

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

**DEBORAH B. BRUNO, formerly )  
known as Deborah B. Stephens, )**

**Plaintiff, )**

**v. )**

**Civil Action No.:**

**ARROW FINANCIAL )  
SERVICES, LLC, a Corporation, )**

**Defendant. )**

**COMPLAINT**

**COMES NOW** the Plaintiff, by and through counsel, in the above styled cause, and for Plaintiff’s Complaint against the Defendant 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”]) and the Fair Debt Collection Practices Act<sup>1</sup> (15 U.S.C. § 1692 et seq. [hereinafter “FDCPA”]). Therefore, subject matter jurisdiction exists under 28 U.S.C. Section 1331.

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<sup>1</sup> Any reference the FDCPA or FCRA or any part thereof encompasses all relevant parts and subparts thereto.

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.
3. The state law claims are also properly before this court based upon supplemental jurisdiction under 28 U.S.C. Section 1367 as the state law claims form part of the same case or controversy as the federal claims as they are based upon substantially similar and overlapping facts.
4. Venue is proper in this Court under 28 U.S.C. Section 1391(b) as the events took place in this Judicial District and the Defendant resides in this Judicial District as Defendant is subject to personal jurisdiction in this Judicial District.

### **PARTIES**

1. Plaintiff Deborah B. Bruno (hereinafter “Plaintiff Bruno”) is a natural person who resides in the City of Birmingham, County of Shelby, State of Alabama, and is a “consumer” as that term is defined by 15 U.S.C. § 1692a(3).
2. Defendant Arrow Financial Services, LLC (hereinafter “Defendant Arrow”) is a collection agency incorporated in Delaware and having its principle place of business at the address of 5996 W. Touhy Avenue, Niles, IL, does business in

this judicial district, and is a “debt collector” as that term is defined by 15 U.S.C. § 1692a(6).

## **FACTUAL ALLEGATIONS**

### **THE COLLECTION LAWSUIT AGAINST PLAINTIFF BRUNO**

3. Defendant Arrow sued Plaintiff Bruno in the Small Claims (District) Court of Shelby County on July 18, 2007.
4. The amount Plaintiff Bruno was sued for was \$1,124.74.
5. The law firm representing Arrow was Zarzaur & Schwartz, P.C. (“Z&S”).
6. Until the time Plaintiff Bruno was served, Plaintiff Bruno had never heard of Defendant Arrow.
7. The address listed on the complaint for Plaintiff Bruno was her old address from years ago – 2076 Brook Highland Ridge, Birmingham, Alabama, 35242-5860.<sup>2</sup>
8. Apparently the new owners of the Brook Highland house gave the sheriff’s deputy (or whoever served the summons) Plaintiff Bruno’s current address of 475 Reach Drive, Birmingham, Alabama, 35242.
9. Plaintiff Bruno was served on August 4, 2007, a Saturday.

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<sup>2</sup> Plaintiff Bruno never received any other documents, orders, or pleadings as all went to her old address and were, presumably, returned to Defendant Arrow (through Z&S) and to the Court as “undeliverable”.

### **PLAINTIFF BRUNO'S CONVERSATIONS WITH DEFENDANT ARROW**

10. At the beginning of the next week Plaintiff Bruno called the law firm representing Defendant Arrow – Z&S.
11. Plaintiff Bruno told Defendant Arrow<sup>3</sup> that she did not know who Defendant Arrow was and what the debt was for.
12. Defendant Arrow told Plaintiff Bruno that the debt was a “Parisian” store credit card debt.
13. Plaintiff Bruno called Defendant Arrow the next day or two days later and stated that she did not understand the lawsuit and did not want to go to court.
14. Defendant Arrow told Plaintiff Bruno she could settle the case for approximately one half of the amount being sued for and that the total Plaintiff Bruno would need to pay was \$588.

### **MISREPRESENTATIONS AND SUPPRESSIONS OF MATERIAL FACTS BY DEFENDANT ARROW TO PLAINTIFF BRUNO**

15. Plaintiff Bruno was also told that if the payment was received before her “time expired” the case would be dismissed against her, she would not need to go to court, and that the account would be taken off her credit report.

