

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
EASTERN DIVISION**

AMY LEAHEY,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No.:
)	
TABULA RASA)	
INTERNATIONAL, LTD, a)	
Corporation; CAVALRY)	
PORTFOLIO SERVICES, LLC,)	
a Corporation,)	
)	
Defendants.)	

COMPLAINT

COMES NOW the Plaintiff, by and through counsel, in the above styled cause, and for Plaintiff’s Complaint against the Defendants states as follows:

JURISDICTION

1. Jurisdiction of this Court arises under 28 U.S.C. § 1331 and pursuant to 15 U.S.C. § 1692k(d), and pursuant to 28 U.S.C. § 1367 for pendent state law claims.
2. This action arises out of Defendants’ repeated violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. (“FDCPA¹”) and out of the

¹ Any reference to the FDCPA includes all applicable subsections whether explicitly stated or not.

invasions of Plaintiff's personal and financial privacy by these Defendants and their agents in their illegal efforts to collect a consumer debt from Plaintiff.

3. Venue is proper in this District because the acts and transactions occurred here, Plaintiff resides here, and Defendants transact business here.

PARTIES

4. Plaintiff Amy Leahey (hereinafter "Plaintiff") is a natural person who resides in the City of Oxford, County of Calhoun, State of Alabama, and is a "consumer" as that term is defined by 15 U.S.C. § 1692a(3).
5. Defendant Tabula Rasa International, LTD (hereinafter "Defendant Tabula") is a collection agency incorporated in New York and having its principle place of business at the address of 5225 Sheridan Drive, Buffalo, New York, and is a "debt collector" as that term is defined by 15 U.S.C. § 1692a(6).
6. Defendant Cavalry Portfolio Services, LLC (hereinafter "Defendant Cavalry") is a collection agency incorporated in Arizona and having its principle place of business at the address of 4050 E. Cotton Center Blvd, Building 2, Suite 20, Phoenix, AZ, and is a "debt collector" as that term is defined by 15 U.S.C. § 1692a(6).
7. The individual collectors' names are unknown but they will be added by amendment when determined through discovery.

FACTUAL ALLEGATIONS

8. On or around 2001, Plaintiff incurred a financial obligation that was primarily for personal, family or household purposes and is therefore a “debt” as that term is defined by 15 U.S.C. § 1692a(5), namely, a lease of a car through Mitsubishi.
9. The car was repossessed.
10. Plaintiff disputed the debt with previous collection agencies including “GE Services” and “Mercantile Adjustment Bureau, LLC”.
11. At some point, the debt was consigned, placed or otherwise transferred to Defendant Cavalry for collection from the Plaintiff.
12. On or about January 8, 2008, Cavalry sent a collection letter to Plaintiff.
13. After this, Defendant Cavalry hired Defendant Tabula to collect the debt.
14. In or around April, 2008, Defendant Tabula contacted Plaintiff’s father, Andrew Harold Adams, on multiple occasions by telephone in an effort to collect this debt, which was a “communication” in an attempt to collect a debt as that term is defined by the FDCPA.
15. On or about April 28, 2008, during the call Defendant Tabula disclosed the nature of the account it claims Plaintiff owes, the amount, and other information designed to shame and embarrass Plaintiff to pay.

16. This was not an attempt to obtain “location information” as Defendants had this and in any event went far beyond the law in disclosing information about Plaintiff and her debt to Andrew Adams.
17. Plaintiff told Defendants not to call her father but to call her at her number.
18. Defendants refused to stop violating the law and continued to call her father and disclose financial details of the collection activities and to say they “were concerned about Amy”.
19. This was very distressing and upsetting to the Plaintiff and Andrew Adams as he is very ill and should not continue to be burdened (and never should have faced this in the first place) with this type of harassing conduct.
20. Plaintiff called Defendants on or about May 13, 2008, and she was asked how she would like to pay the debt.
21. Plaintiff told Defendants not to call and only to write to her and they responded that they could only honor this request if she hired a lawyer and had the lawyer send a letter.

Summary

22. All of the above-described collection communications made to Plaintiff by Defendant Tabula, and collection employees employed by Defendant Tabula, were made in violation of numerous and multiple provisions of the FDCPA,

including but not limited to 15 U.S.C. § 1692e, 1692e(10), and 1692f, amongst others.

