

# EXHIBIT A

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*Attorneys for Plaintiffs,*  
*Kurt D. Olender, Esq. and Michael J. Feldman, Esq.*

KURT D. OLENDER, ESQ. AND  
MICHAEL J. FELDMAN, ESQ.,

Plaintiffs,

v.

INVESTORS BANK,

Defendant.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION  
UNION COUNTY

DOCKET NO.

Civil Action

**COMPLAINT**

Plaintiffs Kurt D. Olender, Esq. (“Olender”) and Michael J. Feldman, Esq. (“Feldman”) (collectively, “Plaintiffs”), by way of their Complaint against Defendant, Investors Bank (“Defendant” or “Investors”), allege as follows:

**NATURE OF THE ACTION**

1. This action seeks injunctive relief, compensatory and consequential damages, as well as costs and legal fees, for Investors’ negligence, negligent misrepresentations, unlawful behavior, and tortious interference, arising from its wrongful exposure of Plaintiffs’ Personal Identity Information (“PII”).

2. In ordinary banking transactions, banks have a duty to exercise reasonable care and caution in safeguarding and protecting its clients’ PII.

3. Plaintiffs' law firm OlenderFeldman LLP (the "Firm") entered an agreement in 2013 with Investors (the "Account Agreement") to manage its trust account for the purpose of maintaining the funds of its clients ("Attorney Trust Account").

4. Investors violated that Account Agreement, as well as its internal policies and state and federal laws, by depositing a fraudulent check and leading the Firm to believe the funds were freely available in the Firm's Attorney Trust Account for use without recourse despite not conducting any required due diligence itself, and then charging the Firm and its clients over two-hundred thousand dollars to cover the bad check. The Firm thereafter brought a lawsuit against Investors in Union County.

5. During the ensuing lawsuit entitled OlenderFeldman LLP v. Investors, Docket Number L-2688-17 in the Superior Court of New Jersey, Union County (the "Initial Lawsuit"), Investors revealed Plaintiffs' PII in unredacted form in its Motion papers filed on or about September 21, 2017 – contrary to the New Jersey Court Rules and contrary to its own obligations.

6. Investors injured Plaintiffs, and such action by Investors was in violation of multiple state and federal statutes as well as its own Account Agreement with the Firm, by exposing Plaintiffs' PII to the public.

7. Plaintiffs now seek relief from Investors for its reckless actions regarding their private information.

### **THE PARTIES**

8. Plaintiff Kurt D. Olender, Esq., is an individual in the State of New Jersey residing in Union County, New Jersey, and a partner of the Firm, a New Jersey Limited Liability Partnership.

9. Plaintiff Michael J. Feldman, Esq. is an individual in the State of New Jersey

residing in Essex County, New Jersey, and a partner of the Firm.

10. The Defendant is a New Jersey-chartered stock savings bank, headquartered at 101 JFK Parkway, Short Hills, New Jersey 07078.

11. The Defendant maintains, and conducts business through, a branch location at 193 Morris Avenue, Springfield, New Jersey (the “Springfield Branch”). The Defendant conducts business with Plaintiffs’ Firm, including the business at issue in this Complaint, through the Springfield Branch.

### **BACKGROUND AND ALLEGATIONS OF THE PRESENT CAUSE OF ACTION**

#### **A. The Firm’s Attorney Trust Account at Investors**

12. On or around January 29, 2013, the Firm, through Plaintiffs, established its Attorney Trust Account at Investors for the purpose of maintaining, depositing, and withdrawing the funds of its clients.

13. At that time, the Firm, through Plaintiffs, executed its Account Agreement and other documents with Investors, the terms of which incorporated Investors’ representations and obligations set forth in its privacy and data security policies.

14. Investors induced the Firm and Plaintiffs into entering into the Account Agreement, by, among other things, representing that it maintained certain privacy and data security policies, and other procedures to safeguard and protect the sensitive, confidential, and personal information of the Firm and Plaintiffs, and such information provided to Investors in the course of the Attorney Trust Account relationship.

15. Investors understood and intended Plaintiffs to also rely upon Investors’ representations as set forth herein, and Plaintiffs were intended third-party beneficiaries of such representations.

