



## AlaFile E-Notice

01-CV-2008-901154.00

To: JOHN WATTS  
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# NOTICE OF ELECTRONIC FILING

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IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

LISA BERRY v. FIA CARD SERVICES, NA ET AL  
01-CV-2008-901154.00

The following complaint was FILED on 4/12/2008 4:21:16 PM

Notice Date: 4/12/2008 4:21:16 PM

**ANNE-MARIE ADAMS**  
**CIRCUIT COURT CLERK**  
JEFFERSON COUNTY, ALABAMA  
JEFFERSON COUNTY, ALABAMA  
BIRMINGHAM, AL 35203

205-325-5355  
anne-marie.adams@alacourt.gov

**COVER SHEET  
CIRCUIT COURT - CIVIL CASE**

(Not For Domestic Relations Cases)

Case Number:  
**01-CV-200**

Date of Filing:  
04/12/2008



ELECTRONICALLY FILED  
4/12/2008 4:21 PM  
CV-2008-901154.00  
CIRCUIT COURT OF  
JEFFERSON COUNTY, ALABAMA  
ANNE-MARIE ADAMS, CLERK

**GENERAL INFORMATION**

**IN THE CIRCUIT OF JEFFERSON COUNTY, ALABAMA  
LISA BERRY v. FIA CARD SERVICES, NA ET AL**

**First Plaintiff:**  Business  Individual  
 Government  Other

**First Defendant:**  Business  Individual  
 Government  Other

**NATURE OF SUIT:**

**TORTS: PERSONAL INJURY**

- WDEA - Wrongful Death
- TONG - Negligence: General
- TOMV - Negligence: Motor Vehicle
- TOWA - Wantonnes
- TOPL - Product Liability/AEMLD
- TOMM - Malpractice-Medical
- TOLM - Malpractice-Legal
- TOOM - Malpractice-Other
- TBFM - Fraud/Bad Faith/Misrepresentation
- TOXX - Other: \_\_\_\_\_

**OTHER CIVIL FILINGS (cont'd)**

- MSXX - Birth/Death Certificate Modification/Bond Forfeiture  
Appeal/Enforcement of Agency Subpoena/Petition to Preserve
- CVRT - Civil Rights
- COND - Condemnation/Eminent Domain/Right-of-Way
- CTMP-Contempt of Court
- CONT-Contract/Ejectment/Writ of Seizure
- TOCN - Conversion
- EQND- Equity Non-Damages Actions/Declaratory  
Judgment/Injunction Election Contest/Quiet Title/Sale For  
Division
- CVUD-Eviction Appeal/Unlawful Detainer
- FORJ-Foreign Judgment
- FORF-Fruits of Crime Forfeiture
- MSHC-Habeas Corpus/Extraordinary Writ/Mandamus/Prohibition
- PFAB-Protection From Abuse
- FELA-Railroad/Seaman (FELA)
- RPRO-Real Property
- WTEG-Will/Trust/Estate/Guardianship/Conservatorship
- COMP-Workers' Compensation
- CVXX-Miscellaneous Circuit Civil Case

**TORTS: PERSONAL INJURY**

- TOPE - Personal Property
- TORE - Real Property

**OTHER CIVIL FILINGS**

- ABAN - Abandoned Automobile
- ACCT - Account & Nonmortgage
- APAA - Administrative Agency Appeal
- ADPA - Administrative Procedure Act
- ANPS - Adults in Need of Protective Services

**ORIGIN:** F  **INITIAL FILING**

A  **APPEAL FROM  
DISTRICT COURT**

O  **OTHER**

R  **REMANDED**

T  **TRANSFERRED FROM  
OTHER CIRCUIT COURT**

**HAS JURY TRIAL BEEN DEMANDED?**  Yes  No

**RELIEF REQUESTED:**  **MONETARY AWARD REQUESTED**  **NO MONETARY AWARD REQUESTED**

**ATTORNEY CODE:** WAT056

4/12/2008 4:14:15 PM

/s JOHN WATTS

**MEDIATION REQUESTED:**  Yes  No  Undecided



**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA**

**LISA BERRY, an individual,** )  
 )  
 **Plaintiff,** )  
 )  
 **v.** )  
 )  
 **FIA CARD SERVICES, N.A.,** )  
 **a Corporation, TRANSUNION,** )  
 **LLC, a Corporation** )  
 )  
 **Defendant.** )

**Civil Action Number:**

**COMPLAINT**

**COMES NOW** the Plaintiff, by and through counsel, in the above styled cause, and for her Complaint against the Defendant, FIA Card Services, N.A., states as follows:

**Parties**

1. The Plaintiff, Lisa Berry [“Plaintiff” or “Berry”], is a natural person who is a resident citizen of Alabama.
2. Defendant FIA Card Services, N.A., d/b/a or commonly known as Bank of America [“Defendant” or “Bank Of America”] is a foreign corporation doing business in Alabama and in this county.
3. Defendant TransUnion, LLC [“Defendant” or “TransUnion”] is a foreign company that engages in the business of maintaining and reporting consumer credit information and does business in this county.

**Factual Allegations**

4. In December of 2005, Lisa Berry was turned down for a credit card with Discover. When she pulled her TransUnion credit report, she saw a Bank of America account which was past due.

5. This account was not and is not her account.
6. On or about January 4, 2006, she sent a dispute to TransUnion requesting that this matter be investigated and deleted as it was not her account.
7. On or about February 1, 2006 she received the results of the investigation from TransUnion in which the account was verified. TransUnion issued its result as follows: "VERIFIED, NO CHANGE." The Account number is 4305500015914115. The balance is \$14,924.00. The open date is September 2000 and the date closed is June 2005. The address listed for Bank of America, is P.O.Box 1598 Norfolk, Virginia 23501.
8. On March 1, 2006, Berry sent another dispute letter to TransUnion requesting a description of how TransUnion investigated the account with Bank of America and she disputed the account.
9. On March 8, 2006, TransUnion sent a response to the March 1, 2006, dispute letter. The letter states in relevant part "TransUnion's procedure for investigating disputed information is to contact, by a mail, electronic means or telephone, the source of information. Each source is advised of your dispute in is requested to verify the accuracy and/or completeness of the information reported."
10. On March 27, 2006, TransUnion sent Berry a letter stating "Our investigation of the dispute you submitted is now complete. The results are listed below and a new copy of your credit report is enclosed."
11. The letter does state, "If interested, you may also request a description of how the investigation was conducted along with the name, address, and telephone number of anyone we contacted for information."

12. The results of the March 27, 2006 investigation were the same as in February - the Bank of America Account # 4305500015914115 was verified with no change.
13. Amazingly, however, TransUnion never responded to Berry's March 1, 2006, request that it explain how it investigated the account with Bank of America.
14. On April 14, 2006, Berry wrote to Bank of America at P.O.Box 1598, Norfolk, Virginia 23501 (the address listed on the credit report) regarding Account number 4305500015914115. The letter stated in relevant part as follows: "TransUnion states that they contacted you and you verified this account to be mine. Please send me whatever documentation you may have proving that this is my account. I have no knowledge or recollection of this account. Please send me this proof as quickly as possible since I am trying to clear my credit report."
15. Bank of America never responded to the April 14, 2006 letter.
16. On April 24, 2006, in relation to a different matter being disputed, TransUnion sent Berry a new copy of her credit report which still listed the Bank of America Account number 4305500015914115 with a balance of \$14,924.00, a date opened of September 2000, and a date closed of June 2005.
17. On May 17, 2006, Berry wrote to Bank of America at P.O.Box 1598, Norfolk, Virginia 23501, regarding Account number 4305500015914115. This letter states as follows: "I sent you a letter dated April 14, 2006 regarding the above-referenced account number. I am attaching a copy of that letter to this correspondence. Please provide me whatever proof you have indicating that this is in any way my account. If there is no proof, please remove this from my credit report immediately. Thank you for your help in this matter."

18. Bank of America never responded to the May 17, 2006 letter.
19. On May 17, 2006, Berry also sent a letter to TransUnion which states in relevant part: “Also, I have written to Bank of America regarding my Account # 4305500015914115 asking them to send me proof that this is my account. They have not responded in any way. I am going to send them another letter this date. I am attaching copies of both letters. If I cannot get proof from Bank of America, I will be seeking legal advice as to how to get this cleared from my credit report since this is not my account and I have not been given any proof otherwise.”
20. On May 30, 2006, TransUnion sent the results of investigation which, as the previous ones, stated: “Verified, No change”. The account shows a balance of \$14,924.00, date opened of September 2000, and date closed, June 2005.
21. On June 23, 2006, Berry sent a letter to Bank of America regarding Account Number 4305500015914115. That states in relevant part as follows: “I understand you are continuing to report a negative pay history to the three consumer reporting agencies on the above-referenced account. As provided for under the Fair Credit Reporting Act, please consider this letter a formal DISPUTE of the information you furnishing to Equifax, Experian and TransUnion. I am requesting a complete reinvestigation of this matter and a deletion of this trade line report within 30 days of your receipt of this letter. Please notify me in writing when you send the notice to the credit reporting agencies requesting deletion of this improper entry.”
22. Bank of America never responded to the June 23, 2006 letter.

23. On June 23, 2006, Berry also sent TransUnion a letter which stated as follows:  
“Please allow this letter to serve as notice that I am still disputing the adverse account status that Bank of America has reported. I am enclosing a copy of the last letter I have sent to Bank of America. If and when I receive an answer from Bank of America, I will forward it on to you. Thank for your help in this matter.”
24. TransUnion either did not respond in or once again verified the Bank of America account in response to the June 26, 2006 dispute letter from Berry.
25. On September 1, 2006, Attorney Deborah L. Dunsmore sent a letter to Bank of America (with a copy to TransUnion) which stated in relevant part as follows:
  - a. “This office has been retained by our client, Mrs. Lisa R. Berry, to assist her in resolving and settling a disputed negative and **FALSE** credit listing as it is currently being reported by your company, Bank of America, to Equifax, Trans Union and Experian.”
  - b. “Mrs. Lisa R. Berry has written no less than three letters to your company dated respectively April 14, 2006, May 17, 2006 and June 23, 2006, requesting that Bank of America correct and cease the negative, erroneous and false information that your company continues to report pursuant to Mrs. Berry’s credit report(s).”
  - c. The letter goes on to request that the reporting activities cease and alerts Bank of America and Trans Union that any such continued credit reporting will be a violation of the Fair Credit Reporting Act and has and will continue to cause harm to Berry.
26. Bank of America refused to respond to this letter.

27. On September 8, 2006, TransUnion responded to Deborah L. Dunsmore with a form letter and stated that it was “currently investigating the disputed information. We are contacting the source(s) of the information to advise them of the above-referenced consumer’s dispute. They will verify the accuracy of the item(s) and inform TransUnion of their result. When the investigation is completed, the consumer will receive a written respond and/or a copy of his/her updated credit report to notify him/her of the results.”
28. On September 12, 2006, TransUnion sent the results of the investigation to Berry in which the Bank of America Account Number 4305500015914115 was verified with no change. The balance as of September 12, 2006, had jumped to \$18,502.00 with the same date opened of September 2000 and date closed of June 2005. Under the remarks it now says account closed by credit grantor. Previously, it had said closed by consumer.
29. In this time period is when Berry purchased a car from her Credit Union and was told by the Credit Union that this Bank of America account was on there and that she should look into this. This was very embarrassing and distressing to Berry that someone at the Credit Union (where she has done business for many years) saw her report showing this account had not been paid, particularly given the size of the past due amount.
30. On January 8, 2007, Berry sent yet another dispute letter to TransUnion with states as follows: “I am still not satisfied with the current Bank of America portion of my credit report. I have disputed this from the time I found it on my report. I have sent Bank of America three letters myself and retained an attorney

to send the last to Bank of America's certified. They still have not responded to me or the attorney. You simply keep sending me a generic form stating verified. I do not feel that this has been verified since they will not even respond to me. I am enclosing copies of all of my correspondences to Bank of America. Please advise me what else I need to do to clear this from my credit report. Please do not send me another form letter simply stating verified. I want proof that this is my account or I want it removed immediately from my credit report. Thanking you in advance for your help in this matter."