23. The above-detailed conduct by these Defendants of harassing Plaintiff in an effort to collect this debt was a violation of numerous and multiple provisions of the FDCPA, including but not limited to all of the above mentioned provisions of the FDCPA, as well as an invasion of Plaintiff's privacy by an intrusion upon seclusion and by revelation of private financial facts and resulted in actual damages to the Plaintiff.
24. This series of abusive collection calls by Defendant Tabula and its employees caused Plaintiff enormous stress and anguish as a result of these abusive calls.
25. This series of abusive collection calls by Defendant Tabula and its employees caused Plaintiff physical problems related to pre-existing physical conditions because of the emotionally abusive manner in which this debt was collected by these Defendants.
26. Defendants' repeated disclosures of Plaintiff's indebtedness to third parties was an invasion of Plaintiff's privacy and right to financial privacy.
27. Defendants repeated attempts to collect this debt from Plaintiff and refusal to stop violating the law and to stop calling Plaintiff's father and to stop calling Plaintiff was an invasion of Plaintiff's privacy and her right to be left alone.

28. Defendants' illegal abusive collection communications as more fully described above were the direct and proximate cause of severe emotional distress on the part of Plaintiff and caused her unnecessary personal strain in her relationship with her husband, father, as well as with other family members.
29. Plaintiff has suffered actual damages as a result of these illegal collection communications by these Defendants in the form of anger, anxiety, emotional distress, fear, frustration, upset, humiliation, embarrassment, amongst other negative emotions, as well as suffering from unjustified and abusive invasions of personal privacy.

Respondeat Superior Liability

30. The acts and omissions of Defendant Tabula, and the other debt collectors employed as agents by Defendant Cavalry who communicated with Plaintiff as more further described herein, were committed within the line and scope of their agency relationship with their principal, Defendant Cavalry.
31. The acts and omissions by Defendant Tabula and these other debt collectors were incidental to, or of the same general nature as, the responsibilities these agents were authorized to perform by Defendant Cavalry in collecting consumer debts.

32. By committing these acts and omissions against Plaintiff, Defendant Tabula and these other debt collectors were motivated to benefit their principal, Defendant Cavalry.
33. Defendant Cavalry is therefore liable to Plaintiff through the doctrine of Respondeat Superior for the wrongful, intentional and negligent acts, errors, and omissions done in violation of state and federal law by its collection employees, including but not limited to violations of the FDCPA and Alabama tort law, in their attempts to collect this debt from Plaintiff.

Negligent Hiring and Supervision

34. Defendant Cavalry negligently and/or wantonly hired, retained, or supervised Defendant Tabula, an incompetent debt collector, and is thereby responsible to the Plaintiff for the wrongs committed against Plaintiff and the damages suffered by Plaintiff.

TRIAL BY JURY

35. Plaintiff is entitled to and hereby respectfully demands a trial by jury on all issues so triable. US Const. amend. 7. Fed.R.Civ.P. 38.

CAUSES OF ACTION

COUNT I.

VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT

15 U.S.C. § 1692 et seq.

36. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
37. The acts and omissions of each and every Defendant and their agents constitute numerous and multiple violations of the FDCPA including, but not limited to, each and every one of the above-cited provisions of the FDCPA, 15 U.S.C. § 1692 et seq., with respect to the Plaintiff.
38. As a result of each and every Defendant's violations of the FDCPA, Plaintiff is entitled to actual damages pursuant to 15 U.S.C. § 1692k(a)(1); statutory damages in an amount up to \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A); (2) actual and compensatory damages; and, (3) reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1692k(a)(3), from each and every Defendant herein.

COUNT II.