16. The Account Agreement required the Firm and Plaintiffs to provide Investors with Plaintiffs' PII to establish the Firm's Attorney Trust Account. Providing Plaintiffs' PII was a condition precedent imposed by Investors for the Firm to open its Attorney Trust Account.

17. Plaintiffs provided Investors with the PII required and requested by Investors in reliance upon Investors' representations and legal requirements that it maintain(ed) proper security policies to ensure the protection of the PII.

18. From time to time, Investors issued notices to the Firm, in which Investors induced the Firm and Plaintiffs to maintain its Attorney Trust Account with Investors, due to Investors' representations regarding its privacy policies and other procedures to safeguard and protect the sensitive, confidential, and personal information of Plaintiffs, and such information provided to Investors in the course of the Attorney Trust Account relationship. Plaintiffs were not made aware by Investors of any change in its privacy policies or procedures which would have, or would have suggested, that Investors was no longer protecting Plaintiffs' PII.

19. Plaintiffs, as partners and owners of the Firm, conferred a monetary benefit on Investors in the form of fees paid to Investors by the Firm – fees which directly reduced compensation to Plaintiffs.

20. At all relevant times, Investors was approved by the Supreme Court of the State of New Jersey to be a depository for attorney trust funds. By virtue of this approval, Investors undertook certain obligations and duties under R. 1:21-6, including the safeguarding of the Plaintiffs' PII.

**B. Background of Investors' Actionable Conduct and the Initial Lawsuit**

21. On February 14, 2017, the Firm's controller (the "Firm Controller") deposited, in person at the Springfield Branch, a cashier's check in the amount of \$487,601.00 (the "Cashier's Check") into the Attorney Trust Account.

22. The Cashier's Check stated on its face that it was endorsed and drawn upon State Employees Credit Union in Asheboro, North Carolina ("SECU"), and the remitter was stated to be Green Texarock Trucking. There was no telephone number for SECU appearing on the face of the Cashier's Check. These missing elements are considered indicia of fraud.

23. On February 14, 2017, prior to depositing the Cashier's Check into the Attorney Trust Account, the Firm Controller approached and spoke with a supervisor at the Springfield Branch (the "Investors Supervisor").

24. The Firm Controller presented the Cashier's Check to the Investors Supervisor, and the Investors Supervisor examined the check in the presence of the Firm Controller.

25. The Investors Supervisor approved the Cashier's Check with the recognition that the deposit at issue was a Cashier's Check that Investors determined warranted special treatment.

26. The Investors Supervisor and Investors then caused the deposit of the Cashier's Check into the Attorney Trust Account, through the use of a new form of deposit slip (the "Checking Special Deposit Slip"), which made the funds immediately available in the Attorney Trust Account.

27. In the course of completing the Checking Special Deposit Slip and taking possession of the Cashier's Check, the Investors Supervisor and Investors affirmatively represented to the Firm Controller and the Firm that the funds represented by the Cashier's Check would be available immediately.

28. Moreover, the Investors Supervisor and Investors impressed upon the Firm Controller and the Firm that, as a result of its examination of the Cashier's Check and its use of the Checking Special Deposit Slip, there was no risk that the funds would not be available following the deposit.

29. Thereafter, the balance on Investors' website for the Attorney Trust Account included the full amount of the Cashier's Check, \$487,601.00. Investors' website did not indicate that any or all of the funds might be subject to charge-back at a later time, or that the use or withdrawal of such funds might be at the Firm's risk.

30. Two days later, on February 16, 2017, in reliance upon Investors' acts, representations and omissions, and at the request of a purported representative of Green Texarock Trucking, the Firm instructed Investors to wire transfer \$228,900 in proceeds of the Cashier's Check from the Attorney Trust Account to an account at Bank Manderi, in Jakarta, Indonesia (the "Wire Transfer").

31. The day after the Wire Transfer was executed, which was three (3) days after the Cashier's Check was deposited with Investors, a representative of Investors contacted the Firm and stated, for the first time, that the Cashier's Check was returned for fraud.