31. On January 5, 2007, TransUnion responded to Berry by stating verification documents not available. The letter stated: "We store information in our records as it is supplied to us by creditors. When information is disputed, we are required to investigate and record the current status of the information. We do not provide dispute verification responses received from creditors. If you need to obtain documentation or written verification concerning your accounts, please contact your creditors directly."
32. Berry was frustrated to receive yet another meaningless form letter which did not address her request.
33. On February 5, 2007, TransUnion sent the results of investigation once again for the Bank of America Account Number 4305500015914115 - verified, no change. The original Bank of America Account Number 4305500015914115 has a balance of \$18,502.00, date opened September 2000, date closed June 2005, and under the remarks it says "account closed by credit grantor."

34. Amazingly, this TransUnion report of February 5, 2007 has a second false Bank of America account. The Account # is 4888930998582842 with a balance of \$20,389.00, a date opened of September 2000, date closed June 2005, and under the remarks it says, "account closed by credit grantor." The credit limit for both of these accounts is exactly the same - \$12,700.00. The past due for the new Bank of America account is \$18,502.00 and the original false Bank of America account is \$18,044.00.
35. The new false Bank of America account says that it will come off her report in February 2012 while the original Bank of America account will come off in November 2011.
36. On February 22, 2007 Lisa Berry sent a letter to Bank of America regarding both accounts (i.e. 4305500015914115 and 4888930998582842) and this letter states as follows: "I have been trying for months to get you to either take Account # 4305500015914115 off of my credit report or prove that the account is mine. I repeat that this **is not** my account. You have not responded to any of my inquiries. Now I receive another copy of my credit report and you have put another account as adverse on my credit (# 4888930998582842). This account is also **not** my account. Please immediately notify me that you have removed both of these accounts from my credit report, or prove that the account is mine (which you cannot do because they are not my accounts). Please respond to this letter immediately." The address for Bank of America had changed to 1000, Samoset Drive, Wilmington, Delaware 19884, as the credit reports showed this new address, and so the letter was copied to TransUnion.

37. Bank of America never responded to the February 22, 2007 letter.
38. On February 22, 2007, Berry sent a separate letter to TransUnion which stated as follows: “Please find enclosed to copy of the most recent letter that I have sent to Bank of America. On the last copy of my credit report that you sent me, I now have not only one but two adverse accounts from Bank of America on my report. I do not know where the first one came from and I certainly do not know how all of a sudden I have two. I am asking you once again to remove these accounts from my credit report. I have written numerous letters to you and Bank of America; neither one of you are doing anything to correct this error. Please tell me what form or Court order you need to remove this from my report. This is way past the point of being ridiculous! If this was your credit report, I am sure you would want someone to actually look into the false accounts and advise you what to do instead of simply saying verified. Please do more than just send me another letter stating verified.”
39. On March 26, 2007, TransUnion responded to Berry with the results of its investigation. The first Bank of America account (# 4305500015914115) was finally deleted. The second Bank of America account (# 4888930998582842) has new information reported. The balance jumped to \$21,374.00. The credit limit is still \$12,700.00. The date opened is still September 2000; the date closed is still June 2005. It still shows charged off as bad debt and account closed by credit grantor.
40. On June 25, 2007, Berry sent to Bank of America (at the 1000 Samoset Drive, Wilmington, Delaware 19844 address) a letter regarding the two accounts which

have appeared on her credit report (# 4888930998582842 and # 4305500015914115). The letter states as follows:

- a. “As you should know and be aware from my numerous prior letters and correspondences to Bank of America concerning the two (2) above-referenced Bank of America account numbers that are **not** my accounts and that have **never** been my accounts, this is very much a disputed matter.
- b. Enclosed, please find an **Affidavit of Fraud** I have executed and am providing to Bank of America concerning the two (2) afore-referenced accounts... For some reason, despite my numerous written attempts to notify Bank of America concerning the afore-referenced account numbers of which Bank of America accounts have become adversely listed upon my credit and credit report, and that continue to encumber and harm my credit, credit score and credit rating, Bank of America still refuses to remove and stop reporting such erroneous, fraudulent and harmful information about me... I respectfully DEMAND that Bank of America IMMEDIATELY CEASE AND DESIST reporting such erroneous and false information pertaining to me, to the numerous and various credit bureaus and credit reporting agencies, due to the fact the such information being erroneously supplied by Bank of America causes, has caused and continues to cause financial harm to me and to my family.
- c. Should Bank of America continue to report such false, erroneous, negative, wrongful and harmful information concerning the two (2) afore-

listed accounts from my credit listing and/or credit reports, I will have no choice but to commence litigation upon the expiration of thirty (30) days from the above-inscribed date of this letter.”

41. This June 25, 2007, letter enclosed an affidavit of fraud and was sent to TransUnion, Equifax, and Experian.
42. Bank of America never responded to this letter.
43. In response to this final plea for help, TransUnion sent a form letter which stated, “Our investigation of the dispute you submitted is now complete.” The investigation ended with the Bank of America Account # 4888930998582842 as “VERIFIED, NO CHANGE.”
44. As of March 29, 2008, the Bank of America Account Number 4888930998582842 was still reporting on Berry’s TransUnion and Experian reports, as it has been consistently reported by TransUnion.
45. As of the date this suit is filed, Berry has not received her Equifax report and so does not know if Bank of America is defaming her on the Equifax report.
46. The wrongful Bank of America accounts caused Berry to be unable to close on a mortgage and finally did close with a different company but under less favorable terms. This resulted after the numerous disputes to TransUnion and Bank of America.
47. Berry has suffered great past and future emotional distress from having the Defendants either absolutely ignore her plea for help and/or to just send her generic form letters. The Defendants’ conduct has caused Berry to feel that these companies have no respect for her. These Defendants have treated Berry with

contempt and in a high handed manner which has only intensified the grief and mental anguish. The embarrassment of knowing that her credit reports were and are wrong is severe and knowing that companies she does business with have seen these defamatory and false reports is very troubling.

48. The conduct of Defendants has caused past and future monetary loss and damage to Berry's credit score, worthiness, and reputation.
49. All employees and/or agents for each Defendant acted in the line and scope of their employment and/or agency relationship with Defendant.

**FIRST CLAIM FOR RELIEF**  
**Violations of the Fair Credit Reporting Act (FCRA)**

50. All paragraphs of this Complaint are expressly adopted and incorporated herein as if fully set forth herein.
51. Berry is a "consumer," as codified at 15 U.S.C. § 1681a(c).
52. Equifax, Experian and TransUnion are each a "consumer reporting agency," as codified at 15 U.S.C. § 1681a(e).
53. Bank of America is an entity who, regularly and in the course of business, furnishes information to one or more consumer reporting agencies about its transactions or experiences with any consumer and constitutes a "furnisher," as codified at 15 U.S.C. § 1681s-2.
54. Berry notified Equifax, Experian, and TransUnion directly of a dispute on the Bank of America account as it did not belong to Berry and they directly and

- timely and properly notified<sup>1</sup> Bank of America in accordance with the requirements of the FCRA.
55. Berry alleges that Bank of America failed in all respects to conduct a proper and lawful reinvestigation from start to finish.
56. Berry alleges that TransUnion failed in all respects to conduct a proper and lawful reinvestigation from start to finish.
57. TransUnion has at all relevant times failed to maintain reasonable procedures to assure maximum accuracy and has violated § 1681e(b).
58. All actions taken by Defendants were done with malice, were done willfully, recklessly and/or were done with either the desire to harm Berry and/or with the knowledge that its actions would very likely harm Berry and/or that its actions were taken in violation of the FCRA and/or that knew or should have known that its actions were in reckless disregard of the FCRA.
59. All of the violations of the FCRA proximately caused the injuries and damages set forth in this Complaint.

**SECOND CLAIM FOR RELIEF**  
**Negligent, Reckless, and Wanton Conduct**

60. All paragraphs of this Complaint are expressly adopted and incorporated herein as if fully set forth herein.
61. Defendants each assumed a duty, through the subscriber agreement and other actions, to accurately report the balances of Defendant's accounts.

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<sup>1</sup> Alternatively, TransUnion violated the FCRA by not properly notifying Bank of America of the multiple disputes.

62. Defendants have agreed to follow and understand they must follow the requirements of the FCRA including:

- 15 U.S.C. § 1681(a)(1)(a) which states:

“A person shall not furnish any information relating to a consumer to any consumer reporting agency if the person knows or has reasonable cause to believe that the information is inaccurate.”

- 15 U.S.C. § 1681(a)(1)(B) which states:

“A person shall not furnish information relating to a consumer to any consumer reporting agency if –

- (i) the person has been notified by the consumer, at the address specified by the person for such notices, that specific information is inaccurate; and
- (ii) the information is, in fact, inaccurate.”

- 15 U.S.C. § 1681(a)(2) which states:

“ A person who –

- (A) regularly and in the ordinary course of business furnishes information to one or more consumer reporting agencies about the person’s transactions or experiences with any consumer; and
- (B) has furnished to a consumer reporting agency information that the person determines is not complete or accurate, shall promptly notify the consumer reporting agency of that determination and provide to the agency any corrections to that information, or any additional information, that is necessary to make the information provided by the person to the agency complete and accurate, and shall not thereafter furnish to the agency any of the information that remains not complete or accurate.”

[Emphasis added].

63. Defendants each have a duty under Alabama law to act reasonably under the circumstances.

64. Defendants each have violated this duty under Alabama law by failing to act reasonably under the circumstances which include, but are not limited<sup>2</sup> to, the following:

- Defendants know Berry did not owe any money on any Bank of America account, particularly after the numerous disputes to each Defendant;
- Defendants routinely update credit reports;
- Defendants know and have agreed they must follow the FCRA which requires inaccurate information to be removed;
- Defendants have chosen to update the account falsely; and
- Defendants know their actions will harm the Plaintiff, Plaintiff's credit worthiness, and/or Plaintiff's credit score;

65. Defendants each violated all of the duties the Defendants had and such violations were made recklessly, wantonly, and negligently as Defendants refused to comply with all of the duties each Defendant had.

66. It was foreseeable, and each of the Defendants did in fact foresee it, that refusing to properly update would cause the exact type of harm suffered by Berry.

67. Defendants each acted with negligence, wantonness, and/or recklessness conduct in their dealings with and about Berry as set forth in this Complaint. This includes the initial reporting of Defendants' accounts; the refusal to properly update/delete the accounts; and all other aspects as set forth in this Complaint.

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<sup>2</sup> Until discovery is completed, Berry cannot know all the circumstances for each Defendant.

68. Berry has been damaged as a proximate result of each Defendant's wrongful conduct as set forth in this Complaint.

**THIRD CLAIM FOR RELIEF**  
**Malicious, Intentional<sup>3</sup> and Willful Conduct**

69. All paragraphs of this Complaint are expressly adopted and incorporated herein as if fully set forth herein.

70. Defendants each assumed a duty, through the subscriber agreement and other actions, to accurately report the balances of Defendant's accounts.

71. Defendants have agreed to follow and understand they must follow the requirements of the FCRA including:

- 15 U.S.C. § 1681(a)(1)(a) which states:

“A person shall not furnish any information relating to a consumer to any consumer reporting agency if the person knows or has reasonable cause to believe that the information is inaccurate.”

- 15 U.S.C. § 1681(a)(1)(B) which states:

“A person shall not furnish information relating to a consumer to any consumer reporting agency if –

- (iii) the person has been notified by the consumer, at the address specified by the person for such notices, that specific information is inaccurate; and
- (iv) the information is, in fact, inaccurate.”

- 15 U.S.C. § 1681(a)(2) which states:

“ A person who –

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<sup>3</sup> Even though this is in a different “Claim For Relief”, a recent U.S. Supreme Court opinion dealing with the FCRA has held that there is no distinction between wanton (reckless) conduct and intentional (willful) conduct. *See Safeco Ins. Co. v. Burr*, 127 S.Ct. 2201, 2207-10 (2007)(citing *Prosser's Law of Torts* “Although efforts have been made to distinguish the terms ‘willful,’ ‘wanton,’ and ‘reckless,’ such distinctions have consistently been ignored, and the three terms have been treated as meaning the same thing, or at least as coming out at the same legal exit”).

