

## Pending Class Action Lawsuits Against "Check Diversion" Companies

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### **U.S. District Court, Northern District of California (San Jose):**

*Delcampo v. George Kennedy, American Corrective Counseling Services, et al.* and *Medina v. Don Mealing, American Corrective Counseling Services, Inc., et al.*, 01-21151 and 03-02661.

These two class action lawsuits against American Corrective Counseling Services, Inc., and the Santa Clara District Attorney's Office have been consolidated and are pending before U.S. District Judge James Ware. The case was filed by private consumer attorneys Paul Arons (Friday Harbor, WA), Randall Bragg (Chicago, IL), and Ronald Wilcox. Public Citizen's Consumer Justice Project has joined these cases to litigate constitutional challenges to the ACCS program.

The first of these two cases was filed in 2001 but was stayed for several years because of a purported nationwide class action against ACCS in Iowa (the *Liles* litigation, described below). The court has already held that ACCS is a debt collector subject to the Fair Debt Collection Practices Act and has allowed the plaintiffs to file a consolidated complaint that raises new constitutional theories developed by Public Citizen. Oral argument on the defendants' motion to dismiss will be heard on Monday, May 15.

### **U.S. District Court, Eastern District of California (Sacramento):**

*Schwarm, et al. v. Craighead, District Attorney Technical Services, et al.*, 05-cv-01304

This lawsuit was filed in June 2005 against another check diversion company known as District Attorney Technical Services, Ltd., and is pending before Judge William B. Shubb. The case was filed by private consumer attorneys Paul Arons, Randall Bragg, Ronald Wilcox, and Scott Shoblom. Public Citizen's Consumer Justice Project has joined the case to litigate constitutional challenges to the DATS program.

On March 4, 2006, the court ruled that the case could proceed as a class action on allegations that the defendants violated the Fair Debt Collection Practices Act, the United States and California Constitutions, and state law. Notices will soon be sent to thousands of California consumers informing them of the class action litigation.

### **U.S. District Court, Northern District of Indiana (South Bend):**

*Hamilton, et al v. ACCS*, No. 05-cv-00434 (N.D. Ind.)

This lawsuit was filed in July 2005 against American Corrective Counseling Services, Inc. and is pending before Judge Robert L. Miller. The case was filed by Judith Fox of the Notre Dame Law School Legal Aid Clinic, and Randall Bragg. Public Citizen's Consumer Justice Project has joined the case to litigate constitutional challenges to the

ACCS program. The plaintiffs' motion for class certification has been filed and the defendants' response to the motion is due on June 5, 2006.

**U.S. District Court, Middle District of Florida (Fort Myers):**

*Rosario v. American Corrective Counseling Services, Inc., et al.*, No. 01-CV-00221 (M.D. Fla.)

This lawsuit was filed against American Corrective Counseling Services, Inc., in 2001, and is currently pending before Judge John E. Steele. Plaintiffs' counsel are Randall Bragg of Chicago and Thomas Heidkamp of Fort Myers, Florida. This case was stayed because of the Liles case in Iowa, but is now going forward. The parties have filed motions for summary judgment, on which the court has not yet ruled.

**U.S. District Court, Southern District of Iowa, Central Division**

*Liles v. ACCS, Inc., et al.* (S.D. Iowa), No. 00-CV-10497

This lawsuit was filed in 2000 as a purported nationwide class action against all American Corrective Counseling Services programs, alleging systemic violations of the Fair Debt Collection Practices Act. Plaintiffs' counsel is Wood Foster of Siegel, Brill, Greupner, Duffy & Foster in Minneapolis. The case is pending before Judge Ronald E. Longstaff.

This lawsuit has a complex history. ACCS and the plaintiffs' counsel entered into a global settlement that would settle all claims on behalf of consumers nationwide against ACCS. Paul Arons and Randall Bragg, representing their clients in actions filed in California and Florida, objected to the settlement, arguing that it was not a fair, reasonable and adequate settlement and that the settlement fund was not sufficient even to cover the cost of notifying all affected consumers. After prolonged litigation, the federal court in Iowa eventually agreed and overturned the settlement.

The Iowa court agreed to modify the class definition so as to exclude the classes in California and Florida. Most recently, plaintiffs' counsel voluntarily excluded two ACCS programs in Indiana from their class description after the Indiana class action was filed. The current class description includes check diversion programs in Colorado, Georgia, Hawaii, Illinois, Iowa, Maryland, Massachusetts, Michigan, New Mexico, and Pennsylvania.