32. That same day, without providing any notice whatsoever, or seeking or obtaining permission or otherwise affording the Firm or any of the Firm's clients an opportunity to object, Investors debited the Attorney Trust Account for the full amount of the Cashier's Check, \$487,601 (the "Charge-Back").

33. As a result, Investors caused \$228,900 in immediate financial losses to the Firm.

34. Beginning in or around February 17, 2017, and continuing through June 14, 2017, the Firm made repeated requests and demands that Investors reverse the Charge-Back, and return

the funds to the Attorney Trust Account, including by formal Demand Letters dated March 22, 2017 and June 14, 2017.

35. To date, Investors has failed and refused to reverse the Charge-Back or return the Firm's clients' funds to its Attorney Trust Account.

36. Moreover, Investors has substantially failed and refused to comply with the Firm's requests, failed and refused to provide the Firm with the information it needs to directly pursue collection of the funds wired from its Attorney Trust Account, and failed to reasonably or adequately act to obtain the return of the Firm's funds.

37. Investors' failure and refusal to respond to the Firm's requests for information has been intentional and without justification or excuse.

38. Additionally, Investors' failure and refusal to respond to the Firm's requests for information has interfered with the Firm's ability to maintain, safeguard, make use of, and appropriately account for the funds in its Attorney Trust Account without having to obtain separate replacement funds.

39. Investors has, by its representations, acts, and omissions, failed to act in good faith and exercise ordinary care, and failed to act with honesty in fact and observe reasonable commercial standards of fair dealing.

40. The foregoing is the subject of the Initial Lawsuit.

**C. Investors' Unauthorized Disclosure of Plaintiffs' PII After the Filing of the Complaint Against Investors in the Initial Lawsuit**

41. On or about July 12, 2017, the Firm filed the Initial Lawsuit against Investors for, *inter alia*, its negligence in approving the fraudulent Cashier's Check and its subsequent actions related to that check, Investors' breach of the duty of good faith and fair dealing, as well as its breach of extraordinary care for its client, the Firm, and maintaining its Attorney Trust Account.



42. On or around September 21, 2017, Investors filed a motion (the “Motion”) for, among other things, to extend time to answer the Complaint. Its motion was filed and available on the public docket of the Superior Court of New Jersey, Law Division, Union County.

43. The Motion included a Certification of Investors' Assistant Vice President Shaune Anthony D. Brown (the “Brown Cert.”).

44. Upon information and belief, the Brown Cert., was prepared by and/or reviewed by counsel for Investors prior to filing of same with the Court.

45. Counsel for Investors was aware of, or reasonably should have been aware of, the content of the Brown Cert., including all exhibits attached thereto, prior to filing same with the Court.

46. The Brown Cert. contained a few pages of exhibits. Among the exhibits attached to the Brown Cert. was what was alleged to be the Signature Card and the signature pages of the Account Agreement for the Firm at Investors.

47. The exhibits to the Brown Cert. were not redacted.

48. These documents attached to the Brown Cert., and publicly filed by Investors and its counsel openly and blatantly included Plaintiffs’ full, complete, and unredacted PII, including their home addresses, home telephone numbers, e-mail addresses, and driver's license numbers (including state), together with the Firm’s complete and unredacted account number, and the full signatures of all of the authorized signatories for the Firm’s Attorney Trust Account (thus identifying the names of the signatories as well as their signatures).

49. Neither Investors nor Investors’ counsel took any action to correct the unlawful disclosure of Plaintiffs’ PII until same was requested by Plaintiffs and the Firm.

50. Though Plaintiffs' PII was ultimately removed from the Court's public docket after demand by Plaintiffs, there can be no certainty that such information was not viewed or downloaded by others, nor that it has been removed from websites or organizations such as web.archive.org (WaybackMachine) or other entities which download and/or save webpages and other information on the Internet in a database apart from the original database in which the material was posted or occurred. That is, once published publicly, Plaintiffs' PII may now exist elsewhere, whether on the dark web or elsewhere.

51. Investors' actions in publicly disclosing Plaintiffs' PII and the Firm Attorney Trust Account information was willful and wanton and/or indicative of its lack of sufficient and adequate internal controls as further alleged in this Complaint.