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<sup>3</sup> Plaintiff Bruno spoke to Defendant Arrow by and through Defendant Arrow's agent and law firm, Z&S. All references to conversations with Defendant Arrow follow this method – conversations with Z&S.

16. Plaintiff Bruno asked if she needed to mail the check for \$588 that same day and was told she did not need to because she had time.
17. Plaintiff Bruno mailed check number 6250 (Compass Bank) for \$588 to Z&S with the following notation (as she was told to make by Defendant Arrow) – “Settlement for Arrow Financial” and it referenced the Parisian account.
18. Plaintiff Bruno reasonably and justifiably believed the representations of Defendant Arrow and sent the check to Defendant Arrow.
19. It appears that the check was deposited or otherwise negotiated at least by August 14, 2007.

**DEFENDANT ARROW MOVES FOR DEFAULT  
JUDGMENT AFTER SETTLING CASE**

20. Plaintiff Bruno had until at least August 18, 2007, to file an answer and since that falls on a Saturday, she actually had until August 20, 2007, to file her answer before her “time expired”.
21. Amazingly, despite the representations described above and despite accepting the settlement check, on August 21, 2007 (one day after Plaintiff Bruno’s answer was due), Defendant Arrow filed a motion for default judgment against Plaintiff Bruno.

22. The “Application, Affidavit, and Entry of Default Judgment” stated:
- a. “An entry of Default against Defendant(s), DEBORAH B STEPHENS<sup>4</sup>, in the above case is requested for failure to plead, answer, or otherwise defend.” [Emphasis added].
  - b. This was signed by the attorney for Defendant Arrow.
  - c. The document also stated “A Default Judgment against the Defendant), DEBORAH B STEPHENS, in the above case is requested for failure to plead, answer, or otherwise defend.” [Emphasis added].
  - d. The document contained an affidavit of the attorney for Defendant Arrow which stated as follows in relevant part:
    - i. “That the Defendant(s) was/were served with a copy of the Statement of Claim on August 04, 2007.”
    - ii. “That more than 14 days have elapsed since the Defendant(s) was/were served with a copy of the Statement of Claim.”
    - iii. “That the Defendant(s) has/have failed to Answer or otherwise defend himself/herself against the Plaintiff’s claim.”
    - iv. “That this Affidavit is executed by the affiant in accordance with Rule 55(a) of the Alabama Rules of Civil Procedure, for the purpose of enabling the Plaintiff to obtain an entry of default against the Defendant(s) for his/her failure to answer or otherwise defend himself/herself against the Plaintiff’s claim.” [Emphasis added].
    - v. “Judgment conditions: without waiver of exemptions.”
    - vi. “That the amount of money due from the Defendant(s) to the Plaintiff in this case is \$536.74 plus court costs, which is to be determined by the clerk and composed of the following: \$1,103.07, plus interest of \$21.67, plus attorney’s fees in the

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<sup>4</sup> “Stephens” was Plaintiff Bruno’s former last name.

amount of \$0.00, less payments in the amount of \$588.00 received as of August 21, 2007.” [Emphasis added].

23. A proposed Order was submitted to the state court seeking an entry of judgment in the amount of \$1,103.07 plus \$21.67 less the admitted receipt of the \$588 settlement check which was stated as “received as of August 21, 2007.”
24. Defendant Arrow never withdrew its request for a default judgment.
25. On September 11, 2007, the clerk of the state court entered a default judgment against Plaintiff Bruno.
26. Defendant Arrow, filed a “Motion to Dismiss” on September 19, 2007, seeking to have the case dismissed “without prejudice” which would allow Defendant Arrow to sue Plaintiff Bruno again.
27. Defendant Arrow intentionally did not seek the proper dismissal, which would be a dismissal “with prejudice” given that this case had been resolved and settled and given the representations made to Plaintiff Bruno by Defendant Arrow.
28. On September 25, 2007, the state court entered an order as follows:  
  
“This cause coming on to be heard upon the Motion to Dismiss filed by the Plaintiff, and, upon consideration of the same, the court finds said motion to be well-taken and due to be granted. It is therefore, ordered, adjudged and decreed that this matter is hereby dismissed without prejudice. Court costs are taxed as paid.”