- (C) regularly and in the ordinary course of business furnishes information to one or more consumer reporting agencies about the person's transactions or experiences with any consumer; and
- (D) has furnished to a consumer reporting agency information that the person determines is not complete or accurate, shall promptly notify the consumer reporting agency of that determination and provide to the agency any corrections to that information, or any additional information, that is necessary to make the information provided by the person to the agency complete and accurate, and shall not thereafter furnish to the agency any of the information that remains not complete or accurate.”

[Emphasis added].

72. Defendants each have a duty under Alabama law to act reasonably under the circumstances.
73. Defendants each have violated this duty under Alabama law by failing to act reasonably under the circumstances which include, but are not limited<sup>4</sup> to, the following:
- Defendants know Berry did not owe any money on any Bank of America account, particularly after the numerous disputes to each Defendant;
  - Defendants routinely update credit reports;
  - Defendants know and have agreed they must follow the FCRA which requires inaccurate information to be removed;
  - Defendants have chosen to update the account falsely; and
  - Defendants know their actions will harm the Plaintiff, Plaintiff's credit worthiness, and/or Plaintiff's credit score;

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<sup>4</sup> Until discovery is completed, Berry cannot know all the circumstances for each Defendant.

74. Defendants each violated all of the duties the Defendants had and such violations were made intentionally, willfully, and maliciously as Defendants refused to comply with all of the duties each Defendant had.
75. Each Defendant has acted in utter disregard for the rights of the Plaintiffs and have decided to take (or fail to take) action which Defendant knows or is substantially certain will result in harm to Plaintiffs. The Defendants have acted wrongfully without just cause or excuse as Defendants have and had an intent to harm the Plaintiffs and/or acted with an evil intent.
76. It was foreseeable, and each of the Defendants did in fact foresee it, that refusing to properly update would cause the exact type of harm suffered by the Plaintiffs.
77. Defendants each acted with malice and/or intentional (willful) conduct in their dealings with and about Plaintiffs as set forth in this Complaint. This includes the initial reporting of Defendants' accounts; the intentional refusal to properly update/delete the accounts; and all other aspects as set forth in this Complaint.
78. Plaintiffs have been damaged as a proximate result of each Defendant's wrongful conduct as set forth in this Complaint.

**FOURTH CLAIM FOR RELIEF**  
**Invasion of Privacy**

79. All paragraphs of this Complaint are expressly adopted and incorporated herein as if fully set forth herein.
80. Defendants each recklessly, intentionally, and/or willfully invaded the privacy of Plaintiffs as set forth in Alabama law, including publishing false information about Plaintiffs' personal financial obligations and refusing to properly update the credit reports as described in this Complaint.

81. Plaintiffs have been damaged as a proximate result of each Defendant's wrongful conduct as set forth in this Complaint.

**FIFTH CLAIM FOR RELIEF**  
**Misrepresentation and/or Suppression**

82. All paragraphs of this Complaint are expressly adopted and incorporated herein as if fully set forth herein.

83. Defendants each intentionally, maliciously, recklessly and/or negligently have committed misrepresentations of material facts in that each of the Defendants has falsely represented that Plaintiff owes money to Bank of America and has suppressed the truth that this is not the Plaintiff's account.

84. Bank of America has intended that all who review the credit reports of Plaintiff will rely upon the misrepresentations and suppressions of material facts related to the balance owed and the lack of indication that the accounts do not belong to the Plaintiff.

85. TransUnion has intended that all who review the credit reports of Plaintiff will rely upon the misrepresentations and suppressions of material facts related to the balance owed and the lack of indication that the accounts do not belong to the Plaintiff.

86. Defendants have each intended that the justifiable and reasonable reliance by others would adversely affect the Plaintiff and that has been the result.

87. Such negligence, malice, wantonness, recklessness, willfulness, and/or intentional conduct related to the misrepresentations and suppressions of material facts has proximately caused the damages set forth in this complaint.

**RELIEF SOUGHT**

88. An award of statutory, actual, compensatory and punitive damages, in an amount to exceed \$500,000.00 and costs of the action including expenses, together with reasonable attorney's fees.
89. Plaintiff also requests all further relief to which Plaintiff is entitled under State law, whether of a legal or equitable nature.

Respectfully Submitted,

/s/ John G. Watts

\_\_\_\_\_  
**John G. Watts**  
**Attorney for Plaintiff**

**OF COUNSEL:**

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(888) 522-7167 *facsimile*  
[john@wattslawgroup.com](mailto:john@wattslawgroup.com)

/s/ M. Stan Herring

\_\_\_\_\_  
**M. Stan Herring ASB-1074-N72M**  
**Attorney for Plaintiff**

**OF COUNSEL:**

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[msh@mstanherringlaw.com](mailto:msh@mstanherringlaw.com)

**PLAINTIFF'S DEMAND A TRIAL BY JURY**

/s/ John G. Watts

\_\_\_\_\_  
**John G. Watts**  
**Attorney for Plaintiff**

**Serve Defendants via certified mail at the following address:**

FIA Card Services, N.A.  
c/o Kenneth P. Lewis  
1100 N. King Street  
Wilmington, DE 19884

TransUnion, LLC  
c/o Prentice-Hall Corporation System, Inc.  
150 S. Perry St.  
Montgomery, AL 36104



**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA**

**LISA BERRY, an individual,** )  
 )  
 **Plaintiff,** )  
 )  
 **v.** )  
 )  
 **FIA CARD SERVICES, N.A.,** )  
 **a Corporation, et al.** )  
 )  
 **Defendants.** )

**Civil Action Number:**

**SUMMONS**

This service by Certified Mail of this Summons and Complaint is initiated upon written request of the Plaintiff's attorney pursuant to the Alabama Rules of Civil Procedure.

**NOTICE TO:** **FIA Card Services, N.A.**  
**c/o Kenneth P. Lewis**  
**1100 N. King Street**  
**Wilmington, DE 19884**

The Complaint which is attached to this Summons is important and you must take immediate action to protect your rights. You or your attorney are required to mail or hand deliver a copy of a written Answer, either admitting or denying each allegation in the Complaint to the Plaintiff's attorney, **John G. Watts, Watts Law Group, P.C., 700 29<sup>th</sup> Street South, Suite 201, Birmingham, Alabama 35233. THIS ANSWER MUST BE MAILED OR DELIVERED WITHIN THIRTY (30) DAYS AFTER THIS SUMMONS AND COMPLAINT WERE DELIVERED TO YOU OR A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT.** You must also file the original of your Answer with the Clerk of this Court.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Clerk



**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA**

**LISA BERRY, an individual,** )  
 )  
 **Plaintiff,** )  
 )  
 **v.** )  
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 **FIA CARD SERVICES, N.A.,** )  
 **a Corporation, et al.** )  
 )  
 **Defendants.** )

**Civil Action Number:**

**SUMMONS**

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**NOTICE TO:            TransUnion, LLC  
                                 c/o Prentice-Hall Corporation System, Inc.  
                                 150 S. Perry St.  
                                 Montgomery, AL 36104**

The Complaint which is attached to this Summons is important and you must take immediate action to protect your rights. You or your attorney are required to mail or hand deliver a copy of a written Answer, either admitting or denying each allegation in the Complaint to the Plaintiff's attorney, **John G. Watts, Watts Law Group, P.C., 700 29<sup>th</sup> Street South, Suite 201, Birmingham, Alabama 35233. THIS ANSWER MUST BE MAILED OR DELIVERED WITHIN THIRTY (30) DAYS AFTER THIS SUMMONS AND COMPLAINT WERE DELIVERED TO YOU OR A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT.** You must also file the original of your Answer with the Clerk of this Court.

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Date

\_\_\_\_\_  
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**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA**

**LISA BERRY, an individual,** )  
 )  
 **Plaintiff,** )  
 )  
 **v.** )  
 )  
 **FIA CARD SERVICES, N.A.,** )  
 **a Corporation, et al.** )  
 )  
 **Defendants.** )

**Civil Action Number:**

**PLAINTIFF’S FIRST REQUEST FOR ADMISSIONS**  
**TO DEFENDANT BANK OF AMERICA ONLY**

Comes now the Plaintiff and pursuant to Rule 36 of the Alabama Rules of Civil Procedure, Plaintiff requests that Defendant Bank of America, admit or deny the truth of the following:

1. Plaintiff never had either one of the Bank of America accounts<sup>1</sup> with you.
2. Plaintiff never had any Bank of America account at any time.
3. You never called Plaintiff to discuss any Bank of America account.
4. You have never sent a bill to Plaintiff for this account.
5. Plaintiff never signed an application or requested a credit card from you related to the accounts.
6. On multiple occasions you reported to Trans Union, Equifax, and Experian that Plaintiff was the responsible person for this account and that Plaintiff had defaulted on this account.
7. You were informed by Trans Union that Plaintiff disputed this account.
8. You were informed by Experian that Plaintiff disputed this account.

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<sup>1</sup> “Account” or “Accounts” means # 4305500015914115 and # 4888930998582842 unless otherwise specified.

9. You were informed by Equifax that Plaintiff disputed this account.
10. When receiving a dispute where the consumer claims the account is not his or hers, part of your policy and procedure in your investigation process is to review any affidavits you have from the consumer.
11. When receiving a dispute where the consumer claims the account is not his or hers, part of your policy and procedure in your investigation process is to review any applications of the consumer.
12. When receiving a dispute where the consumer claims the account is not his or hers, part of your policy and procedure in your investigation process is to contact the consumer to investigate the dispute.
13. You followed all policies and procedures for investigating this account when you received notice that Plaintiff disputed this account.
14. On at least four (4) occasions, you told Trans Union that Plaintiff was responsible for this account.
15. You never contacted Plaintiff in response to any of the Plaintiff's dispute letters to you or through any CRA.
16. You never contacted the Plaintiff to request any additional information for use in your investigation of his disputes regarding this account.
17. You never contacted any person outside your company in the course of your investigation of Plaintiff's disputes regarding this account.
18. You never sent any written or electronic correspondence with Trans Union other than a CDV or ACDV form.

19. As part of their job duties, the employees who participated in investigating Plaintiff's disputes were required to perform a certain number of investigations of consumer disputes per hour.
20. As part of their job duties, the employees who participated in investigating Plaintiff's disputes were evaluated on the number of investigations of consumer disputes they handled.
21. You spent less than five minutes investigating each dispute after being informed of it by Trans Union.
22. There was no dispute that you spent more than five (5) minutes on after being informed of it by Trans Union.
23. You intended that other persons or entities would see the information that you had reported on this account if such other persons or entities reviewed Plaintiff's credit reports from Trans Union, Equifax, and/or Experian.
24. The information you reported about the Plaintiff is adverse credit information that negatively reflects upon Plaintiff's credit history.
25. When you are reviewing credit applications, a credit report that indicates a charged off account of over \$15,000.00 is viewed negatively by you.
26. You agree that the information you provided to Trans Union about Plaintiff from the time of first being notified of a dispute up until receiving notice of this lawsuit was incorrect.
27. It was only after the lawsuit was filed and you were served that you told Trans Union to delete the account 4888XXX from Plaintiff's credit reports.

28. It was only after the lawsuit was filed and you were served that you told Experian to delete the account from Plaintiff's credit reports.
29. It was only after the lawsuit was filed and you were served that you told Experian to delete the account from Plaintiff's credit reports.
30. You told Trans Union to report the second account (# 4888930998582842) on or before February 2007.
31. Up until the time you saw the complaint you still reported to Trans Union the second account, # 4888930998582842.

