



AlaFile E-Notice

64-CV-2008-900112.00

To: JOHN WATTS
john@wattslawgroup.com

NOTICE OF ELECTRONIC FILING

IN THE CIRCUIT COURT OF WALKER COUNTY, ALABAMA

THELMA FAYE MOONEY v. VANDERBILT MORTGAGE & FINANCE INC.
64-CV-2008-900112.00

The following complaint was FILED on 4/5/2008 2:07:42 PM

Notice Date: 4/5/2008 2:07:42 PM

SUSAN ODOM
CIRCUIT COURT CLERK
WALKER COUNTY, ALABAMA
P. O. Box 1389
JASPER, AL 35502

205-384-7268
susan.odom@alacourt.gov

**COVER SHEET
CIRCUIT COURT - CIVIL CASE**

(Not For Domestic Relations Cases)

Case Number:
64-CV-200

Date of Filing:
04/05/2008



ELECTRONICALLY FILED
4/5/2008 2:07 PM
CV-2008-900112.00
CIRCUIT COURT OF
WALKER COUNTY, ALABAMA
SUSAN ODOM, CLERK

GENERAL INFORMATION

**IN THE CIRCUIT OF WALKER COUNTY, ALABAMA
THELMA FAYE MOONEY v. VANDERBILT MORTGAGE & FINANCE INC.**

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/Ejection/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

4/5/2008 2:06:15 PM

/s JOHN WATTS

MEDIATION REQUESTED: Yes No Undecided



IN THE CIRCUIT COURT OF WALKER COUNTY, ALABAMA

**THELMA FAYE MOONEY, an)
individual,)**

Plaintiff,)

v.)

Civil Action Number:

**VANDERBILT MORTGAGE)
AND FINANCE, INC., a)
Corporation; FICTITIOUS)
DEFENDANTS, "A", "B", and)
"C", being those persons or)
legal entities whether singular or)
plural who committed the acts)
alleged in the complaint, which)
Plaintiff believes is Vanderbilt)
Mortgage and Finance, Inc., the)
true names of which are)
unknown to Plaintiff but will)
be properly named when the)
information is ascertained,)**

Defendants.)

COMPLAINT

COMES NOW the Plaintiff, by and through counsel, in the above styled cause, and for her Complaint against the Defendant, Vanderbilt Mortgage and Finance, Inc., states as follows:

Parties

1. The Plaintiff, Thelma Faye Mooney ["Plaintiff" or "Mooney"], is a natural person who is a resident citizen of Walker County, Alabama.
2. Defendant Vanderbilt Mortgage and Finance, Inc. ["Defendant" or "Vanderbilt"] is a foreign corporation doing business in Alabama and in this county.

3. Fictitious Defendants “A”, “B” and “C”, being those persons or entities whether singular or plural who committed the acts alleged in the complaint, which Plaintiff believes is Vanderbilt and will substitute when the proper names are ascertained.

Factual Allegations

4. Plaintiff lives in a house in Walker County that Defendant¹ has a mortgage on but the Plaintiff is not on or responsible for the mortgage.
5. In February 2006 Defendant called Plaintiff and threatened to take her house if she didn't make the payments. She informed Defendant that she was not making the payments – instead her daughter was on the loan and making the payments.
6. Plaintiff's daughter called Defendant and explained her mother's serious medical conditions and that Plaintiff could not handle this type of stress and to never call Plaintiff again as Plaintiff was not responsible for the debt.
7. In May 2006, Defendant claimed Plaintiff's daughter was allegedly behind on the payments and so Defendant called Plaintiff and demanded the payments.
8. At or about the same time a man who was an employee or agent for Defendant showed up at the house and left a note on the door and started taking pictures of the house.
9. This caused Plaintiff to greatly fear and to suffer.
10. He then spoke with Plaintiff and when she explained that she was not on the loan he called Defendant and then handed the phone to Plaintiff.

¹ “Defendant” means all named and fictitiously described Defendants.