29. Defendant Arrow received a copy of this Order.

**DEFENDANT ARROW'S RESPONSE TO  
ENTRY OF DEFAULT JUDGMENT**

30. The next day, in response to the request for a default judgment by Defendant Arrow, the state court entered the following order which imposed a judgment of \$536.74 plus court costs against Plaintiff Bruno:

“This matter come on to be heard upon the application for default filed by the Plaintiff. The court notes that an entry of default was made by the Clerk of Court on the 11<sup>th</sup> day of September, 2007. Based upon said entry of default, together with the pleadings herein, the court hereby enters a default judgment in favor of the Plaintiff and against the Defendant, Deborah B. Stephens, in the amount of \$536.74, plus costs of court. Said judgment is hereby entered without waiver of exemptions. The court further finds that there is no just reason to delay entry of the judgment herein and said judgment is hereby made final, for which let execution issue.

Either party may appeal the decision of this court by filing written Notice of Appeal with the clerk of the Small Claims Court of Shelby County, Alabama, within 14 days of the date of entry of the judgment herein.”

31. Defendant Arrow received a copy of this Order.

32. Defendant Arrow took no action in September in response to this Order which it knew was contrary to the representations made to Plaintiff Bruno.

33. In October, Defendant Arrow took no action in response to this Order which it knew was contrary to the representations made to Plaintiff Bruno.

34. In fact, the only action(s) that Defendant Arrow may have taken in September and October 2007 was in updating the various consumer

reporting agencies (Equifax, Experian, and Trans Union<sup>5</sup> - “CRAs”) that Plaintiff Bruno owed the full amount of money to Defendant Arrow on this admittedly settled account. No indication was given to any CRA that the account was to be deleted, that payment had been received, or that the account was settled.

35. The only action taken in November (except for the apparent constant false updating of the credit reports) was to file a “Satisfaction” in which the attorney for Defendant Arrow stated “I hereby certify that the above referenced judgment including court costs has been satisfied in full.” This was filed in the court on November 19, 2007.
36. At the time Defendant Arrow filed the “Satisfaction” of judgment, it knew the only money it had received from Plaintiff Bruno was the \$588 settlement check in August 2007.
37. This \$588.00 settlement was to settle the case, not to satisfy a judgment.
38. At the time Defendant Arrow filed the “Satisfaction” of judgment, it knew that the judgment should not have ever been requested by Defendant Arrow as it had promised Plaintiff Bruno the case would be dismissed.

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<sup>5</sup> There may be others that Defendant Arrow reported to but Plaintiff Bruno is only aware of these three.

39. At the time Defendant Arrow filed the “Satisfaction” of judgment, it knew that it had filed an application for default judgment.
40. At the time Defendant Arrow filed the “Satisfaction” of judgment, it knew this was “ratifying” or “blessing” the judgment that had been entered contrary to its representations made to Plaintiff Bruno.
41. At the time Defendant Arrow filed the “Satisfaction” of judgment, it knew that this would make it virtually certain (if it was not already virtually certain) that the judgment would be reported on Plaintiff Bruno’s credit reports.
42. This judgment is reporting on all three of Plaintiff Bruno’s credit reports.
43. Defendant Arrow has ratified the wrongful act of filing the request for default judgment by its failure to take any action to correct this gross error which has permanently damaged Plaintiff Bruno.
44. After the case was settled, Defendant Arrow illegally and wrongfully pulled Plaintiff Bruno’s credit on several occasions<sup>6</sup>, violating at least the FCRA and state law.
45. At no time has Defendant Arrow contacted Plaintiff Bruno to advise her of the judgment that was contrary to its representations to Plaintiff Bruno, or that Defendant Arrow had requested the judgment, or that Defendant Arrow

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<sup>6</sup> Including November 2007, February 2008, and May 2008.

had filed the “Satisfaction” of judgment, or that it had falsely kept the tradeline on her credit reports, or that it had falsely updated her credit reports, or that it had wrongfully accessed her private credit reports without a permissible purpose.