Respectfully Submitted,

/s/ John G. Watts

**John G. Watts**  
**Attorney for Plaintiff**

**OF COUNSEL:**

Watts Law Group, P.C.  
700 29<sup>th</sup> Street South  
Suite 201  
Birmingham, AL 35233  
(205) 879-2447  
(888) 522-7167 *facsimile*  
[john@wattslawgroup.com](mailto:john@wattslawgroup.com)

/s/ M. Stan Herring

**M. Stan Herring**  
**Attorney for Plaintiff**

**OF COUNSEL:**

M. Stan Herring, P.C.  
700 29<sup>th</sup> Street South  
Suite 201  
Birmingham, AL 35233  
(205) 714-4443  
(888) 522-7167 *facsimile*  
[msh@mstanherringlaw.com](mailto:msh@mstanherringlaw.com)

**PLEASE SERVE WITH THE SUMMONS AND COMPLAINT**



**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA**

**LISA BERRY, an individual,** )  
 )  
 **Plaintiff,** )  
 )  
 **v.** )  
 )  
 **FIA CARD SERVICES, N.A.,** )  
 **a Corporation, et al.** )  
 )  
 **Defendants.** )

**Civil Action Number:**

**PLAINTIFF'S FIRST REQUEST FOR ADMISSIONS**  
**TO DEFENDANT TRANS UNION ONLY**

Comes now the Plaintiff and pursuant to Rule 36 of the Alabama Rules of Civil Procedure, Plaintiff requests that Defendant Trans Union admit or deny the truth of the following:

1. You never called Plaintiff to discuss any Bank of America<sup>1</sup> account.
2. When receiving a dispute where the consumer claims the account is not his or hers, part of your policy and procedure in your investigation process is to review any affidavits you have from the consumer.
3. When receiving a dispute where the consumer claims the account is not his or hers, part of your policy and procedure in your investigation process is to contact the consumer to investigate the dispute.
4. You followed all policies and procedures for investigating this account when you received notice that Plaintiff disputed this account.
5. You never contacted Plaintiff in response to any of the Plaintiff's dispute letters to you except to send the letter identified in the complaint.
6. You never contacted the Plaintiff to request any additional information for use in your investigation of his disputes regarding this account.

<sup>1</sup> i.e. FIA Card Services, N.A.

7. You never contacted any person outside your company, other than Defendant Bank of America, in the course of your investigation of Plaintiff's disputes regarding this account.
8. On at least four (4) occasions, Bank of America told you that Plaintiff was responsible for this account.
9. Admit that as a part of one of her disputes, you received an affidavit from Lisa Berry swearing under oath that this was not her account.
10. Admit that you did not forward the affidavit supplied to you by Lisa Berry to Bank of America.
11. Admit you failed to forward any of the letters to Bank of America that Plaintiff sent you disputing the accounts.
12. As part of their job duties, the employees who participated in investigating Plaintiff's disputes were required to perform a certain number of investigations of consumer disputes per hour.
13. As part of their job duties, the employees who participated in investigating Plaintiff's disputes were evaluated on the number of investigations of consumer disputes they handled.
14. You spent less than five minutes investigating each dispute from the Plaintiff.
15. There was no dispute that you spent more than five (5) minutes from the Plaintiff.
16. You intended that other persons or entities would see the information that you had reported on this account if such other persons or entities reviewed the credit report you maintained on the Plaintiff using your own scoring model(s).

17. The information you reported about the Plaintiff is adverse credit information that negatively reflects upon Plaintiff's credit history.
18. Admit that a letter dated January 4, 2006, was sent to you from plaintiff disputing the Bank of America account.
19. Admit that on February 1, 2006, you verified the Bank of America account.
20. Admit a March 2006 letter from plaintiff requested more information related to your investigation of the account.
21. You sent a form letter on March 5, 2006, to plaintiff.
22. In a letter dated March 27, 2006, you sent the results of the investigation in which you verified the account.
23. On May 17, 2006, the plaintiff mailed a dispute to you related to the account.
24. On May 30, 2006, you sent investigation results in which you verified the Bank of America account.
25. In a letter dated June 23, 2006, plaintiff disputed the account.
26. In a letter dated September 1, 2006, Attorney Debra Dunsmore sent you a dispute letter related to the account.
27. On September 8, 2006, you sent a letter to plaintiff's attorney.
28. On September 12, 2006, you sent investigation results to plaintiff verifying the Bank of America account.
29. In a letter dated January 8, 2007, the plaintiff mailed a dispute to you relating to the account.
30. On January 15, 2007, you sent a letter to plaintiff stating that documents were not available.

31. On February 5, 2007, you sent investigation results verifying the account
32. At some point before February 22, 2007, you reported a second Bank of America account.
33. In a letter dated February 22, 2007, plaintiff disputed both accounts.
34. In a letter dated March 26, 2007, you issued the results of your investigation which deleted the #4305xxx and you updated the information on the new Bank of America Account #4888xxx.
35. In a letter dated June 25, 2007, plaintiff disputed the account and included her affidavit.
36. On July 3, 2007 you issued your investigation results verifying the new Bank of America Account #4888xxx.

Respectfully Submitted,

/s/ John G. Watts

**John G. Watts**  
**Attorney for Plaintiff**

**OF COUNSEL:**

Watts Law Group, P.C.  
700 29<sup>th</sup> Street South  
Suite 201  
Birmingham, AL 35233  
(205) 879-2447  
(888) 522-7167 *facsimile*  
[john@wattslawgroup.com](mailto:john@wattslawgroup.com)

/s/ M. Stan Herring

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**M. Stan Herring**  
**Attorney for Plaintiff**

**OF COUNSEL:**

M. Stan Herring, P.C.  
700 29<sup>th</sup> Street South  
Suite 201  
Birmingham, AL 35233  
(205) 714-4443  
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**PLEASE SERVE WITH THE SUMMONS AND COMPLAINT**



**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA**

**LISA BERRY, an individual,** )  
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**Plaintiff,** )  
)  
**v.** )  
)  
**FIA CARD SERVICES, N.A.,** )  
**a Corporation, et al.** )  
)  
**Defendants.** )

**Civil Action Number:**

**PLAINTIFF'S FIRST SET OF INTERROGATORIES**  
**TO DEFENDANT TRANSUNION**

PLEASE TAKE NOTICE that you are hereby notified and required to respond to the following Interrogatories propounded by Plaintiff herein, through his attorneys of record, M. Stan Herring and John G. Watts in accordance with the provisions of Rule 33, et seq., of the Alabama Rules of Civil Procedure.

You are further placed on notice that these Interrogatories are deemed continuing, requiring supplemental responses thereto in the event requested information becomes available which would require amendment or supplementation of your responses in order that they would be proper and truthful.

**INSTRUCTIONS**

In answering these Interrogatories, please furnish all information which is available to you, including, without limitation, all information in the possession of your attorneys, accountants, affiliates, auditors, agents, employees, officers, directors, shareholders, contractors, or other personnel, and not merely such information as is in your possession.

If you cannot respond to any of the following Interrogatories in full, after exercising due diligence to secure information to do so, please so state, and respond to the extent possible, specifying all reasons why you are unable or unwilling to respond to the remainder, stating whatever information you have concerning the unproduced information, and what efforts you made to secure information sufficient to allow you to respond fully to the particular Interrogatory.

Although one or more of the following Interrogatories may not appear to be applicable to or directed to you, please respond to each and every one of them to the extent that you are able to provide any response thereto whether such response consists of information within your own knowledge or what you have obtained from others. However, for every response in which you include information received from others, please provide the name, any known address, and any known phone number of the person from whom you so received such information. And, in every such instance please state that you cannot verify such of your own personal knowledge, identifying particularly the information for which you cannot vouch. Further, these Interrogatories contain words or phrases which require you to refer to the "Definitions" section of this document provided herein below.

Unless otherwise stated, each Interrogatory pertains to the time period beginning January, 2004, through the present date. Thus, your responses should be fully answered as they pertain to information within that time frame. Further, each Interrogatory should identify the appropriate time frame, if your response requires same.

## DEFINITIONS

1. "You" includes TRANSUNION, LLC, the company, entity, institution, agency, subsidiary(ies), parent corporation(s) and/or any of its branches, departments, employees, agents, contractual affiliates, or otherwise connected by legal relationship, in the broadest sense. "You" includes any of your sister companies or related entities, whether or not separately incorporated. You may also be referenced herein simply as "TransUnion."

2. "Document(s)" shall mean and include any printed, typewritten, handwritten or otherwise recorded matter of whatever character, including specifically, but not exclusively, and without limiting the generality of the foregoing, letters, diaries, desk and other calendars, memoranda, telegrams, posters, cables, reports, charts, statistics, envelopes, studies, newspapers, news reports, business records, book of account(s) or other books, ledgers, balance sheets, journals, personal records, personal notes, any piece of paper, parchment, or other materials similarly used with anything written, typed, printed, stamped, engraved, embossed, or impressed upon it, accountants statements, accounting records of any kind, bank statements, minutes of meetings or other minutes, labels, graphics, notes of meetings or conversations or other notes, catalogues, written agreements, checks, announcements, statements, receipts, returns invoices, bills, warranties, advertisements, guarantees, summaries, pamphlets, prospectuses, bulletins, magazines, publications, photographs, work-sheets, computer printouts, telex transmissions or receipts, teletypes, telefaxes, file folders or other folders, tape recordings, and any original or non-identical (whether different from the original by reason of any notation made on such copies or otherwise), carbon, photostatic or

photograph copies of such materials. The term "documents" shall also mean and include every other recording of, or means of recording on any tangible form, any form of information, data, communication, or representation, including but not limited to, microfilm, microfiche, any records stored on any form of computer software, audio or video tapes or discs, digitally recorded disks or diskettes, or any other medium whatsoever.

For each "document" responsive to any request withheld from production by you on the ground of any privilege, please state:

- (a) The nature of the document (e.g., letter, memorandum, contract, etc.);
- (b) The author or sender of the document;
- (c) The recipient of the document;
- (d) The date the document was authored, sent, and/or received; and
- (e) The reason such document is allegedly privileged.

3. "Audit Trail" means a complete, detailed listing of each and every alteration, deletion, inquiry into, modification or other change to the credit report or profile as maintained in recorded form, in the broadest sense, by "you." The listing should include the identity, address, employer and title of the person(s) taking the action, the identity, address, employer and title of the person(s) authorizing the action, a detailed explanation of the action taken, the date of the action, the means used to effect such action, the location of origin of the action and the reason the action was taken. The term "audit trail" also includes the definition provided for the phrase in the Federbush, Federal Trade Commission and Formal Staff Opinion Letter, March 10, 1983.

4. "Data" means the physical symbols in the broadest sense that represent information, regardless of whether the information is oral, written or otherwise recorded.

5. "Data field" means any single or group of character(s), number(s), symbol(s) or other identifiable mark(s) maintained in a permanent or temporary recording which represent, in any way, an item or collection of information. "Data field" includes all types of data whether maintained in integer, real, character or boolean format.

6. "Database" or "databank" means any grouping or collection of data field(s) maintained, in any format or order, in any permanent or temporary recorded form.

7. "Hardware" means the physical components of a computer or any device capable of maintaining recorded data.

8. "Software" means the entire set of computer programs, procedures, documentation, or other recorded instructions which guide a mechanical device or human in the operation of the computer or mechanical device.

9. "Computer" means any and all programmable electronic devices or apparatuses, including hardware, software, and other databanks, that can store, retrieve, access, update, combine, rearrange, print, read, process or otherwise alter data whether such data are maintained in that device or at some other location. The term "computer" includes any and all magnetic recordings or systems, systems operating on or maintaining data in digital, analog, or hybrid format, or other mechanical devices, or other devices capable of maintaining writings or recordings, of any kind, in condensed format, and includes any disk, tape, recording, or other informational source, regardless of its physical dimension or size.

10. "Format" means the general makeup or general plan of organization or arrangement of data.

11. "Identify" means that you should state:

- (a) any and all names, legal, trade or assumed;
- (b) all addresses used;
- (c) all telephone and fax numbers used; and, if applicable:
- (d) brand, make, manufacturer's name, address, phone number and the manufacturer's relationship to any and all Defendants in the above captioned action; and
- (e) employer's name, address, phone number and the employer's relationship to any and all Defendants in the above captioned action.

12. "Person(s)" means any human being, sole proprietorship, limited partnership, partnership, association, group of human beings, other legal or de facto entity, or corporation, of whatever kind.

13. "Credit worthiness" means any item of information which, in any way, represents or bears upon the credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living of a person.

14. "Credit issuer" means any person who extends, purchases or takes assignments of credit to any consumer(s), as the whole or part of their business, regardless of the nature of the arrangement between the consumer and the person issuing credit.

15. "Explain" means to elucidate, make plain or understandable, to give the reason for or cause of, and to show the logical development or relationships thereof.