52. There were only ten (10) pages of bank documents attached to the Brown Cert.

53. The unlawful disclosure of Plaintiffs' PII occurred over 20% of the pages submitted with the Brown Cert.

54. Further, the Brown Cert. was signed by Mr. Brown on behalf of Investors, who certified under oath, under penalty of perjury, that he was fully aware of the information contained in his Certification. Given the small size of the exhibits at issue, he was also necessarily swearing under oath that he had reviewed those exhibits to know what they were. Plaintiffs' PII revealed is all apparent from the first page of these documents.

55. Investors' actions were further willful and wanton, as Investors refused the Firm's request, through Plaintiffs, to confirm whether Investors had reported the incident to law enforcement, as required by the New Jersey Identity Theft Prevention Act, N.J.S.A. § 56:8-163(c)(1).

56. Upon information and belief, Investors did not report the above-described data breach and incident to law enforcement, as required by the New Jersey Identity Theft Prevention Act, N.J.S.A. § 56:8-163(c)(1).

57. Investors failed to take immediate action to withdraw the filings that contained Plaintiffs' PII, requiring Plaintiffs and their Firm to expend their own time and resources, including the dedication of attorney time, to the matter at the expense of Plaintiffs' business, to remedy the disclosure, remove the items from the Court docket, and try, without success, to ascertain whether the criminal authorities had been appropriately alerted.

58. As a result, Plaintiffs have incurred actual as well as yet determined damages, including to mitigate the increased exposure to identity theft by the unauthorized disclosure. Moreover, Plaintiffs have suffered the deprivation of the value of their PII which holds value in and of itself, and can be sold by those who perpetrate acts of identity theft.

59. In addition, Plaintiffs have suffered anxiety and emotional distress, and have otherwise been deprived of the benefit of their bargain, including the fees paid to Investors with regard to the Attorney Trust Account.

#### COUNT I

#### **Negligence - Failure to Abide by the Gramm-Leach-Bliley Act, 15 U.S.C. § 6801(b)(1)**

60. Plaintiffs incorporate Paragraphs 1 through 59 as if stated herein, as well as the underlying Complaint filed in this matter for purposes of this Amendment.

61. Investors had a duty to exercise reasonable care and caution in safeguarding Plaintiffs' PII.

62. The Gramm-Leach-Bliley Act, 15 U.S.C. § 6801(b) ("GLBA"), is among the standards applicable to Investors with regard to the proper use and disclosure of PII in the banking industry, and Investors violated the GLBA by disclosing Plaintiffs' nonpublic personal

information to a nonaffiliated third-party without disclosing to Plaintiffs or the Firm, in writing or in electronic form or other form permitted by the regulations prescribed under the GLBA, that such information may be disclosed to such third-party, with an explanation of how Plaintiffs and the Firm could object to same, and with an opportunity for Plaintiffs and the Firm to object to same.

63. Investors violated its duty, and deviated from industry standards by, *inter alia*, violating the plain terms of the GLBA, and by otherwise failing to exercise reasonable care and caution and safeguard and protect Plaintiffs' PII, as set forth herein.

64. It was reasonably foreseeable that Investors' failure to exercise reasonable care and caution in safeguarding and protecting Plaintiffs' PII and its violation of the GLBA would result in an unauthorized third-party gaining access to such information for no lawful purpose, as set forth herein.

65. Plaintiffs have been damaged as a direct and proximate result of Investors' failure to secure and protect their PII in the form of, *inter alia*, (i) improper disclosure of their PII (ii) loss of privacy; (iii) out-of-pocket and actual expenses incurred to mitigate the increased exposure to identity theft by the unauthorized disclosure; (iv) the value of their time spent mitigating identity theft and/or identity fraud and/other increased risk of identity theft and/or identity fraud; (v) the risk of future harm as a result of Plaintiffs' PII being publicly exposed by Investors; and (vi) deprivation of the value of their PII which holds value in and of itself, and can be sold by those who perpetrate acts of identity theft.