46. All actions taken by employees, agents, servants, or representatives of any type for the Defendant was taken in the line and scope of such individuals (or entities’) employment, agency or representation.
47. The Defendant Arrow’s misconduct has caused great past and future emotional distress, past and future credit damage, and past and future monetary loss to Plaintiff Bruno.

### **CAUSES OF ACTION**

#### **FIRST CLAIM FOR RELIEF**

#### **Violations of the Fair Debt Collection Practices Act 15 U.S.C. § 1692 et seq.**

48. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
49. The acts and omissions of Defendant and their agents constitute numerous and multiple violations of the FDCPA. Defendant’s violations of the FDCPA include, but are not limited to, the following:
  - False representations;
  - False credit reporting;
  - Unfair misconduct in all aspects of the suit and credit reporting; and

- False, unfair, and illegal collection misconduct.

50. As a result of 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.

**SECOND CLAIM FOR RELIEF**  
**Violations of the Fair Credit Reporting Act 15 U.S.C. § 1681 et seq.**

51. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
52. The Defendant is subject to the FCRA and has repeatedly violated the FCRA by impermissibly accessing Plaintiff Bruno's credit reports on numerous occasions after the only debt Defendant had with Plaintiff Bruno was resolved.
53. Defendant had no basis or legitimate reason to pull Plaintiff Bruno's credit reports. There was no offer to do business with Defendant and the Defendant could not pull the credit reports for collection purposes as the account it had with Plaintiff Bruno was resolved and Defendant could never collect on the account as it was settled.
54. Defendant intentionally, recklessly, and/or negligently pulled Plaintiff Bruno's credit report illegally and falsely and is therefore subject to statutory

damages for each such violations, actual and compensatory damages, and punitive damages.

55. Defendant's wrongful conduct proximately caused the Plaintiff Bruno's injuries as described in this Complaint.

**THIRD CLAIM FOR RELIEF**  
**Invasion Of Privacy By Intrusion Upon Seclusion And By Revelation Of**  
**Private Financial Facts To Third Party**

56. Plaintiff incorporates by reference all of the paragraphs of this Complaint as though fully stated herein.
57. Alabama law recognizes Plaintiff's right to be free from invasions of privacy and Defendant violated Alabama state law as described in this Complaint.
58. 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).

59. 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).

60. Defendant and/or their agents intentionally, recklessly, and/or negligently interfered, physically or otherwise, with the solitude, seclusion and or private concerns or affairs of the Plaintiff, namely, by Defendant's repeated and unlawful attempts to collect a debt including by using the leverage of unfair false credit reporting and causing a judgment to be altered against Plaintiff, and illegally accessing Plaintiff's credit reports thereby invaded Plaintiff's privacy.
61. Defendant also intentionally, recklessly, 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 false information about this debt to third parties, through the suit, judgment request, judgment, and credit reporting which thereby invaded Plaintiff's right to financial privacy.

62. Defendant and its agents intentionally, recklessly, 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.
63. Plaintiff had a reasonable expectation of privacy in Plaintiff's solitude, seclusion, private concerns or affairs, and private financial information.
64. The conduct of Defendant and its agents, in engaging in the above-described illegal collection conduct against Plaintiff, resulted in multiple intrusions and invasions of privacy by this Defendant which occurred in a way that would be highly offensive to a reasonable person in that position.
65. 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 Defendant.
66. All acts of Defendant and its agents and/or employees were committed with malice, intent, wantonness, and/or recklessness and as such Defendant is subject to punitive damages.

**FOURTH CLAIM FOR RELIEF**  
**Defamation**

67. All paragraphs of this Complaint are expressly adopted and incorporated herein as if fully set forth herein.
68. Defendant published false information about Plaintiff by reporting to all three CRAs the Defendant's account with a false balance.