11. Plaintiff spoke with a woman from Defendant who told Plaintiff the house would be taken immediately if Plaintiff did not pay the mortgage which was allegedly past due.
12. Plaintiff again explained she was not on the mortgage.
13. Defendant stated that if she lived in the house she had to make the payment.
14. Plaintiff responded that she was disabled and could not make the payment and she was not on the loan.
15. Defendant stated that if Plaintiff was disabled then she received a monthly check and had to make a payment.
16. Defendant also stated that Plaintiff not being a good mother by taking advantage of her daughter and that she should accept responsibility for living there and pay the mortgage.
17. Defendant then threatened Plaintiff that if she did not pay immediately, that same day, then the house would be taken immediately and Plaintiff would be kicked out of her house with her possessions.
18. The effect of having a strange man on her porch and the threatening and harassing phone calls (some of which are described above) was to cause Plaintiff to fall back against a table or chair on her porch and to suffer physical and emotional injury.
19. When this happened the man took the phone and told Defendant they could not call Plaintiff and then he hung up the phone.

20. All of the actions of the agents and employees of the Defendant were taken in the line and scope of their agency or employment relationship and/or were ratified by Defendant.
21. The conduct of the Defendant constitutes a grievous invasion of privacy of Plaintiff.
22. The Defendant acted negligently, recklessly, and willfully in its wrongful conduct towards Plaintiff.
23. The Defendant misrepresented and/or suppressed a material fact in that it threatened Plaintiff with taking her house immediately when it had no right to do so without following the procedures of the law which do not allow for an immediate taking of the property when no foreclosure proceedings have been completed and no court order exists to evict the Plaintiff from her home.
24. Plaintiff reasonably and justifiably relied upon the misrepresentations and suppression of material fact and thought her home would be taken. She continued to talk to and be abused by Defendant when she did not have to as she feared she would be thrown out of her home immediately.
25. Defendant acted with negligence, malice, wantonness, recklessness, and/or intentional conduct in their dealings with and about Plaintiff as set forth in this Complaint.
26. Defendant acted wrongfully in an attempt to extort and threaten Plaintiff in violation of the law.
27. Defendant is guilty of the tort of outrage as its conduct in threatening and abusing an elderly lady with serious medical problems goes beyond all bounds of civilized

- conduct, particularly when Defendant knew of Plaintiff's medical condition and knew she had no responsibility to pay the mortgage.
28. Defendant violated all of the duties the Defendant had and such violations were made intentionally, willfully, recklessly, maliciously, wantonly, and negligently.
 29. It was foreseeable, and Defendant did in fact foresee it, that its misconduct would cause the exact type of harm suffered by the Plaintiff.
 30. Defendant acted with negligence, malice, wantonness, recklessness, and/or intentional conduct in their dealings with and about Plaintiff as set forth in this Complaint.
 31. The Defendant acted with intentional, reckless, or wanton conduct in attempting to collect this debt which was not owed by Plaintiff.
 32. Such negligence, malice, wantonness, recklessness, willfulness, and/or intentional conduct proximately caused the damages set forth in this complaint.
 33. As a result of this conduct, action, and inaction of Defendant, Plaintiff has suffered damage as set forth in this Complaint.

RELIEF SOUGHT

34. An award of actual, compensatory and punitive damages, and costs of the action.
35. 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:

Watts Law Group, P.C.
700 29th Street South
Suite 201
Birmingham, AL 35233
(205) 879-2447
(888) 522-7167 *facsimile*
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/s/ M. Stan Herring

M. Stan Herring
Attorney for Plaintiff

OF COUNSEL:

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(205) 714-4443
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msh@mstanherringlaw.com

Serve Defendants via certified mail at the following address:

Vanderbilt Mortgage and Finance, Inc.
c/o CT Corporation System
800 S. Gay Street, Suite 2021
Knoxville, Tennessee 37929



IN THE CIRCUIT COURT OF WALKER COUNTY, ALABAMA

**THELMA FAYE MOONEY, an)
individual,)
)
Plaintiff,)
)
v.)
)
VANDERBILT MORTGAGE)
AND FINANCE, INC., a)
)
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: Vanderbilt Mortgage and Finance, Inc.
c/o CT Corporation System
800 S. Gay Street, Suite 2021
Knoxville, Tennessee 37929**

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 29th 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