66. Investors' wrongful actions and inaction (as described above) constituted negligence and/or gross negligence.

67. As a direct and proximate result of Investors' wrongful actions and inaction as set forth herein, Plaintiffs have been and continue to be injured.

## COUNT II

### **Willful Violation of the Fair Credit Reporting Act, 15 U.S.C. § 168 (a)**

68. Plaintiffs incorporate Paragraphs 1 through 67 as if stated herein.

69. Investors is a "Consumer Reporting Agency" ("CRA") under the Fair Credit Reporting Act ("FCRA"), 15 U.S.C. § 1681, et seq., because it regularly engages in the practice of assembling or evaluating consumer credit information for the purpose of furnishing consumer reports to third parties.

70. As a CRA, Investors failed to maintain reasonable procedures designed to limit the furnishing of consumer reports to the permissible purposes listed in the FCRA, which purposes to not include the unauthorized disclosure of Plaintiffs' PII on a public court docket in the Initial Lawsuit, as set forth herein.

71. Plaintiffs are consumers under the FCRA.

72. Plaintiffs are direct, intended, and known beneficiaries of Investors' relationship with the Firm.

73. Investors' failure to comply with the FCRA was willful, and Investors is therefore liable to Plaintiffs for actual damages, punitive damages, costs, and attorneys' fees.

74. As a direct and proximate result of Investors' wrongful actions and inaction as set forth herein, Plaintiffs have been and continue to be injured.

## COUNT III

### **Negligent Violation of the Fair Credit Reporting Act, 15 U.S.C. § 168 (a)**

75. Plaintiffs incorporate Paragraphs 1 through 74 as if stated herein.

76. As a CRA, Investors failed to maintain reasonable procedures designed to limit the furnishing of consumer reports to the permissible purposes listed in the FCRA, which purposes to

not include the unauthorized disclosure of Plaintiffs' PII on a public court docket in litigation, as set forth herein.

77. Investors was negligent in failing to comply with the FCRA, and is therefore liable to Plaintiffs for actual damages, costs, and attorneys' fees.

78. As a direct and proximate result of Investors' wrongful actions and inaction as set forth herein, Plaintiffs have been and continue to be injured.

**COUNT IV**  
**New Jersey Consumer Fraud Act, N.J.S.A. 56:8-2**

79. Plaintiffs incorporate Paragraphs 1 through 78 as if stated herein.

80. Investors violated the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-2, by using or employing deception, fraud, false pretenses, false promises, or misrepresentations, in connection with the sale or advertisement of any merchandise or real estate, or with the subsequent performance of Investors as aforesaid, in that Investors misled Plaintiffs into believing that it had adequate controls in place to safeguard and prevent the unauthorized disclosure of Plaintiffs' PII, in inducing Plaintiffs and the Firm into procuring its services and paying its fees, including in connection with the Firm's Attorney Trust Account with Investors.

81. Plaintiffs suffered an ascertainable loss as a result of Investors' conduct, including actual and out-of-pocket expenses to address and attempt to ameliorate the harm caused by Investors' activity and failure to take steps to remedy the harm it caused by same.

82. As a direct and proximate result of Investors' wrongful actions and inaction as set forth herein, Plaintiffs have been and continue to be injured.

83. Plaintiffs are entitled to threefold the damages they sustained as a result of Investors' acts and omissions, in addition to attorneys' fees, filing fees and costs of suit, together with other appropriate legal or equitable relief.

**COUNT V**

**New Jersey Identity Theft Prevention Act, N.J.S.A. § 56:8-163(c)(1)**

84. Plaintiffs incorporate Paragraphs 1 through 83 as if stated herein.

85. Investors violated the New Jersey Identity Theft Prevention Act, N.J.S.A. § 56:8-163 and the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-2, when it committed the unauthorized disclosure of Plaintiffs' PII, as set forth herein, and then failed to report the unauthorized disclosure of Plaintiffs' PII to the Division of State Police in the Department of Law and Public Safety for investigation or handling.

86. Plaintiffs have suffered ascertainable loss as a result of Investors' conduct, including actual and out-of-pocket expenses to address and attempt to ameliorate the harm caused by Investors' activity and failure to take steps to remedy the harm it caused by same.

