

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

<b>LETHA DANIEL,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Civil Action No.:</b>
	)	
<b>CAPITAL ONE BANK, a corporation;</b>	)	
<b>and HOUSEHOLD FINANCE CORP.</b>	)	
<b>OF NEVADA, a Corporation,</b>	)	
	)	
<b>Defendants.</b>	)	

**COMPLAINT**

COMES NOW the Plaintiff, by and through counsel, in the above styled cause, and for her Complaint against the Defendants<sup>1</sup> states as follows:

**Jurisdiction & Venue**

1. This is an action brought by a consumer for violations of the Fair Credit Reporting Act (15 U.S.C. § 1681 et seq. [hereinafter “FCRA”])<sup>2</sup> regarding inaccurate entries on Plaintiff’s credit reports. Therefore, subject matter jurisdiction exists under 28 U.S.C. Section 1331.
  
2. This action is also brought under Alabama state law. These claims are brought under 28 U.S.C. Section 1332 as there exists complete diversity and the amount in controversy exceeds Seventy Five Thousand Dollars (\$75,000), exclusive of costs and interests.

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<sup>1</sup> Any reference to Defendant or Defendants refers to both singular and plural.

<sup>2</sup> Any reference the Fair Credit Reporting Act or any part thereof encompasses all relevant parts and subparts thereto.

3. The Plaintiff, LETHA DANIEL [“Plaintiff”], is a natural person who resides within Jefferson County, Alabama.
4. Defendant CAPITAL ONE BANK [“Defendant” or “Cap One” or “Furnisher”] is a foreign company that engages in business in Jefferson County, Alabama.
5. Defendant HOUSEHOLD FINANCE CORPATION OF NEVADA. [“Defendant” or “HFC” or “Furnisher”] is a foreign company that engages in business in Jefferson County, Alabama.
6. Plaintiff filed bankruptcy in or about August 2003 and on Schedule “F” “CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS”

Plaintiff listed the following creditors:

Cap One  
c/o Halcomb & Wertheim  
P.O. Box 12005  
Birmingham, AL 35202  
Collection account for Cap One  
\$1,755  
Account Number 4121\*\*\*\*

Household Finance  
c/o Nathan & Associates  
P.O. Box 1715  
Birmingham, Alabama 35201  
2003 judgment/collection  
\$10,272.85

7. The Court issued a “Notice of Chapter 7 Bankruptcy Case, Meeting of Creditors, & Deadlines” which was sent to all creditors, including the Defendants.

8. The Defendants did not show up at the meeting of creditors, did not file any objection to discharge of Plaintiff, and did not file any request to determine whether its debt should be discharged.
9. Shortly thereafter, the bankruptcy court discharged the Plaintiff by written order that was sent to the Defendants.
10. Despite the court order, the Defendants continued to report Plaintiff's accounts as having a balance owed.
11. On or about August 9, 2006, Plaintiff sent dispute letters to the three national credit reporting agencies (Equifax, Experian, and TransUnion – "CRAs") which demanded that the accounts listed, including those of the Defendants, show a "0" balance.
12. The CRAs complied with the FCRA by notifying the furnishers/Defendants of the dispute submitted by the Plaintiff.
13. The tradeline Cap One 4121\*\*\*\* on the Equifax report shows a balance and amount past due of \$2,907 and charge off, with the item reported as of August 2006.
14. The tradeline HFC 11105-1\*\*\*\* on the Equifax report shows a balance of \$7,696 and \$1,249 over 120 days past due.
15. On both of the above referenced accounts, there is no mention that these accounts were discharged in bankruptcy.
16. The Defendants failed to properly investigate the accounts in question, as the Defendants knew that the debts were discharged but yet continued to report the balance owed as \$2,907 (Cap One) and \$7,696 (HFC).

17. The Defendants also failed to report the true balance to Equifax when Defendants knew that the balances were wrong as these debts were discharged in bankruptcy.
18. For example, on the Experian report both of these accounts are listed with a \$0 balance and shown as discharged through bankruptcy, chapter 7.
19. On the TransUnion report, the Cap One account is shown with a \$0 balance, the pay status is unrated, and the remarks section states chapter 7 bankruptcy.
20. The conduct of the Defendants willfully and intentionally violated the discharge order entered in this case.
21. Since her discharge in bankruptcy, Plaintiff has not been late on any account and the effect of these two items on her Equifax report has been to substantially affect her credit report and, upon information and belief, her credit score. This has affected her ability to refinance her house.
22. The conduct of the Defendants has proximately caused Plaintiff past and future monetary loss, past and future damage to her credit and credit worthiness, past and future mental distress and emotional anguish and other damages that will be presented to the trier of fact.
23. It is a practice of all of the Defendants to maliciously, willfully, recklessly, wantonly and/or negligently ignore and refuse to follow the requirements of the FCRA and state law.
24. All actions taken by employees, agents, servants, or representatives of any type for the Defendants were taken in the line and scope of such individual's (or entities') employment, agency or representation.