69. Each time the credit reports of Plaintiff were accessed, a new publication occurred, which was the result intended by each of the Defendant.
70. Plaintiff alleges that the publications and defamations were done maliciously, without privilege, and with a willful intent to injure Plaintiff.
71. Plaintiff has been damaged as a proximate result of each Defendant's wrongful conduct as set forth in this Complaint.
72. Such statements exposed Plaintiff to contempt, ridicule and/or financial injury at the hands of those to whom the report was published. The people to whom the report was published were those to whom Plaintiff's credit reputation was most important. The audience for the defamatory statements was particularly interested in the information stated by the Defendant and were particularly situated to harm Plaintiff, as a result of the Defendant's actions, by denying Plaintiff credit or insurance or other business dealings of varying types.

**FIFTH CLAIM FOR RELIEF**

**Negligent, Reckless, and Wanton Conduct**

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

74. Defendant assumed a duty, through the subscriber agreement with the CRAs, and other actions, to accurately report the balances of Defendant's accounts after individuals, like the Plaintiff, settled the debt.

75. Defendant has agreed to follow and understands it 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].

76. Defendant has a duty under Alabama law to act reasonably under the circumstances.

77. Defendant has violated this duty under Alabama law by failing to act reasonably under the circumstances which include, but are not limited<sup>7</sup> to, the following:

- Defendant previously reported a balance owed by Plaintiff;
- Defendant routinely updates credit reports;
- Defendant knew Plaintiff fully settled the debt in August 2007;
- Defendant understands the legal effect of a settlement;
- Defendant knows that a user of a credit report of Plaintiff will see a “current balance” of more than zero;
- Defendant knows the account reported to the CRAs does not show that the account was settled and does not show a zero balance;

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<sup>7</sup> Until discovery is completed, Plaintiff cannot know all the circumstances for each Defendant.

- Defendant knows that leaving a balance on a settled account will harm the Plaintiff, Plaintiff's credit worthiness, and/or Plaintiff's credit score;
- Defendant knows that failing to note the account is fully settled or will harm the Plaintiff, Plaintiff's credit worthiness, and/or Plaintiff's credit score;
- Defendant knows it is an extraordinarily easy matter to update the Plaintiff's credit report to show a zero balance and settlement;
- Defendant knows and has agreed it must follow the FCRA which requires inaccurate information to be updated and corrected;
- Defendant has chosen to update the account falsely; and
- Defendant knows and intended and still intends that its actions will harm the Plaintiff, Plaintiff's credit worthiness, and/or Plaintiff's credit score;

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

79. It was foreseeable, and Defendant did in fact foresee it, that refusing to properly update would cause the exact type of harm suffered by the Plaintiff.

80. Defendant acted with negligence, wantonness, and/or recklessness conduct in its dealings with and about Plaintiff as set forth in this Complaint. This includes the initial reporting of Defendant's accounts; the refusal to properly update the accounts; and all other aspects as set forth in this Complaint.
81. Plaintiff has been damaged as a proximate result of Defendant's wrongful conduct as set forth in this Complaint.

**SIXTH CLAIM FOR RELIEF**  
**Malicious, Intentional<sup>8</sup> and Willful Conduct**

82. All paragraphs of this Complaint are expressly adopted and incorporated herein as if fully set forth herein.
83. Defendant assumed a duty, through the subscriber agreement and other actions, to accurately report the balances of Defendant's accounts after individuals, like the Plaintiff, settled the debt.
84. Defendant has agreed to follow and understands it must follow the requirements of the FCRA including:
- 15 U.S.C. § 1681(a)(1)(a) which states:

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<sup>8</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").

“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 –

- (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].