87. Investors acted knowingly and intentionally and/or negligently in violating Plaintiffs' rights in connection with the New Jersey Identity Theft Prevention Act and the New Jersey Consumer Fraud Act.

88. As a direct and proximate result of Investors' wrongful actions and inaction as set forth herein, Plaintiffs have been and continue to be injured.

89. Plaintiffs are entitled to threefold the damages sustained by it as a result of Investors' acts and omissions, in addition to attorneys' fees, filing fees and costs of suit, together with other appropriate legal or equitable relief.

**COUNT VI**  
**Breach of Contract**

90. Plaintiffs incorporate Paragraphs 1 through 89 as if stated herein.

91. As set forth above and incorporated herein, on or around January 29, 2013, the Firm entered into the Account Agreement with Investors, the terms of which incorporated Investors' representations and obligations set forth in its privacy policies, including the duty to safeguard and protect PII provided in connection with the Attorney Trust Account.

92. As a condition precedent to entering into the Account Agreement, Investors required Plaintiffs to provide their PII to Investors.

93. The Account Agreement constitutes an enforceable contract.

94. Plaintiffs are and were intended third party beneficiaries of the Account Agreement, and in particular, the promises, assurances and understandings that their PII would be protected by Investors, including as required by law, all as if Plaintiffs were direct parties to the Account Agreement.

95. Plaintiffs, as third-party beneficiaries under the Account Agreement, reasonably relied to their detriment on Investors' promise to safeguard its PII when Plaintiffs provided it to Investors.

96. But for Investors' promises, assurances and understandings, and the legal requirements imposed on Investors under the Account Agreement and by law to protect Plaintiffs' PII, Plaintiffs would not have provided their PII to Investors.

97. Investors materially breached the Account Agreement by failing to safeguard and protect Plaintiffs' PII, as set forth herein.

98. As a direct and proximate cause of Investors' breach, Plaintiffs have been damaged, including by (i) actual and out-of-pocket expenses incurred to mitigate the increased exposure to



identity theft by the unauthorized disclosure; (ii) the value of their time spent mitigating identity theft and/or identity fraud and/other increased risk of identity theft and/or identity fraud; (iii) deprivation of the value of their PII which holds value in and of itself, and can be sold by those who perpetrate acts of identity theft; (iv) the risk of future harm as a result of Plaintiffs' PII being publicly exposed by Investors; and (v) otherwise deprived of the benefit of their bargain, including the fees paid to Investors with regard to the Attorney Trust Account.

**COUNT VII**  
**Fraudulent Inducement**

99. Plaintiffs incorporate Paragraphs 1 through 98 as if stated herein.

100. Investors misrepresented to Plaintiffs and the Firm that it maintained certain standards and had certain safeguards and other measures in place to protect confidential, sensitive, and personal identity information, as well Plaintiffs' PII that Investors required the Firm to submit to open the Attorney Trust Account.

101. Investors' misrepresentations were material, and Plaintiffs would not have provided their PII to Investors if they had known that Investors' privacy and data security policies were not as represented, as set forth herein, or that Investors would not comply with its various legal obligations in connection with the PII.

102. Investors knew, had reason to know, and should have known, that its representations were false when made, and Investors intended for Plaintiffs to rely on such representations when submitting their PII to open and maintain the Firm's Attorney Trust Account at Investors, as set forth herein.

103. Plaintiffs reasonably relied on Investors' representations to their detriment, as set forth herein.

104. As a result of Investors' fraudulent inducement, Plaintiffs have incurred, and will continue to incur damages including (i) actual and out-of-pocket expenses incurred to mitigate the increased exposure to identity theft by the unauthorized disclosure; (ii) the value of their time spent mitigating identity theft and/or identity fraud and/other increased risk of identity theft and/or identity fraud; (iii) deprivation of the value of their PII which holds value in and of itself, and can be sold by those who perpetrate acts of identity theft; (iv) the risk of future harm as a result of Plaintiffs' PII being publicly exposed by Investors; and (v) financial losses, including all fees paid to Investors with regard to the Attorney Trust Account.