25. All actions taken by the Defendants were done with malice, were done willfully, and were done with either the desire to harm Plaintiff and/or with the knowledge that their actions would very likely harm Plaintiff and/or that their actions were taken in violation of the FCRA.
26. All Defendants have engaged in a pattern and practice of wrongful and unlawful behavior with respect to accounts and consumer reports and as such all Defendants are subject to punitive damages and statutory damages and all other appropriate measures to punish and deter similar future conduct by these Defendants and similar companies.

**FIRST CLAIM FOR RELIEF**  
**Violating the Fair Credit Reporting Act**

27. All paragraphs of this Complaint are expressly adopted and incorporated herein as if fully set forth herein.
28. Plaintiff is a “consumer,” as codified at 15 U.S.C. § 1681a(c).
29. Equifax, Experian, and TransUnion are each “consumer reporting agencies,” as codified at 15 U.S.C. § 1681a(e).
30. Cap One and HFC are entities who, regularly and in the course of business, furnish information to one or more consumer reporting agencies about their transactions or experiences with any consumer and Cap One and HFC constitute “furnishers,” as codified at 15 U.S.C. § 1681s-2.
31. Plaintiff notified Equifax, Experian, and TransUnion directly of a dispute on the Cap One and HFC accounts’ completeness and/or accuracy, as reported.
32. All of the CRAs notified Cap One and HFC in a timely matter of the dispute.

33. Neither Cap One, HFC, Equifax, Experian, nor Trans Union ever notified Plaintiff that her disputes were frivolous or irrelevant, or that she had failed to provide sufficient information to investigate the disputed information.
34. Plaintiff alleges that all Defendants failed in all respects to conduct a proper and lawful reinvestigation from start to finish.
35. For example, Cap One and HFC knew from the multiple notices from bankruptcy court that the accounts were included in bankruptcy, yet Cap One and HFC failed to adequately investigate the disputes, which were relayed by the consumer reporting agencies to these two Defendants.
36. By way of another illustration of the improper investigation, these two Defendants also violated the FCRA by failing to inform Equifax that the balances were \$0 and that the debts were discharged in bankruptcy when the two Defendants reported this to Experian and, in the case of Cap One, also reported this to TransUnion.
37. All actions taken by the Defendants were done with malice, were done willfully, and were done with either the desire to harm Plaintiff and/or with the knowledge that their actions would very likely harm Plaintiff and/or that their actions were taken in violation of the FCRA.
38. All of the violations of the FCRA proximately caused the injuries and damages set forth in this Complaint.

**SECOND CLAIM FOR RELIEF**  
**State Law Claims**

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

40. Defendants published false information about Plaintiff by reporting the Cap One and HFC accounts with a false balance.
41. Plaintiff attempted to get refinancing on her house and this false information was published to her mortgage broker.
42. Plaintiff alleges that the publication was done maliciously, without privilege, and with a willful intent to injure Plaintiff.
43. The Defendants acted with negligence, malice, wantonness, recklessness, and/or intentional conduct in their dealings with and about Plaintiff as set forth in this complaint. This includes the initial reporting of the Cap One and HFC accounts; the handling of the investigations on the accounts; and all other aspects as set forth in this Complaint.
44. Such negligence, malice, wantonness, recklessness, and/or intentional conduct proximately caused the damages set forth in this complaint.
45. The Defendants invaded the privacy of Plaintiff as set forth in Alabama law.

**RELIEF SOUGHT**

46. An award of statutory, actual, compensatory and punitive damages, and costs of the action including expenses, together with reasonable attorney's fees.
47. Plaintiff also requests all further relief to which he is entitled, whether of a legal or equitable nature.

Respectfully Submitted,

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**John G. Watts ASB-5819-T82J**  
**Attorney for Plaintiff**

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**PLAINTIFF DEMANDS A TRIAL BY JURY IN THIS CAUSE.**

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**Attorney for Plaintiff**

**Serve defendants via certified mail at the following addresses.:**

Capital One Bank  
6356 Corley Road  
Norcross, Georgia 30091

Household Finance Corporation of Nevada.  
c/o Corporation Company  
2000 Interstate Park Drive  
Suite 204  
Montgomery, Alabama 36109