f(b), provides that “[a]ny attempt by any person to obtain a waiver from any consumer of any protection provided or any right of the consumer under [the CROA] shall be treated as a violation of [the CROA].”

30. Respondent violated § 1679f(b) through its attempts to obtain a waiver of Claimant’s rights afforded under the CROA. Respondent’s contract attempts to justify its retention of fees prior to the *complete* performance of the services it represents it will perform for consumers in an effort to justify its conduct otherwise in violation of the federal laws applicable to its business.

WHEREFORE, Claimant, BERTHA J. EVANS, respectfully requests that the Arbitrator enter judgment in her favor as follows:

- a. Declaring that the practices complained of herein are unlawful and violate the aforementioned bodies of law;
- b. Awarding Claimant actual damages to be determined at trial, as provided under 15 U.S.C. § 1679g(a)(1);
- c. Awarding Claimant punitive damages, in an amount to be determined at trial, as provided under 15 U.S.C. § 1679g(a)(2)(A);
- d. Awarding Claimant costs and reasonable attorney fees as provided under 15 U.S.C. § 1679g(a)(3); and
- e. Awarding any other relief as the Arbitrator deems just and appropriate.

COUNT II – VIOLATIONS OF THE GEORGIA FAIR BUSINESS PRACTICES ACT

31. Claimant restates and realleges paragraphs 1 through 30 as though fully set forth herein.

32. Claimant is a “consumer” as defined by O.C.G.A. § 10-1-392(a)(6).

33. The GFBPA, pursuant to O.C.G.A. § 10-1-393, states that “[u]nfair or deceptive acts or practices in the conduct of consumer acts or practices in trade or commerce are declared unlawful.”

34. As alluded to above, Respondent engaged in numerous instances of unfair and deceptive acts or practices in connection with its dealings with Claimant.

35. Furthermore, pursuant to O.C.G.A. § 16-9-59, it is a crime and misdemeanor under Georgia’s criminal statutes for an entity to offer for-profit credit repair services to consumers in the state of Georgia.

36. Respondent thus further violated O.C.G.A. § 10-1-393, through its commission of a crime in connection with the services it offered to Claimant.

37. The exemption for credit repair services offered by attorneys does not apply to Respondent because Respondent’s provision of credit repair services was not within the course and scope of its practice as an attorney.

38. Respondent’s violations of law have cost Claimant significant damages.

WHEREFORE, Claimant, BERTHA J. EVANS, respectfully requests that the Arbitrator enter judgment in her favor as follows:

- a. Declaring that the practices complained of herein are unlawful and violate the aforementioned statutes and regulations;
- b. Entitling Claimant to injunctive relief pursuant to O.C.G.A. § 10-1-397(a)(2)(A);
- c. Awarding Claimant actual damages, pursuant to O.C.G.A. § 10-1-390 *et seq.*;
- d. Awarding Claimant punitive damages, in an amount to be determined at trial, for the underlying violations;
- e. Awarding Claimant costs and reasonable attorney fees, pursuant to O.C.G.A. § 10-1-399(d); and,
- f. Awarding any other relief as this Arbitrator deems just and appropriate.

Dated: January 17, 2022

Respectfully submitted,

s/ Nathan C. Volheim (Lead Attorney)

Nathan C. Volheim, Esq. #6302103

Counsel for Claimant

Sulaiman Law Group, Ltd.

2500 South Highland Ave., Suite 200

Lombard, Illinois 60148

(630) 568-3056 (phone)

(630) 575-8188 (fax)

nvolheim@sulaimanlaw.com