16. "Describe" means to represent or give an account of in words.

17. "Security Assessment" means any method of determining the effectiveness of security or continuity measures in dealing with security-related or continuity-related risks.

18. "Security-related" means maintaining the integrity of and controlling access to data.

19. "Continuity-related" means preventing, mitigating and recovering from disruption of computer operation.

20. "Information Security Programs" are those programs, computer-based or otherwise, which support your overall goals while enabling only authorized users to use your computer [system] and enabling the computer processes to function as designed.

21. "User" means any person or computer which interacts with a different computer.

22. "Access Programs" means those programs, physical or computer-based, which insure authorization, identification, verification, access control, accountability and security audit of your consumer credit database.

23. "Information Protection Architecture" means a statement of the overall design and operating objectives for the security, continuity and control of your consumer credit database.

24. "Consumer Credit Database" is intended to mean your entire Equifax consumer credit network, including but not limited to text file mode, file purge, file reorganization mode, all operator preamble, identification and password modes, and all other single or overlaying programs, applications and/or systems, and does include, but is not limited to, the main operating system.

25. "Personal Identifiers" means a person's name or social security number or other unique data which identifies or is associated with a particular "person."

26. "Credit scoring" refers to numerical assessments, provided by you or any other consumer reporting agency to a subscriber, designed to grade the specific consumer and calculate the risk of granting credit. This term includes all forms of scoring including, but not limited to, application scoring, behavior scoring and credit bureau scoring.

27. "Application scoring" refers to your programs designed to evaluate information on a consumer's application and the consumer's existing credit bureau report, as found on your database, using certain characteristics in predicting repayment.

28. "Behavior scoring" refers to your program designed to assess the credit risk of current customers of your subscriber. The assessment results from an analysis of the targeted consumer's purchase and payment history with your subscriber.

29. "Credit Bureau scoring" refers to your programs to assess the credit risk of a targeted consumer based upon a comparison of that consumer's credit report data with the data from credit reports of other consumers on your consumer credit database using your predetermined characteristics and algorithm to predict future payment behavior of the targeted consumer.

30. "Plaintiffs' Disclosure Documents, Bates Stamped" refers to a full set of Bates stamped, non-privileged documents voluntarily produced for inspection to all opposing counsels of record in this action by counsel for Plaintiffs.

31. "Plaintiff" refers to Lisa R. Berry.

32. "Other Defendant" means any Defendant(s) in the above entitled and captioned.

33. "Block" means a group of words, characters or digits that are held in one section of an input/output medium and handled as a unit; e.g., the data recorded on a punched card, or the data recorded between two interblock gaps on a magnetic tape.

34. "Blocking" means combining two or more records into one block usually to increase the efficiency of computer input and output operations.

35. "Block Size" is the number of records per block multiplied by the record size.

36. "CAFE" means the system of programs that processes your customer tapes.

37. "Byte" means a group of adjacent bits operated on as a single unit and usually shorter than a word.

38. "Program" means the following: (1) a plan for solving a problem; (2) to devise a plan for solving a problem; (3) a computer routine (i.e., a set of instructions arranged in proper sequence to cause a computer to perform a particular process); (4) to write a computer routine.

39. "Header record" means a machine readable record at the beginning of a file containing data identifying the file and data used in file control.

40. "Account" or "Accounts" means any Bank of America account or tradeline reported by you on Plaintiff's credit report at any time.

## **INTERROGATORIES**

### **INTERROGATORY NO. 1:**

Identify the names, addresses, and telephone numbers of all persons who were witness to or who have personal knowledge of any of the facts, events, or matters that are

alleged in Plaintiffs' complaint, your answer, your affirmative defenses and describe and explain your understanding of the matters on which the persons named have knowledge. In addition to identifying said individuals as specified in the instructions above, please include the following:

- (a) Please state whether each such person is affiliated with, or related to, or employed by any party (or its agents, servants, officers, or employees) to this lawsuit;
- (b) If any of the persons so listed in response to this interrogatory do not fit the characterization in subpart (a) above, please describe the nature of their involvement in this lawsuit;
- (c) Please explain and describe your understanding of their knowledge of such facts.

**INTERROGATORY NO. 2:**

Identify all correspondence or documents that refer or relate to any correspondence or communication between you and any other defendant in this action, as well as the Plaintiff, as well as any potential credit grantors or mortgage grantors relating or referring to the Plaintiff, facts, acts, events, or matters alleged in Plaintiffs' complaint, or your answer, anticipated answer and/or defenses thereto.

**INTERROGATORY NO. 3:**

Please state whether you have reported any accounts of or related to the Plaintiff and, in connection with your response, please identify the recipients of such reports, the manner reported, the identifying data connected with the report, and explain and describe the manner and identifiers under which you received the information.

**INTERROGATORY NO. 4:**

State all of the facts and describe all actions you took, including not limited to correspondence and communications with any consumer reporting agency, furnisher, creditor or potential creditor, or the plaintiff, with regard to or which in any way references the Plaintiff and/or any of the accounts of the Plaintiff.

**INTERROGATORY NO. 5:**

State your policies and procedures and identify the name or title of said policy and procedure as well as any and all manuals, reference books, of memorandums by whatever name called, designed to assure the maximum possible accuracy of the information in your consumer credit database and consumer reports you issued. Please also state your policies and procedures and identify the name or title of said policy and procedure as well as any and all manuals, reference books, of memorandums by whatever name called, designed to assure you conduct a reasonable and proper reinvestigation of any disputed accounts.

**INTERROGATORY NO. 6:**

If any document that is or would have been responsive to Plaintiff's Requests for Production of Documents to you was destroyed, lost, mislaid, or otherwise missing, identify the document, state the date of and reason for its destruction, and identify all persons having knowledge of its contents and/or the reason for its destruction.

**INTERROGATORY NO. 7:**

If any document responsive to Plaintiff's Request for Production of Documents to you is withheld from production, identify each such document by date, title, subject matter, length and the request to which it is potentially responsive and state the reason for

withholding production, and identify each person to whom the document was sent, shown, or made accessible, or to whom it was explained.

**INTERROGATORY NO. 8:**

State whether you have reported data on the Plaintiff's consumer reports which is inaccurate and, if so, state why such inaccurate information was placed on his/her/their consumer report(s), state the date(s) such report(s) was (were) issued, to whom the report(s) was (were) issued, and state what you could and should have done to prevent the inaccurate data from being reported on his/her/their consumer report(s).

**INTERROGATORY NO. 9:**

State your procedures (and identify all documents related thereto) designed to assure the proper investigation or reinvestigation of disputed consumer data and the overall accuracy of the information in your consumer credit database and consumer reports you issued.

**INTERROGATORY NO. 10:**

For each dispute of any type from or related to the Plaintiff or concerning any account of Plaintiff, please describe the process of the investigation and the result of the investigation as set forth below:

- (a) List the date of each such dispute;
- (b) Describe the policy and procedure for investigating the dispute including what documents are to be consulted or reviewed; what documents are to be generated; and the identities or description of who is to be involved in any manner with making the decisions;

- (c) For each dispute (listing the date) describe in detail whether the above described policy and procedure for investigating the dispute was followed; what documents were consulted or reviewed; what documents were generated; the identities of all persons involved in any manner with processing or handling the dispute and/or making the decision on the investigation; and the result of the investigation.

**INTERROGATORY NO. 11:**

Please list, explain and describe documents known to you or believed by you to exist concerning any of the events described in Plaintiff's complaint or concerning any of the events which are the subject[s] of any defense[s] you have raised to this lawsuit.

**INTERROGATORY NO. 12:**

Please list, explain and describe each and every contact or communication you received from your co-defendants which, in any way, referenced Plaintiff. This request would include any GEIS [General Electric Information Services]-based and E-Oscar communications, UDFs, AUDFs, CDVs, ACDVs, tape transfers, system to system transfers, phone calls and other means of communication.

**INTERROGATORY NO. 13:**

Did you receive any affidavit or other statement from or related to the Plaintiff? If so, what steps or actions did you take in response.

**INTERROGATORY NO. 14:**

Identify all suits against you or any related company since January 1, 2002, related to a claim that you had falsely reported information about the Plaintiff (who did not have any responsibility for the account) that was reported by Bank of America or

MBNA. State for each case whether you reported information that was accurate or false. Finally, for each suit, state what changes were made to your policies and procedures for reporting information that is provided by Bank of America and/or MBNA and what changes were made in the handling investigation/reinvestigations.

**INTERROGATORY NO. 15:**

If you answer any Request for Admissions with anything other than an “Admitted”, fully explain your response, identifying all documents and persons related to the response.

Respectfully submitted this the 12<sup>th</sup> day of April, 2008.

/s/ John G. Watts

**John G. Watts**  
**Attorney for Plaintiff**

**OF COUNSEL:**

Watts Law Group, P.C.  
700 29<sup>th</sup> Street South  
Suite 201  
Birmingham, AL 35233  
(205) 879-2447  
(888) 522-7167 *facsimile*  
[john@wattslawgroup.com](mailto:john@wattslawgroup.com)

/s/ M. Stan Herring

**M. Stan Herring**  
**Attorney for Plaintiff**

**OF COUNSEL:**

M. Stan Herring, P.C.  
700 29<sup>th</sup> Street South  
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Birmingham, AL 35233  
(205) 714-4443  
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[msh@mstanherringlaw.com](mailto:msh@mstanherringlaw.com)

**PLEASE SERVE WITH THE SUMMONS AND COMPLAINT**





**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA**

**LISA BERRY, an individual,** )  
 )  
 **Plaintiff,** )  
 )  
 **v.** )  
 )  
 **FIA CARD SERVICES, N.A.,** )  
 **a Corporation, TRANSUNION,** )  
 **LLC, a Corporation** )  
 )  
 **Defendant.** )

**Civil Action Number:**

**PLAINTIFF'S FIRST SET OF INTERROGATORIES**  
**TO DEFENDANT BANK OF AMERICA**

PLEASE TAKE NOTICE that you are hereby notified and required to respond to the following Interrogatories propounded by Plaintiff herein, through his attorneys of record, M. Stan Herring and John G. Watts in accordance with the provisions of Rule 33, et seq., of the Alabama Rules of Civil Procedure.

You are further placed on notice that these Interrogatories are deemed continuing, requiring supplemental responses thereto in the event requested information becomes available which would require amendment or supplementation of your responses in order that they would be proper and truthful.

**INSTRUCTIONS**

In answering these Interrogatories, please furnish all information which is available to you, including, without limitation, all information in the possession of your attorneys, accountants, affiliates, auditors, agents, employees, officers, directors, shareholders, contractors, or other personnel, and not merely such information as is in your possession.

If you cannot respond to any of the following Interrogatories in full, after exercising due diligence to secure information to do so, please so state, and respond to the extent possible, specifying all reasons why you are unable or unwilling to respond to the remainder, stating whatever information you have concerning the unproduced information, and what efforts you made to secure information sufficient to allow you to respond fully to the particular Interrogatory.

Although one or more of the following Interrogatories may not appear to be applicable to or directed to you, please respond to each and every one of them to the extent that you are able to provide any response thereto whether such response consists of information within your own knowledge or what you have obtained from others. However, for every response in which you include information received from others, please provide the name, any known address, and any known phone number of the person from whom you so received such information. And, in every such instance please state that you cannot verify such of your own personal knowledge, identifying particularly the information for which you cannot vouch. Further, these Interrogatories contain words or phrases which require you to refer to the "Definitions" section of this document provided herein below.

Unless otherwise stated, each Interrogatory pertains to the time period beginning January, 2004, through the present date. Thus, your responses should be fully answered as they pertain to information within that time frame. Further, each Interrogatory should identify the appropriate time frame, if your response requires same.

## DEFINITIONS

1. "You" includes FIA CARD SERVICES, N.A., d/b/a or commonly known as BANK OF AMERICA, the company, entity, institution, agency, subsidiary(ies), parent corporation(s) and/or any of its branches, departments, employees, agents, contractual affiliates, or otherwise connected by legal relationship, in the broadest sense. "You" includes any of your sister companies or related entities, including MBNA. You may also be referenced herein simply as "Bank of America."