85. Defendant has a duty under Alabama law to act reasonably under the circumstances.

86. Defendant has violated this duty under Alabama law by failing to act reasonably under the circumstances which include, but are not limited<sup>9</sup> to, the following:

- Defendant previously reported a balance owed by Plaintiff;
- Defendant routinely updates credit reports;
- Defendant knew Plaintiff fully settled the debt in August 2007;
- Defendant understands the legal effect of a settlement;
- Defendant knows that a user of a credit report of Plaintiff will see a “current balance” of more than zero;
- Defendant knows the account reported to the CRAs does not show that the account was settled and does not show a zero balance;
- Defendant knows that leaving a balance on a settled account will harm the Plaintiff, Plaintiff’s credit worthiness, and/or Plaintiff’s credit score;
- Defendant knows that failing to note the account is fully settled or will harm the Plaintiff, Plaintiff’s credit worthiness, and/or Plaintiff’s credit score;
- Defendant knows it is an extraordinarily easy matter to update the Plaintiff’s credit report to show a zero balance and settlement;

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<sup>9</sup> Until discovery is completed, Plaintiff cannot know all the circumstances for each Defendant.

- Defendant knows and has agreed it must follow the FCRA which requires inaccurate information to be updated and corrected;
- Defendant has chosen to update the account falsely; and
- Defendant knows and intended and still intends that its actions will harm the Plaintiff, Plaintiff's credit worthiness, and/or Plaintiff's credit score;

87. Defendant violated all of the duties the Defendant had and such violations were made intentionally, willfully, and maliciously as Defendant refused to comply with all of the duties Defendant had.

88. Defendant has acted in utter disregard for the rights of the Plaintiff and have decided to take (or fail to take) action which Defendant knows or is substantially certain will result in harm to Plaintiff. The Defendant has acted wrongfully without just cause or excuse as Defendant has and had an intent to harm the Plaintiff and/or acted with an evil intent.

89. It was foreseeable, and the Defendant did in fact foresee it, that refusing to properly update would cause the exact type of harm suffered by the Plaintiff.

90. Defendant acted with malice and/or intentional (willful) conduct in its dealings with and about Plaintiff as set forth in this Complaint. This includes the initial reporting of Defendant's accounts; the intentional refusal

to properly update the accounts; and all other aspects as set forth in this Complaint.

91. Plaintiff has been damaged as a proximate result of Defendant's wrongful conduct as set forth in this Complaint.

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

92. All paragraphs of this Complaint are expressly adopted and incorporated herein as if fully set forth herein.
93. Defendant intentionally, maliciously, recklessly and/or negligently has committed misrepresentations of material facts in that the Defendant has falsely represented that Plaintiff owes money to that Defendant and has suppressed the truth that Plaintiff no longer has any personal liability to the Defendant and that the account in question has been settled.
94. Defendant has intended that the CRAs and 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 account was settled.
95. Defendant has intended that the justifiable and reasonable reliance by others would adversely affect the Plaintiff and that has been the result.
96. Defendant intentionally, maliciously, recklessly and/or negligently has committed misrepresentations of material facts in that Defendant told

Plaintiff Bruno that if the payment was received the case would be dismissed against her, she would not need to go to court, and that the account would be taken off her credit report.

97. Defendants suppressed the fact that it was lying to the Plaintiff Bruno and never intended to follow through on its promises.
98. 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.

### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff prays that judgment be entered against Defendant:

- for an award of actual damages;
- for an award of statutory damages of \$1,000.00 per violation;
- for an award of costs of litigation and reasonable attorney's fees;
- for an award of actual damages from Defendant for the all damages including emotional distress suffered as a result of the intentional, reckless and/or negligent state law violations in an amount to be determined at trial for Plaintiff;
- punitive damage in an amount to be determined at trial for Plaintiff; and
- for such other and further relief as may be just and proper.

**TRIAL BY JURY**

99. 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.

Respectfully Submitted,

/s/ John G. Watts

**John G. Watts ASB-5819-T82J**

Attorney for Plaintiff

**OF COUNSEL:**

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/s/ M. Stan Herring

**M. Stan Herring ASB-1074-N72M**

Attorney for Plaintiff

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

/s/ John G. Watts

**Attorney for Plaintiff**

**Serve defendant via certified mail at the following addresses:**

Arrow Financial Services, LLC  
c/o The Corporation Trust Company  
Corporation Trust Center  
1209 Orange Street  
Wilmington, Delaware 19801