**COUNT VIII**  
**Negligence**

105. Plaintiffs incorporate Paragraphs 1 through 104 as if stated herein.

106. Investors had a duty to exercise reasonable care and caution in safeguarding and protecting Plaintiffs' PII provided to it in connection with the Attorney Trust Account information.

107. Investors violated its duty by failing to exercise reasonable care and caution and safeguard and protect Plaintiffs' PII, as set forth herein.

108. It was reasonably foreseeable that Investors' failure to exercise reasonable care and caution in safeguarding and protecting Plaintiffs' PII would, and in the future may, result in unauthorized third-parties gaining access to such information for no lawful purpose, as set forth herein.

109. Plaintiffs have been and continue to be damaged as a direct and proximate result of Investors' failure to secure and protect their PII as a result, *inter alia*, (i) improper disclosure of their PII and Firm's Attorney Trust Account information; (ii) loss of privacy; (iii) actual and out-of-pocket expenses incurred to mitigate the increased exposure to identity theft by the unauthorized disclosure; (iv) the value of their time spent mitigating identity theft and/or identity fraud and/other

increased risk of identity theft and/or identity fraud; (v) deprivation of the value of their PII which holds value in and of itself, and can be sold by those who perpetrate acts of identity theft; and (vi) the risk of future harm as a result of Plaintiffs' PII being publicly exposed by Investors.

110. Investors' wrongful actions and inaction, as described herein, constituted negligence and/or gross negligence at common law.

111. As a direct and proximate result of Investors' wrongful actions and inaction as set forth herein, Plaintiffs have been and continue to be injured.

**COUNT IX**  
**Invasion of Privacy by Public Disclosure of Private Facts**

112. Plaintiffs incorporate Paragraphs 1 through 111 as if stated herein.

113. Investors' failure to secure and protect Plaintiffs' PII directly and proximately resulted in the public disclosure of such private information.

114. Dissemination of Plaintiffs' PII is not of a legitimate public concern and publicity of Plaintiffs' PII is offensive to reasonable people.

115. Plaintiffs were and continue to be damaged as a direct and proximate result of Investors' invasion of their privacy by publicly disclosing their private facts and PII in the form of, *inter alia* (i) improper disclosure of their PII; (ii) loss of privacy; (iii) actual and out-of-pocket expenses incurred to mitigate the increased exposure to identity theft by the unauthorized disclosure; (iv) the value of their time spent mitigating identity theft and/or identity fraud and/or the increased risk of identity theft and/or identity fraud; (v) deprivation of the value of their PII; and (vi) the risk of future harm as a result of Plaintiffs' PII being publicly exposed by Investors.

116. Investors' wrongful actions and inaction, as set forth herein, constitutes an ongoing invasion of Plaintiffs' privacy by publicly disclosing their private facts and PII.

**WHEREFORE**, Plaintiffs respectfully request that the Court:

- (a) Enter judgment against Investors for compensatory damages, consequential damages and special damages;
- (b) Punitive damages;
- (c) Statutory damages;
- (d) Triple damages;
- (e) Compel Investors to provide five (5) years of credit monitoring for Plaintiffs;
- (f) Attorney's fees, costs, and interests thereon; and
- (g) Such other legal and equitable relief as the Court or law deems appropriate or available.

**OLENDERFELDMAN LLP**

*/s/Michael J. Feldman*

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*Attorneys for Plaintiffs,*

*Kurt D. Olender, Esq. and*

*Michael J. Feldman, Esq.*

Dated: March 8, 2019

**CERTIFICATION PURSUANT TO R. 4:5-1**

In accordance with R. 4:5-1, I certify that based upon the information currently in my possession, the matter in controversy is the subject of OlenderFeldman LLP v. Investors, Docket Number L-2688-17 in the Superior Court of New Jersey, Union County, the litigation under which these causes of action arise, and the litigation which is directly connected to and related to this Complaint and the causes of action set forth herein. Apart from the foregoing, I certify that based upon the information currently in my possession, the matter in controversy is not the subject any other action pending in any Court or of a pending arbitration proceeding, and that I know of no other person or persons at this time who should be joined in this action unless Defendant asserts any claims against its counsel in connection with the disclosure of information referenced in this Complaint.