2. "Document(s)" shall mean and include any printed, typewritten, handwritten or otherwise recorded matter of whatever character, including specifically, but not exclusively, and without limiting the generality of the foregoing, letters, diaries, desk and other calendars, memoranda, telegrams, posters, cables, reports, charts, statistics, envelopes, studies, newspapers, news reports, business records, book of account(s) or other books, ledgers, balance sheets, journals, personal records, personal notes, any piece of paper, parchment, or other materials similarly used with anything written, typed, printed, stamped, engraved, embossed, or impressed upon it, accountants statements, accounting records of any kind, bank statements, minutes of meetings or other minutes, labels, graphics, notes of meetings or conversations or other notes, catalogues, written agreements, checks, announcements, statements, receipts, returns invoices, bills, warranties, advertisements, guarantees, summaries, pamphlets, prospectuses, bulletins, magazines, publications, photographs, work-sheets, computer printouts, telex transmissions or receipts, teletypes, telefaxes, file folders or other folders, tape recordings, and any original or non-identical (whether different from the original by reason of any notation made on such copies or otherwise), carbon, photostatic or

photograph copies of such materials. The term "documents" shall also mean and include every other recording of, or means of recording on any tangible form, any form of information, data, communication, or representation, including but not limited to, microfilm, microfiche, any records stored on any form of computer software, audio or video tapes or discs, digitally recorded disks or diskettes, or any other medium whatsoever.

For each "document" responsive to any request withheld from production by you on the ground of any privilege, please state:

- (a) The nature of the document (e.g., letter, memorandum, contract, etc.);
- (b) The author or sender of the document;
- (c) The recipient of the document;
- (d) The date the document was authored, sent, and/or received; and
- (e) The reason such document is allegedly privileged.

3. "Audit Trail" means a complete, detailed listing of each and every alteration, deletion, inquiry into, modification or other change to the credit report or profile as maintained in recorded form, in the broadest sense, by "you." The listing should include the identity, address, employer and title of the person(s) taking the action, the identity, address, employer and title of the person(s) authorizing the action, a detailed explanation of the action taken, the date of the action, the means used to effect such action, the location of origin of the action and the reason the action was taken. The term "audit trail" also includes the definition provided for the phrase in the Federbush, Federal Trade Commission and Formal Staff Opinion Letter, March 10, 1983.

4. "Data" means the physical symbols in the broadest sense that represent information, regardless of whether the information is oral, written or otherwise recorded.

5. "Data field" means any single or group of character(s), number(s), symbol(s) or other identifiable mark(s) maintained in a permanent or temporary recording which represent, in any way, an item or collection of information. "Data field" includes all types of data whether maintained in integer, real, character or boolean format.

6. "Database" or "databank" means any grouping or collection of data field(s) maintained, in any format or order, in any permanent or temporary recorded form.

7. "Hardware" means the physical components of a computer or any device capable of maintaining recorded data.

8. "Software" means the entire set of computer programs, procedures, documentation, or other recorded instructions which guide a mechanical device or human in the operation of the computer or mechanical device.

9. "Computer" means any and all programmable electronic devices or apparatuses, including hardware, software, and other databanks, that can store, retrieve, access, update, combine, rearrange, print, read, process or otherwise alter data whether such data are maintained in that device or at some other location. The term "computer" includes any and all magnetic recordings or systems, systems operating on or maintaining data in digital, analog, or hybrid format, or other mechanical devices, or other devices capable of maintaining writings or recordings, of any kind, in condensed format, and includes any disk, tape, recording, or other informational source, regardless of its physical dimension or size.

10. "Format" means the general makeup or general plan of organization or arrangement of data.

11. "Identify" means that you should state:

- (a) any and all names, legal, trade or assumed;
- (b) all addresses used;
- (c) all telephone and fax numbers used; and, if applicable:
- (d) brand, make, manufacturer's name, address, phone number and the manufacturer's relationship to any and all Defendants in the above captioned action; and
- (e) employer's name, address, phone number and the employer's relationship to any and all Defendants in the above captioned action.

12. "Person(s)" means any human being, sole proprietorship, limited partnership, partnership, association, group of human beings, other legal or de facto entity, or corporation, of whatever kind.

13. "Credit worthiness" means any item of information which, in any way, represents or bears upon the credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living of a person.

14. "Credit issuer" means any person who extends, purchases or takes assignments of credit to any consumer(s), as the whole or part of their business, regardless of the nature of the arrangement between the consumer and the person issuing credit.

15. "Explain" means to elucidate, make plain or understandable, to give the reason for or cause of, and to show the logical development or relationships thereof.

16. "Describe" means to represent or give an account of in words.

17. "Security Assessment" means any method of determining the effectiveness of security or continuity measures in dealing with security-related or continuity-related risks.

18. "Security-related" means maintaining the integrity of and controlling access to data.

19. "Continuity-related" means preventing, mitigating and recovering from disruption of computer operation.

20. "Information Security Programs" are those programs, computer-based or otherwise, which support your overall goals while enabling only authorized users to use your computer [system] and enabling the computer processes to function as designed.

21. "User" means any person or computer which interacts with a different computer.

22. "Access Programs" means those programs, physical or computer-based, which insure authorization, identification, verification, access control, accountability and security audit of your consumer credit database.

23. "Information Protection Architecture" means a statement of the overall design and operating objectives for the security, continuity and control of your consumer credit database.

24. "Consumer Credit Database" is intended to mean your entire Equifax consumer credit network, including but not limited to text file mode, file purge, file

reorganization mode, all operator preamble, identification and password modes, and all other single or overlaying programs, applications and/or systems, and does include, but is not limited to, the main operating system.

25. "Personal Identifiers" means a person's name or social security number or other unique data which identifies or is associated with a particular "person."

26. "Credit scoring" refers to numerical assessments, provided by you or any other consumer reporting agency to a subscriber, designed to grade the specific consumer and calculate the risk of granting credit. This term includes all forms of scoring including, but not limited to, application scoring, behavior scoring and credit bureau scoring.

27. "Application scoring" refers to your programs designed to evaluate information on a consumer's application and the consumer's existing credit bureau report, as found on your database, using certain characteristics in predicting repayment.

28. "Behavior scoring" refers to your program designed to assess the credit risk of current customers of your subscriber. The assessment results from an analysis of the targeted consumer's purchase and payment history with your subscriber.

29. "Credit Bureau scoring" refers to your programs to assess the credit risk of a targeted consumer based upon a comparison of that consumer's credit report data with the data from credit reports of other consumers on your consumer credit database using your predetermined characteristics and algorithm to predict future payment behavior of the targeted consumer.

30. "Plaintiffs' Disclosure Documents, Bates Stamped" refers to a full set of Bates stamped, non-privileged documents voluntarily produced for inspection to all opposing counsels of record in this action by counsel for Plaintiffs.

31. "Plaintiff" refers to Lisa Berry.

32. "Other Defendant" means any Defendant(s) in the above entitled and captioned.

33. "Block" means a group of words, characters or digits that are held in one section of an input/output medium and handled as a unit; e.g., the data recorded on a punched card, or the data recorded between two interblock gaps on a magnetic tape.

34. "Blocking" means combining two or more records into one block usually to increase the efficiency of computer input and output operations.

35. "Block Size" is the number of records per block multiplied by the record size.

36. "CAFE" means the system of programs that processes your customer tapes.

37. "Byte" means a group of adjacent bits operated on as a single unit and usually shorter than a word.

38. "Program" means the following: (1) a plan for solving a problem; (2) to devise a plan for solving a problem; (3) a computer routine (i.e., a set of instructions arranged in proper sequence to cause a computer to perform a particular process); (4) to write a computer routine.

39. "Header record" means a machine readable record at the beginning of a file containing data identifying the file and data used in file control.

40. "Account" or "Accounts" means any Bank of America credit card account or tradeline reported by you on Plaintiff's credit report at any time.

## **INTERROGATORIES**

### **INTERROGATORY NO. 1:**

Identify the names, addresses, and telephone numbers of all persons who were witness to or who have personal knowledge of any of the facts, events, or matters that are alleged in Plaintiffs' complaint, your answer, anticipated answer and/or defenses thereto and describe and explain your understanding of the matters on which the persons named have knowledge. In addition to identifying said individuals as specified in the instructions above, please include the following:

- (a) Please state whether each such person is affiliated with, or related to, or employed by any party (or its agents, servants, officers, or employees) to this lawsuit;
- (b) If any of the persons so listed in response to this interrogatory do not fit the characterization in subpart (a) above, please describe the nature of their involvement in this lawsuit;
- (c) Please explain and describe your understanding of their knowledge of such facts.

### **INTERROGATORY NO. 2:**

Identify all correspondence or documents that refer or relate to any correspondence or communication between you and any other defendant or Credit Reporting Agency, as well as the Plaintiff, as well as any potential credit grantors or mortgage grantors relating or referring to the Plaintiff, facts, acts, events, or matters alleged in Plaintiffs' complaint, or your answer, anticipated answer and/or defenses thereto.

**INTERROGATORY NO. 3:**

Please state whether you have reported any accounts of or related to the Plaintiff and, in connection with your response, please identify the recipients of such reports, the manner reported, the identifying data connected with the report, and explain and describe the manner and identifiers under which you received the information.

**INTERROGATORY NO. 4:**

State all of the facts and describe all actions you took, including not limited to correspondence and communications with any consumer reporting agency, furnisher, creditor or potential creditor, or the plaintiff, with regard to or which in any way references the Plaintiff and/or any of the accounts of the Plaintiff.

**INTERROGATORY NO. 5:**

State your policies and procedures and identify the name or title of said policy and procedure as well as any and all manuals, reference books, of memorandums by whatever name called, designed to assure the maximum possible accuracy of the information in your consumer credit database by whatever name called. Please also state your policies and procedures and identify the name or title of said policy and procedure as well as any and all manuals, reference books, of memorandums by whatever name called, designed to assure you conduct a reasonable and proper reinvestigation of any disputed accounts.

**INTERROGATORY NO. 6:**

If any document that is or would have been responsive to Plaintiff's Requests for Production of Documents to you was destroyed, lost, mislaid, or otherwise missing, identify the document, state the date of and reason for its destruction, and identify all persons having knowledge of its contents and/or the reason for its destruction.

**INTERROGATORY NO. 7:**

If any document responsive to Plaintiff's Request for Production of Documents to you is withheld from production, identify each such document by date, title, subject matter, length and the request to which it is potentially responsive and state the reason for withholding production, and identify each person to whom the document was sent, shown, or made accessible, or to whom it was explained.

**INTERROGATORY NO. 8:**

State whether you have reported data on the Plaintiff's consumer reports which is inaccurate and, if so, state why such inaccurate information was reported to the credit bureaus and/or was placed on his/her/their consumer report(s), state the date(s) such report(s) was (were) issued, to whom the report(s) was (were) issued, and state what you could and should have done to prevent the inaccurate data from being reported on his/her/their consumer report(s).

**INTERROGATORY NO. 9:**

State your procedures (and identify all documents related thereto) designed to assure the proper investigation or reinvestigation of disputed consumer data and the overall accuracy of the information in your consumer credit database and consumer reports you issued.

**INTERROGATORY NO. 10:**

For each dispute of any type from or related to the Plaintiff (whether received from a CRA or directly from the Plaintiff) or concerning any account of Plaintiff, please describe the process of the investigation and the result of the investigation as set forth below:

- (a) List the date of each such dispute;
- (b) Describe the policy and procedure for investigating the dispute including what documents are to be consulted or reviewed; what documents are to be generated; and the identities or description of who is to be involved in any manner with making the decisions;
- (c) For each dispute (listing the date) describe in detail whether the above described policy and procedure for investigating the dispute was followed; what documents were consulted or reviewed; what documents were generated; the identities of all persons involved in any manner with processing or handling the dispute and/or making the decision on the investigation; and the result of the investigation.

**INTERROGATORY NO. 11:**

Please list, explain and describe documents known to you or believed by you to exist concerning any of the events described in Plaintiff's complaint or concerning any of the events which are the subject[s] of any defense[s] you have raised to this lawsuit.

