

Exhibit A

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Gerjuan Nelson, individually and on behalf of
all others similarly situated,

Plaintiff,

vs.

Flagship Credit Acceptance, LLC,

Defendant.

IN THE COURT OF COMMON PLEAS

FIFTH JUDICIAL CIRCUIT

Case No.

SUMMONS

TO: THE DEFENDANT ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is hereby served upon you and to serve a copy of your Answer to the said Complaint on the subscriber, David A. Maxfield, Esquire, at his office at P.O. Box 11865, Columbia, South Carolina 29211, within thirty (30) days after service hereof, exclusive of the date of such service; and if you fail to answer the Complaint within the time aforesaid, the Plaintiff in this action will apply to the court for the relief demanded in the Complaint. If you fail to appear and defend, judgment by default will be rendered against you for the relief demanded in the Complaint.

DAVE MAXFIELD, ATTORNEY, LLC

s/Dave Maxfield

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DATED: June 26, 2018
Columbia, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

Gerjuan Nelson, individually and on
behalf of all others similarly situated,

Plaintiff

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COMPLAINT

(Class Action – Jury Trial Requested)

Plaintiff, complaining of the Defendant above-named, would show this Court:

JURISDICTION

1. Plaintiff (“Consumer”) is a citizen and resident of South Carolina.
2. Defendant, Flagship Credit Acceptance, LLC (Flagship) is a limited liability company whose organized under the laws of a foreign state, whose members and headquarters are in the Commonwealth of Pennsylvania, but who transacts significant business in Richland County, South Carolina, including the maintenance of secured interests in vehicles operating in Richland County, South Carolina.
3. This Court has jurisdiction over the parties and subject matter of this action.

FACTUAL ALLEGATIONS

4. Plaintiff (“Consumer”) has a vehicle loan with Defendant.
5. Defendant makes and services numerous vehicle loans throughout South Carolina and throughout much of the United States.

6. In or around March of 2018, Defendant alleged that Plaintiff had become delinquent on the repayment of his vehicle loan.
7. On or around March 20, 2018, Defendant's employee "Sebastian Armesto" sent a mass debt collection email stating :

Happy Tuesday,

We have made several attempts to contact you by telephone regarding your account serviced by Flagship Credit Acceptance. It is important that I speak with you. Please contact me at the number listed below. Thank you for your attention to this matter.

8. Besides sending the e-mail to Plaintiff, Defendant's employee sent the collection email to Plaintiff to several hundred other customers of Defendant, presumably by "cc'ing" the message.
9. Defendant revealed the alleged delinquencies of several hundred other customers as well as Plaintiff's.
10. Many of the email addresses contained full first and last names, and "@" domains that revealed the customer's employer.
11. Virtually any email addresses can be reverse-searched to find the age, location, phone number, and social media profiles of the owner of the address, and photos and other personal information.
12. For nearly 40 years, state and federal collection laws have required that a financial institution protect the privacy of customer account status, and certain personal identifying information. See, e.g., South Carolina Code §30-2-330(A); South Carolina Code §39-1-90, and 15 U.S.C. §1681, et. seq.,
13. Nearly every other state has a parallel or similar provision in its laws, including most if not all the states in which class members resided.
14. Both the FDCPA (which does not apply to Defendant) and S.C. Code 37-5-108 (which expressly does) prohibit the communication of information

regarding a debt to anyone other than the consumer, and/or the publication of any "list of consumers who allegedly refuse to pay debts" to anyone other than a Consumer Reporting Agency. (See, S.C. Code 37-5-108(iv, vi)

15. Besides providing confidential or protected information about Plaintiff, Defendant revealed said information (*and presumably that of every other one of its customers on the email*) and violated their common law right to privacy.
16. Never has Defendant notified any customer of the breach of their account data or personal information.

CLASS ALLEGATIONS

17. Plaintiff (Consumer) incorporates each of the foregoing allegations as fully as if repeated verbatim.
18. Consumer sues as a class action under Rule 23 of the South Carolina Rules of Civil Procedure, on behalf of himself and all other similarly situated persons as members of classes initially defined as:
 - a. Every person whom Defendant communicated account status by the above March 20, 2018 email.
 - b. Every person whose information was compromised by Defendant in any similar email breach in the three years before filing this action.
19. The class as defined above is so numerous that joinder of all members is impracticable.
20. Class members can be identified by records maintained by Defendant.
21. There are questions of law or fact common to the class. Common questions of law and fact include whether Defendant failed in its statutorily-imposed, common law, and other duties to prevent the disclosure of private account status, credit, and/or information, whether the Consumer and the class members have suffered damages because of Defendant's negligent or

wrongful actions or omissions; whether Defendant's actions violated South Carolina law, and whether Consumer and the class members are entitled to injunctive relief.