**OLENDERFELDMAN LLP**

**/s/Michael J. Feldman**

**MICHAEL J. FELDMAN**

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*Attorneys for Plaintiffs,*

*Kurt D. Olender, Esq. and*

*Michael J. Feldman, Esq.*

Dated: March 8, 2019

**DESIGNATION OF TRIAL COUNSEL**

Pursuant to Rule 4:25-4, Michael J. Feldman, Esq. has been designated as trial counsel on behalf of Plaintiffs.

**OLENDERFELDMAN LLP**

**/s/Michael J. Feldman**

MICHAEL J. FELDMAN

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*Attorneys for Plaintiffs,*

*Kurt D. Olender, Esq. and*

*Michael J. Feldman, Esq.*

Dated: March 8, 2019

## Civil Case Information Statement

### Case Details: UNION | Civil Part Docket# L-000927-19

**Case Caption:** OLENDER, ESQ. KURT VS INVESTORS  
BANK

**Case Initiation Date:** 03/08/2019

**Attorney Name:** MICHAEL JAY FELDMAN

**Firm Name:** OLENDERFELDMAN, LLP

**Address:** 422 MORRIS AVE

SUMMIT NJ 07901

**Phone:**

**Name of Party:** PLAINTIFF : Olender, Esq., Kurt, D

**Name of Defendant's Primary Insurance Company**  
(if known): None

**Case Type:** TORT-OTHER

**Document Type:** Complaint

**Jury Demand:** NONE

**Hurricane Sandy related?** NO

**Is this a professional malpractice case?** NO

**Related cases pending:** YES

**If yes, list docket numbers:** OlenderFeldman LLP v. Investors, Docket  
No. UNN-L-2688-17

**Do you anticipate adding any parties (arising out of same  
transaction or occurrence)?** NO

### THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

**Do parties have a current, past, or recurrent relationship?** YES

**If yes, is that relationship:** Business

**Does the statute governing this case provide for payment of fees by the losing party?** NO

**Use this space to alert the court to any special case characteristics that may warrant individual  
management or accelerated disposition:**

**Do you or your client need any disability accommodations?** NO

**If yes, please identify the requested accommodation:**

**Will an interpreter be needed?** NO

**If yes, for what language:**

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule* 1:38-7(b)

03/08/2019  
Dated

/s/ MICHAEL JAY FELDMAN  
Signed

UNION COUNTY SUPERIOR COURT  
2 BROAD STREET  
CIVIL DIVISION  
ELIZABETH NJ 07207

TRACK ASSIGNMENT NOTICE

COURT TELEPHONE NO. (908) 787-1650  
COURT HOURS 8:30 AM - 4:30 PM

DATE: MARCH 08, 2019  
RE: OLENDER, ESQ. KURT VS INVESTORS BANK  
DOCKET: UNN L -000927 19

THE ABOVE CASE HAS BEEN ASSIGNED TO: TRACK 2.

DISCOVERY IS 300 DAYS AND RUNS FROM THE FIRST ANSWER OR 90 DAYS  
FROM SERVICE ON THE FIRST DEFENDANT, WHICHEVER COMES FIRST.

THE PRETRIAL JUDGE ASSIGNED IS: HON ROBERT J. MEGA

IF YOU HAVE ANY QUESTIONS, CONTACT TEAM 002  
AT: (908) 787-1650.

IF YOU BELIEVE THAT THE TRACK IS INAPPROPRIATE YOU MUST FILE A  
CERTIFICATION OF GOOD CAUSE WITHIN 30 DAYS OF THE FILING OF YOUR PLEADING.  
PLAINTIFF MUST SERVE COPIES OF THIS FORM ON ALL OTHER PARTIES IN ACCORDANCE  
WITH R.4:5A-2.

ATTENTION:

ATT: MICHAEL J. FELDMAN  
OLENDERFELDMAN, LLP  
422 MORRIS AVE  
SUMMIT NJ 07901

ECOURTS