**INTERROGATORY NO. 12:**

Please list, explain and describe each and every contact or communication you received from the CRAs which, in any way, referenced Plaintiff. This request would include any GEIS [General Electric Information Services]-based and E-Oscar communications, UDFs, AUDFs, CDVs, ACDVs, tape transfers, system to system transfers, phone calls and other means of communication.

**INTERROGATORY NO. 13:**

Describe in detail all collection activities you have undertaken against Plaintiff, identifying all companies and people involved and include dates of all activities and communications.

**INTERROGATORY NO. 14:**

Identify all suits against you or any related company (MBNA, BOA, etc.) since January 1, 2002, related to a claim that you had falsely reported information about the Plaintiff (who did not have any responsibility for the account) to the CRAs. State for each case whether you reported information that was accurate or false. Finally, for each suit, state what changes were made to your policies and procedures for reporting information to the CRAs and handling investigation/reinvestigations.

**INTERROGATORY NO. 15:**

If you answer any Request for Admissions with anything other than an “Admitted”, fully explain your response, identifying all documents and persons related to the response.

Respectfully submitted this the 12<sup>th</sup> Day of April, 2008.

/s/ John G. Watts

**John G. Watts**  
**Attorney for Plaintiff**

**OF COUNSEL:**

Watts Law Group, P.C.  
700 29<sup>th</sup> Street South  
Suite 201  
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(205) 879-2447  
(888) 522-7167 *facsimile*  
[john@wattslawgroup.com](mailto:john@wattslawgroup.com)

/s/ M. Stan Herring

**M. Stan Herring**  
**Attorney for Plaintiff**

**OF COUNSEL:**

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(888) 522-7167 *facsimile*  
[msh@mstanherringlaw.com](mailto:msh@mstanherringlaw.com)

**PLEASE SERVE WITH THE SUMMONS AND COMPLAINT**



**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA**

**LISA BERRY, an individual,** )  
)  
**Plaintiff,** )  
)  
**v.** )  
)  
**FIA CARD SERVICES, N.A.,** )  
**a Corporation, et al.** )  
)  
**Defendants.** )

**Civil Action Number:**

**PLAINTIFF'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO ALL DEFENDANTS**

PLEASE TAKE NOTICE that you are hereby notified and required to respond to the following Requests For Production of Documents to Plaintiff herein, through Plaintiff's attorney of record, within the provisions the Alabama Rules of Civil Procedure.

You are further placed on notice that this discovery is continuing, requiring supplemental responses thereto in the event requested information or documents become available which would require amendment or supplementation of your responses in order that they would be proper and truthful, become known to you.

**INSTRUCTIONS**

**ALL INFORMATION.** In answering this discovery, please furnish all information and documents which are available to you, including, without limitation, all documents in the possession of your attorneys, accountants, affiliates, auditors, agents, employees, officers, directors, shareholders, contractors, or other personnel, and not merely such documents as is in your own personal possession.

**DUE DILIGENCE.** If you cannot respond to any of the following requests and interrogatories in full, after exercising due diligence to secure documents and information to do so, please so state, and respond to the extent possible, specifying all reasons why you are unable or unwilling to respond to the remainder, stating whatever documents you have concerning the unproduced documents and undisclosed information, and what efforts you made to secure documents and information sufficient to allow you to respond fully to the particular request or interrogatory.

**OBJECTIONS:** If an interrogatory or request is objected to, in whole or in part, or if information responsive to an interrogatory or request is withheld, on the ground of privilege or otherwise, please set forth fully each objection, describe generally the information which is withheld, and set forth the facts upon which Defendant relies as the basis for each such objection.

**OBLIGATION TO SUPPLEMENT:** This discovery is of a continuing nature and supplementary answers are to be filed upon your discovery that an answer is incorrect or incomplete.

**TIME FRAME:** Unless otherwise stated, each request pertains to the time period beginning **January 1, 2002**, through the present date. Thus, your responses should be fully answered as they pertain to information, recordings or documents within that time frame. Further, each request should identify the appropriate time frame, if your response requires the same.

### **DEFINITIONS**

**"Document"** shall refer to any mechanism of preserving or transmitting any information, whether it be written, printed, photographed, electronically or magnetically recorded or otherwise made and maintained.

**"Identify"** or **"describe"** when referring to a person, a firm, a corporation, or another entity shall mean to state the full formal name; the address of the principal place of business or residence; and the telephone number,

**"Identify"**, or **"describe"** when referring to a document shall mean giving a description of the title, the author, a description of the general subject matter and the identity and address of its present custodian.

**"Defendant(s)," "you"** means all agents, employees, representatives, investigators, and others who are in possession of or may have obtained information for or on behalf of the named party or parties defendant.

**"Personal Identifiers"** means a person's name or social security number or other unique data that identifies or is associated with a particular "person".

**"Plaintiff"** refers to Lisa R. Berry.

### **REQUESTS FOR PRODUCTION OF DOCUMENTS**

1. Please produce all documents involving communications between you and any of the other defendants, in which the communication in any way referenced Plaintiff and/or any of her personal identifiers.
2. Please produce all documents involving or constituting communications between you and the Plaintiff or anyone acting on or purporting to act on the Plaintiff's behalf.

3. Please produce your policy manuals, procedure manuals, or other documents, which address your policies, practices or procedures in reporting data to any consumer reporting agency, during each of the years: 2002, 2003, 2004, 2005, 2006, 2007, and 2008.
4. Please produce your policy manuals, procedure manuals, or other documents, which address your policies, practices or procedures for altering previously reported data to any consumer reporting agency or any other entity, during each of the years: 2002, 2003, 2004, 2005, 2006, 2007, and 2008.
5. Please produce your policy manuals, procedure manuals, or other documents, which address your policies, practices or procedures for retention, dissemination or disposal of account data, during each of the years: 2002, 2003, 2004, 2005, 2006, 2007, and 2008.
6. Please produce your policy manuals, procedure manuals, or other documents, which reference, constitute or duplicate the Fair Credit Reporting Act (or any part thereof) and its revisions or amendments provided to your employees, during each of the years: 2002, 2003, 2004, 2005, 2006, 2007, and 2008.
7. Please produce your policy manuals, procedure manuals, or other documents or video, which are provided to your employees or independent contractors concerning retention, alteration, correction, investigation, dissemination or disposal of data provided to any consumer reporting agency or any other entity or placed in any report during each of the years: 2002, 2003, 2004, 2005, 2006, 2007, and 2008.
8. Please produce your contract, documents, manuals or other recorded data, concerning your subscriber relationships with the other defendants and with Experian and Equifax.
9. Please produce your documents which evidence, constitute and/or address your policies, procedures and guidelines for handling Consumer Disputes, including but not limited

GEIS [General Electric Information Services]-based and E-Oscar communications, UDFs, AUDFs, CDVs, ACDVs, tape transfers, system to system transfers, phone calls, and other means, by whatever named called, of communication to any other agency, entity, consumer reporting agency or furnisher, in each of following years: 2002, 2003, 2004, 2005, 2006, 2007, and 2008.

10. Please produce all of your documents evidencing or including data concerning the names, addresses, telephone numbers, current employers and current whereabouts of each and every one of your employees who communicated with Plaintiff.
11. Please provide a complete audit trail of any document(s), computer(s), or other data held by you which indicate, address or discuss modifying or amending any information regarding Plaintiff reported by you.
12. Please produce all documents which constitute consumer dispute verification (CDV's), Universal Data correction forms, correspondence with any consumer reporting agency, data deletion forms, or any other documents which request an alteration and/or deletion of data you or any other defendant, individual or entity had reported about Plaintiff, which contained any one of Plaintiff's personal identifiers.
13. Please produce your documents evidencing, referencing, constituting and/or containing your subscriber contracts, subscriber names, subscriber codes, personal identification numbers, reporting policies, means and procedures and/or access codes and specify what time periods such contracts, names, codes, personal identification numbers and/or access codes were used or made available to you by any party to this case.
14. Please produce your documents which evidence, constitute and/or address your communications with Plaintiff or anyone acting on behalf of Plaintiff.

15. Please produce your documents and/or correspondence in your, or your attorney's, possession that refer to or relate to any facts which you believe may have any bearing upon this lawsuit or any defenses you have raised in this lawsuit, excluding letters between you and your attorney.
16. Please produce copies of your documents evidencing telephone messages, log books or other regularly maintained records by you which contain information about communications between you and Plaintiff and/or any other defendant in this action and/or any consumer reporting agency or collection agency or furnisher or government bureau or any Better Business Bureau which in any way relates to the account or Plaintiff.
17. Please produce all documents which refer in any manner to the Plaintiff or any of her accounts.
18. Please produce any and all documents identified, relied upon or referred to by you in your responses to Plaintiff's interrogatories.
19. Please produce any and all documents related to the accounts in question. (4305500015914115 and 4888930998582842).

Respectfully submitted this the 12<sup>th</sup> Day of April, 2008.

/s/ John G. Watts

---

**John G. Watts**  
**Attorney for Plaintiff**

**OF COUNSEL:**

Watts Law Group, P.C.  
700 29<sup>th</sup> Street South  
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(205) 879-2447  
(888) 522-7167 *facsimile*  
[john@wattslawgroup.com](mailto:john@wattslawgroup.com)

/s/ M. Stan Herring

**M. Stan Herring**

**Attorney for Plaintiff**

**OF COUNSEL:**

M. Stan Herring, P.C.

700 29<sup>th</sup> Street South

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Birmingham, AL 35233

(205) 714-4443

(888) 522-7167 *facsimile*

[msh@mstanherringlaw.com](mailto:msh@mstanherringlaw.com)

**PLEASE SERVE WITH THE SUMMONS AND COMPLAINT**



**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA**

**LISA BERRY, an individual,** )  
 )  
 **Plaintiff,** )  
 )  
 **v.** )  
 )  
 **FIA CARD SERVICES, N.A.,** )  
 **a Corporation, et al.** )  
 )  
 **Defendants.** )

**Civil Action Number:**

**NOTICE TO TAKE DEPOSITION OF 30(b)(6) CORPORATE REPRESENTATIVE OF FIA CARD SERVICES, N.A.**

Take notice, that the Plaintiff will take the deposition of the following entities or individuals pursuant to Alabama Rules of Civil Procedure. The deponent(s) must bring all documents listed in this deposition notice and any attachments, and present the originals of these documents for inspection and copying at the deposition. The deposition will continue until completed.

**DEPONANT: Corporate Representative of FIA Card Services, N.A.**

**DATE: June 26, 2008**

**TIME: 9:00 a.m.**

**PLACE: Watts Law Group, P.C.  
700 29<sup>th</sup> Street South, Ste 201  
Birmingham, AL 35233**

**Please note that pursuant to Alabama Rules of Civil Procedure 30(b)(5) & (6), this corporate Defendant must designate an individual(s) to testify as to the following matters:**

1. All allegations of fact stated in the complaint in this lawsuit.
2. All affirmative defenses asserted by the Defendant.
3. Whether or not Defendant's credit reportings to the major credit reporting agencies relating to Plaintiff were accurate.
4. Whether or not Defendant's credit reportings to the major credit reporting agencies relating to Plaintiff were accurate.

5. The reason for the second account (#4888930998582842) from Defendant to appear on the February 5, 2007 Trans Union report
6. Whether or not Plaintiff owes or ever owed money to Defendant.
7. The policies, procedures and practices put in place by the Defendant to insure that the investigations or reinvestigations initiated by Plaintiff (whether directly to Defendant or through a CRA) would result in accurate credit reportings relating to Plaintiff.
8. The definition of “accurate” and “verifiable” as those terms are used in Defendant’s investigation or reinvestigation process.
9. The nature and content of any records maintained by the Defendant--including archived copies and recorded conversations--relating to the reinvestigation of any trade lines appearing on Plaintiff’s credit report.
10. The number of reinvestigations of credit disputes handled by the Defendant on an annual basis and economic resources attributable to those reinvestigations.
11. The existence and content of any reports or documents assessing the accuracy or reliability of credit reporting submitted by Defendant including any reports to or by the credit reporting agencies regarding the accuracy and reliability of those reportings.
12. Any quotas or productivity targets for the Defendant’s reinvestigators of credit disputes.
13. Amount paid to and training provided to the employees responsible for reinvestigating disputed credit reportings made by the Defendant.
14. The documents and informational resources available to the Defendant’s employees who are responsible for reinvestigating disputed credit reportings made by the Defendant.
15. The budgetary allocation of resources of the Defendant to reinvestigations of credit reporting disputes.
16. The existence, nature, and content of any training provided to Defendant’s employees or agents conducting reinvestigations.
17. The nature, purpose, and means by which requests for reinvestigation are received and by which response may be made.