22. The claims or defenses of the representative parties are typical of the claims or defenses of the class. Consumer's claims are typical of the claims of members of the Class because all suffered the same type of damages arising out of Defendant's wrongful conduct as described herein. Specifically, the claims of Consumers and class members arise from Defendant's communication by postcard of protected or private credit, personal, or account information.
23. The representative party will fairly and adequately protect the interests of the class. Consumer has retained counsel competent and experienced in class action lawsuits. Consumer has no interests antagonistic or in conflict with those of class members and therefore is an adequate representative for class members.
24. The damages in controversy for each member of the class exceeds \$100.00.

FOR A FIRST CAUSE OF ACTION

(S.C. Code 39-1-90)

25. Defendant conducts business in the state of South Carolina, including debt collection via lawsuits, and otherwise.
26. Consumer and the putative class members are citizens and residents of the state of South Carolina or were sued in South Carolina Courts.
27. Defendant maintains computerized and otherwise confidential data, including the personal and financial status information of Consumer and thousands of other South Carolina consumers.
28. Defendant sends hundreds or thousands of billing emails that include personal identifying information, financial status or account information,

which – by Defendant’s negligent or intentional copying of the information - become visible to any person receiving any email.

29. Defendant’s actions constitute a breach of its obligations to keep such information private, including under its own privacy policies.
30. Defendant had to provide notice to Consumer, and to all other affected consumers, of the above breach, but has failed to do so.
31. Upon information and belief, Defendant has continued sending account information by the above collection e-mails, while failing to keep said information private and directed only to the recipient, in violation of federal and South Carolina law.
32. Defendant’s breach – and its continued acts in furtherance of the breach – was reckless and knowing.
33. As a direct and proximate result of the Defendant’s breach, Consumer and the members of the class may recover actual damages, costs, and attorney’s fees with punitive and statutory damages.
34. Consumer on behalf of himself and the members of the class further requests injunctive relief, to require notification of the breach to all affected persons, Defendant’s immediate cessation of e-mail billing notice that reveals account status or alleged delinquency, the immediate cessation of publishing a list of consumers that allegedly fail or refuse to pay debts, or other similar information visible to any person other than its customer. Defendant should likewise be forced to refund any sum obtained from such customers, including late charges, upon whom it used the above collection tactic.

FOR A SECOND CAUSE OF ACTION

(Negligence)

35. The above allegations are repeated as if set forth verbatim.

36. Defendant owed Consumer and the other members of the class a duty, under its own privacy policy, and under South Carolina law, to protect customer account status and personal information.
37. Defendant had to train its employees to ensure that the above duties were taken seriously and followed.
38. Defendant had to supervise its employees and control its data systems, so the employees could not, on their own volition, send mass emails.
39. Defendant breached its duties in the above and in such others as shown at trial.
40. Defendant's breach was negligent, reckless, and/or willful.
41. As a direct and proximate result of the breach, Consumer and the other members of the class have been damaged, and may recover actual and punitive damages, in an amount to be determined by the trier of fact.

FOR A THIRD CAUSE OF ACTION

(Invasion of Privacy – Wrongful Publication)

42. The above allegations are repeated as if set forth verbatim.
43. The allegations contained hereinabove are repeated as if fully alleged verbatim, to the extent not inconsistent with this cause of action.
44. Consumer and the other members of the class have an unqualified right to keep matters such as their account status, in which the public has no legitimate concern, private.
45. Defendant invaded Consumer's and the other class members' right to privacy through its wrongful publication of account status and other protected information.
46. Defendant's conduct was committed in such a manner as to outrage or cause mental suffering, shame, or humiliation to a person of ordinary sensibilities.
47. Defendant's intrusions are substantial and unreasonable.

48. Defendant's intrusions were unnecessary for the prosecution of its collections.

49. Defendant's intrusion was intentional and/or reckless because Defendant knew or should have known (and meaningfully reviewed) the contents of its bills prior to sending them.

50. As a direct and proximate result of the foregoing, Consumer and the members of the class have been damaged.

51. Judgment should be granted against Defendant for actual damages and punitive damages, and such other relief as is just and proper, including injunctive relief.

WHEREFORE, Consumer prays that the Court certify the above-identified class, and grant by verdict or judgment an award of all damages he and they may recover under the law under all causes of action in the class claims, including actual damages, consequential damages, special damages and punitive damages in an amount to be determined by a jury, and declaratory and injunctive relief, including attorney's fees and costs as allowed by any statute or court rule, injunctive relief and such other and further relief as the Court may deem just and proper.

DAVE MAXFIELD, ATTORNEY, LLC

By: s/ Dave Maxfield
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DATED: June 26, 2018