**INVASION OF PRIVACY BY INTRUSION UPON SECLUSION AND BY
REVELATION OF PRIVATE FINANCIAL FACTS TO THIRD PARTY**

39. Plaintiffs incorporate by reference all of the paragraphs of this Complaint as though fully stated herein.
40. Alabama law recognizes Plaintiff's right to be free from invasions of privacy and Defendants violated Alabama state law as described in this Complaint.
41. Congress explicitly recognized a consumer's inherent right to privacy in collection matters in passing the Fair Debt Collection Practices Act, when it stated as part of its findings:

Abusive debt collection practices contribute to the number of personal bankruptcies, to marital instability, to the loss of jobs, and **to invasions of individual privacy.**

15 U.S.C. § 1692(a) (emphasis added).

42. Congress further recognized a consumer's right to privacy in financial data in passing the Gramm Leech Bliley Act, which regulates the privacy of consumer financial data for a broad range of "financial institutions" including debt collectors (albeit without a private right of action), when it stated as part of its purposes:

It is the policy of the Congress that **each financial institution has an affirmative and continuing obligation to respect the privacy of its customers** and to protect the security and

confidentiality of those customers' nonpublic personal information.

15 U.S.C. § 6801(a) (emphasis added).

43. Defendants and/or their agents intentionally and/or negligently interfered, physically or otherwise, with the solitude, seclusion and or private concerns or affairs of the Plaintiff, namely, by repeatedly and unlawfully attempting to collect a debt and thereby invaded Plaintiff's privacy.
44. Defendants also intentionally and/or negligently interfered, physically or otherwise, with the solitude, seclusion and or private concerns or affairs of the Plaintiff, namely, by repeatedly and unlawfully disclosing information about this debt to third parties, and thereby invaded Plaintiff's right to financial privacy.
45. Defendants and their agents intentionally and/or negligently caused emotional harm to Plaintiff by engaging in highly offensive conduct in the course of collecting this debt, thereby invading and intruding upon Plaintiff's right to privacy.
46. Plaintiff had a reasonable expectation of privacy in Plaintiff's solitude, seclusion, private concerns or affairs, and private financial information.
47. The conduct of these Defendants and their agents, in engaging in the above-described illegal collection conduct against Plaintiff, resulted in multiple

intrusions and invasions of privacy by these Defendants which occurred in a way that would be highly offensive to a reasonable person in that position.

48. As a result of such intrusions and invasions of privacy, Plaintiff is entitled to actual damages in an amount to be determined at trial from each and every Defendant.

49. All acts of Defendants and their agents and/or employees were committed with malice, intent, wantonness, and/or recklessness and as such each Defendant is subject to punitive damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered against each and every Defendant:

COUNT I.

VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT

15 U.S.C. § 1692 et seq.

- for an award of actual damages pursuant to 15 U.S.C. § 1692k(a)(1) against each and every Defendant;
- for an award of statutory damages of \$1,000.00 pursuant to 15 U.S.C. §1692k(a)(2)(A) against each and every Defendant;
- for an award of costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k(a)(3) against each and every Defendant.

COUNT II.

**INVASION OF PRIVACY BY INTRUSION UPON SECLUSION AND BY
REVELATION OF PRIVATE FINANCIAL FACTS TO THIRD PARTY**

- for an award of actual damages from each and every Defendant for the all damages including emotional distress suffered as a result of the intentional and/or negligent FDCPA violations and intentional and/or negligent invasions of privacy in an amount to be determined at trial for Plaintiff;
- punitive damage; and
- for such other and further relief as may be just and proper.

Respectfully Submitted,

/s/ John G. Watts

John G. Watts ASB-5819-T82J

Attorney for Plaintiff

OF COUNSEL:

Watts Law Group, PC

700 29th Street South

Suite 201

Birmingham, Alabama 35233

(205) 879-2447

(888) 522-7167 *facsimile*

john@wattslawgroup.com

/s/ M. Stan Herring
M. Stan Herring ASB-1074-N72M
Attorney for Plaintiff

OF COUNSEL:

M. Stan Herring, P.C.
700 29th Street South
Suite 201
Birmingham, Alabama 35233
(205) 714-4443
(888) 522-7167 *facsimile*
msh@mstanherringlaw.com

PLAINTIFF DEMANDS A TRIAL BY JURY IN THIS CAUSE.

/s/ John G. Watts
Attorney for Plaintiff

Serve defendants via certified mail at the following addresses:

Cavalry Portfolio Services, LLC
c/o The Corporation Company
2000 Interstate Park Drive
Suite 204
Montgomery, Alabama 36109

Tabula Rasa International, LTD.
5225 Sheridan Drive
Buffalo, New York 14221