18. The identity, content, and number of computer systems used to maintain data on consumers, their accounts, collections or applications and the access given to each of those systems.
19. Scope of Defendant's employees' authority to correct credit reporting errors.
20. The existence and content of any policy or procedure for handling credit reporting reinvestigations.
21. The documents which are regularly maintained by the Defendant relative to any investigation or reinvestigation or credit reporting, and the content of those documents relative to the Plaintiff.
22. The identity of any known witnesses to the allegations of fact stated in the complaint or the affirmative defenses asserted by the Defendant.
23. The authenticity of any documents identified in any of the disclosures, pleadings, or discovery responses.
24. The identity and expert credentials of any of the Defendant's employees or witnesses who were involved with or handled Plaintiff's account and/or any investigation or reinvestigation relative to Plaintiff's accounts.
25. Identity of any person participating in the opening, servicing or handling of the transaction underlying this lawsuit (i.e. the account) or events surrounding it.
26. Any communications between the Defendant and the Plaintiff relating to the investigation or reinvestigation of any credit reporting relating to the Plaintiff.
27. Any releases or waivers signed by the Plaintiff.
28. Any insurance or bonding carried by the Defendant, which may provide coverage for the allegations in Plaintiff's complaint.
29. Whether or not the Plaintiff is a consumer as defined by the Fair Credit Reporting Act, 15 U.S.C. §§ 1681 *et seq* ("FCRA") at § 1681a(c).
30. The existence of, date of and receipt of any credit applications from the Plaintiff.
31. Whether or not the Defendant regularly furnishes credit information to any credit reporting agencies.

32. The manner in which the Defendant reports or otherwise furnishes credit information to credit reporting agencies.
33. The procedures in place at the Defendant to insure that false or inaccurate information is not reported on any consumer's credit report or to any credit reporting agency.
34. Whether or not the Defendant has reported credit information relating to any of Plaintiff's personal identifiers including but not limited to name, address and social security number.
35. The time, place, manner, and content of any reporting of credit information relating to any of Plaintiff's personal identifiers including but not limited to name, address and social security number.
36. The format of the Defendant's credit reportings [e.g.] Metro or Metro II format.
37. The content of each available data field or segment reported relating to any of Plaintiff's personal identifiers including but not limited to name, address and social security number.
38. The capability of the Defendant's computer to reproduce records of past credit reportings to consumer reporting agencies.
39. The policy, practice, and procedure relating to incomplete reporting of the available data fields or segments reported to credit reporting agencies.
40. Whether or not Plaintiff disputed any credit information, supplied by the Defendant, which reportings related to any of Plaintiff's personal identifiers including but not limited to name, address and social security number and the contents of said dispute.
41. Whether or not the Defendant received notice from any consumer reporting agency that Plaintiff disputed any credit information, supplied by the Defendant, which reportings related to any of Plaintiff's personal identifiers including but not limited to name, address and social security number and the contents of said dispute.
42. The time and form in which such dispute was received, and the identity of any persons reviewing or acting on it.
43. The time, place, and manner in which any actions were taken in response to any such notice.

44. The steps and measures that were taken in the course of investigating or reinvestigating any credit information supplied by the Defendant, which credit information related to any of Plaintiff's personal identifiers including but not limited to name, address and social security number.
45. The content of any information which was used in order to investigate or reinvestigate any credit reporting dispute by Plaintiff's of credit information supplied by the Defendant.
46. The identity of any individual who participated in or supervised any investigation or reinvestigation of a credit reporting dispute by Plaintiff's of credit information supplied by the Defendant.
47. The existence and nature of the legal relationship between the Defendant and any consumer reporting agencies to which it reports credit information.
48. Any conditions under which the Defendant has agreed to make its data available to the any consumer reporting agency to which it reports credit information.
49. Whether or not the Defendant's actions in relation to its reporting of credit data relating to the Plaintiff was willful.
50. Whether or not the Defendant willfully failed in its duties to properly investigate or reinvestigate credit disputes sent by the Plaintiff to consumer reporting agencies.
51. Whether or not the Defendant's actions in investigating or reinvestigating its credit reporting relating to the Plaintiff was willful.
52. The motive and intent of the Defendant's actions in relation to its reporting and investigation or reinvestigation of the credit information relating to Plaintiff's personal identifiers.
53. The correctness of the two addresses for Defendant on Plaintiff's credit reports, those being; P.O. Box 1598, Norfolk, VA 23501 and 1000 Samoset Drive, Wilmington DE 19844 and whether you review mail sent to these locations.
54. The policy and procedure from when to not respond to a consumer's direct dispute to the Defendant concerning allegedly false information on a credit report.
55. How your investigation/reinvestigation processes and policies and procedures have changed since the merge with MBNA.

56. The accounts in question.
57. All collection activities on these accounts.
58. Document retention policy.
59. Other suits filed since January 1, 2002, alleging similar conduct and (a claim you falsely reported information about a consumer who did not have any responsibility for) and the damages that were made in response to each suit.

Plaintiff hereby requests all deponents bring all documents responsive to and in support of the categories listed above and present the originals of these documents for inspection and copying at the deposition.

Respectfully Submitted,

/s/ John G. Watts

**John G. Watts**  
**Attorney for Plaintiff**

**OF COUNSEL:**

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/s/ M. Stan Herring

**M. Stan Herring**  
**Attorney for Plaintiff**

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**PLEASE SERVE WITH THE SUMMONS AND COMPLAINT**





**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA**

**LISA BERRY, an individual,** )  
)  
**Plaintiff,** )  
)  
**v.** )  
)  
**FIA CARD SERVICES, N.A.,** )  
**a Corporation, et al.** )  
)  
**Defendants.** )

**Civil Action Number:**

**NOTICE TO TAKE DEPOSITION OF 30(b)(6) CORPORATE REPRESENTATIVE OF TRANSUNION, LLC**

Take notice, that the Plaintiff will take the deposition of the following entities or individuals pursuant to Alabama Rules of Civil Procedure. The deponent(s) must bring all documents listed in this deposition notice and any attachments, and present the originals of these documents for inspection and copying at the deposition. The deposition will continue until completed.

**DEPONANT: Corporate Representative of TransUnion, LLC**

**DATE: June 27, 2008**

**TIME: 9:00 a.m.**

**PLACE: Watts Law Group, P.C.  
700 29<sup>th</sup> Street South, Ste 201  
Birmingham, AL 35233**

**Please note that pursuant to Alabama Rules of Civil Procedure 30(b)(5) & (6), this corporate Defendant must designate an individual to testify as to the following matters:**

1. All allegations of fact stated in the complaint in this lawsuit.
2. All affirmative defenses asserted by the Defendant.
3. Whether or not Defendant's credit reporting on the Bank of America account(s) was accurate.
4. The policies, procedures and practices put in place by the Defendant to insure that the investigations or reinvestigations initiated by Plaintiff would result in accurate credit reportings relating to Plaintiff.

5. The definition of “accurate” and “verifiable” as those terms are used in Defendant’s investigation or reinvestigation process.
6. The nature and content of any records maintained by the Defendant--including archived copies and recorded conversations--relating to the investigation or reinvestigation of any trade lines appearing on Plaintiff’s credit report.
7. The number of reinvestigations of credit disputes handled by the Defendant on an annual basis and economic resources attributable to those investigations or reinvestigations.
8. Any quotas or productivity targets for the Defendant’s reinvestigators of credit disputes.
9. Amount paid to and training provided to the employees responsible for reinvestigating disputed credit reportings made by the Defendant.
10. The documents and informational resources available to the Defendant’s employees who are responsible for reinvestigating disputed credit reportings made by the Defendant.
11. The budgetary allocation of resources of the Defendant to reinvestigations of credit reporting disputes.
12. The existence, nature, and content of any training provided to Defendant’s employees or agents conducting reinvestigations.
13. The nature, purpose, and means by which requests for reinvestigation are received and by which response may be made.
14. The identity, content, and number of computer systems used to maintain data on consumers, their accounts, collections or applications and the access given to each of those systems.
15. Scope of Defendant’s employees’ authority to correct credit reporting errors.
16. Outsourcing by Defendant of any of the investigation or reinvestigation process.
17. The existence and content of any policy or procedure for handling credit reporting reinvestigations.

18. The documents which are regularly maintained by the Defendant relative to any investigation or reinvestigation or credit reporting, and the content of those documents relative to the Plaintiff.
19. The identity of any known witnesses to the allegations of fact stated in the complaint or the affirmative defenses asserted by the Defendant.
20. The authenticity of any documents identified in any of the disclosures, pleadings, or discovery responses.
21. The identity and expert credentials of any of the Defendant's employees or witnesses who were involved with or handled Plaintiff's account and/or any investigation or reinvestigation relative to Plaintiff's accounts.
22. Any communications between the Defendant and the Plaintiff relating to the investigation or reinvestigation of any credit reporting relating to the Plaintiff.
23. Any releases or waivers signed by the Plaintiff.
24. Any insurance or bonding carried by the Defendant, which may provide coverage for the allegations in Plaintiff's complaint.
25. Whether or not the Plaintiff is a consumer as defined by the Fair Credit Reporting Act, 15 U.S.C. §§ 1681 *et seq* ("FCRA") at § 1681a(c).
26. The existence of, date of and receipt of any credit applications from the Plaintiff.
27. The procedures in place at the Defendant to insure that false or inaccurate information is not reported on any consumer's credit report.
28. Whether or not the Defendant has reported credit information relating to any of Plaintiff's personal identifiers including but not limited to name, address and social security number.
29. The time, place, manner, and content of any reporting of credit information relating to any of Plaintiff's personal identifiers including but not limited to name, address and social security number.
30. The format of the Defendant's credit reportings from Bank of America [e.g.] Metro or Metro II format.
31. The content of each available data field or segment reported relating to any of Plaintiff's personal identifiers including but not limited to name, address and social security number.

32. The capability of the Defendant's computer to reproduce records of past credit reportings of the Plaintiff.
33. Whether or not Plaintiff disputed any credit information, supplied by the Defendant, which reportings related to any of Plaintiff's personal identifiers including but not limited to name, address and social security number and the contents of said dispute.
34. The time and form in which any consumer dispute was received, and the identity of any persons reviewing or acting on it.
35. The time, place, and manner in which any actions were taken in response to any such notice of a consumer dispute.
36. The steps and measures that were taken in the course of investigating or reinvestigating any credit information supplied by Bank of America, which credit information related to any of Plaintiff's personal identifiers including but not limited to name, address and social security number.
37. The content of any information which was used in order to investigate or reinvestigate any credit reporting dispute by Plaintiff's of credit information supplied by the Defendant.
38. The identity of any individual who participated in or supervised any investigation or reinvestigation of a credit reporting dispute by Plaintiff's of credit information supplied by the Defendant.
39. The existence and nature of the legal relationship between the Defendant Bank of America and Defendant.
40. Whether or not the Defendant's actions in relation to its reporting of credit data relating to the Plaintiff was willful.
41. Whether or not the Defendant willfully failed in its duties to properly investigate or reinvestigate credit disputes sent by the Plaintiff to consumer reporting agencies.
42. Whether or not the Defendant's actions in investigating or reinvestigating its credit reporting relating to the Plaintiff was willful.
43. The motive and intent of the Defendant's actions in relation to its reporting and investigation or reinvestigation of the credit information relating to Plaintiff's personal identifiers.
44. Defendant's procedures to comply with § 1681(e) requirements.

Plaintiff hereby requests all deponents bring all documents responsive to and in support of the categories listed above and present the originals of these documents for inspection and copying at the deposition.

Respectfully Submitted,

/s/ John G. Watts

**John G. Watts**  
**Attorney for Plaintiff**

**OF COUNSEL:**

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/s/ M. Stan Herring

**M. Stan Herring**  
**Attorney for Plaintiff**

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