**IN THE UNITED STATES DISTRICT COURT**

**FOR THE EASTERN DISTRICT OF VIRGINIA**

**Richmond Division**

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| **LATONYA M. TRUEHEART,**  Plaintiff,  v.  **,**  **LIBERTY PROCESSING CORP.**  **KIM WATSON**  **NICKY HARPER**  **MIDLAND FUNDING**  **ADVANCE AMERICA**  Defendants. | )  )  )  ))))))))  )  )  ) | Civil No: 3:12-CV--------------- |

**COMPLAINT**

Comes now the Plaintiff Ms. LaTonya M. Trueheart, by counsel, and files this complaint against the defendant, and says as follows:

**PRELIMINARY STATEMENT**

This is an action by a consumer seeking actual, statutory, and punitive damages, attorney fees and costs, and declaratory and injunctive relief for Lease Finance Group, Inc.’s violation The Fair Credit Reporting Act (“FCRA”), 15 U.S.C. §§ 1681-1681x.

**JURISDICTION, VENUE and JURY DEMAND**

1. This court has Federal Question jurisdiction, 28 U.S.C. § 1331, pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. § 1692k.
2. This is the proper venue because Ms. Trueheart resides here, and the majority of the actions claimed happened within the confines of the Eastern District of Virginia. 28 U.S.C. § 1391(b) and (c).
3. The court has personal jurisdiction over defendant because it regularly transact business here, such that it should expect to be hailed into court here.
4. TRIAL BY JURY IS HEREBY DEMANDED FOR ALL MATTERS SO TRIABLE. *See* Fed. R. Civ. P. 38 and U.S. Const. amend. VII

**PARTIES**

1. Plaintiff LaTonya M. Trueheart is a natural person and a resident of the Commonwealth of Virginia residing at 10 Oak Grove Lane, Hanover, VA 23069.
2. Ms. Trueheart is a consumer as defined by the FDCPA, 15 U.S.C. § 1692a(3).
3. Defendant Liberty Processing Corp (“Liberty”), is a Florida Corporation, not registered with the Commonwealth of Virginia State Corporation Commission, and can be served at its registered Agent, Augustin Enofe, 6015 Chester Cir #108, Jacksonville FL 32217 or at its President, Cedric Bennett, Sr. 6015 Chester Circle, #108 Jacksonville FL 32217.
4. Defendant Liberty has the primary business purpose of collecting defaulted consumer debts, many that are payday loans.
5. Defendants Kim Watson and Nicky Harper are employees of defendant Liberty, and are in the business of collecting defaulted consumer debts.
6. Defendant Advance America, Cash Advance Centers of America, Inc. (Advance America) is a Delaware corporation and can be served at its registered agent, Corporation Service Company, 1111 E. Main St. , 16th Floor, Richmond, VA 23218.
7. Midland Funding, LLC (Midland) is a Delaware Limited Liability Company, and may be served at its registered agent, Corporation Service Company, 1111 E. Main St. , 16th Floor, Richmond, VA 23218.

**FACTS**

1. Ms. Trueheart obtained a payday loan with Advance America some time in late 2010 or early 2011 to help her pay for her living expenses, including groceries, child care, etc., bringing the debt in question within the definition of a debt pursuant to the Fair Debt Collection Practices Act.
2. Ms Trueheart subsequently suffered financial setbacks and defaulted on the loan.
3. On information and belief, the loan was transferred after default to Midland.
4. Ms. Trueheart filed for Bankruptcy protection from her creditors on October 3, 2011. Case number 11-36271 in the Eastern District of Virginia, Richmond Division, which was assigned to Judge Douglas O. Tice, Jr., and Trustee Bruce H. Matson.
5. Both Advance America and Midland received electronic notice of the filing of Ms. Trueheart’s Bankruptcy.
6. On information and belief, some time after Advance America and Midland received the electronic notice of the Bankruptcy, one or both of them forwarded the account for collection to Liberty.
7. On information and belief, Advance America and Midland knew or should have known the abusive and harassing tactics used by Liberty.
8. Ms. Trueheart attended the meeting of creditors pursuant to Title 11 US Code, section 341 on November 7, 2011, and the trustee file a report of NO DISTRIBUTION on November 7, 2011.
9. Subsequently, on December 23, 2011, Ms. Trueheart received a call from Kim Watson with Liberty Processing in reference to a debt with Advance America (a well known payday lender.)
10. The plaintiff advised Kim Watson that Plaintiff had filed for Bankruptcy, and that she was no longer obligated on the debt.
11. Kim Watson advised the plaintiff that she was not calling from Advance America, but from Liberty Processing, and that she was investigating fraudulent checks, and that this had been reported to them as a fraudulent check.
12. Ms Watson advised the plaintiff that she would have to pay the debt, regardless of the status of the Bankruptcy, or that a criminal warrant for bad check would be issued.
13. Plaintiff initially authorized the defendant to debit her bank account to avoid being arrested.
14. Plaintiff stopped the payment on her card.
15. Defendant called back on December 26, 2011, and asked plaintiff why the money had not been sent.
16. Plaintiff advised that she did not have sufficient funds to pay.
17. Ms. Watson then advised plaintiff that if she did not pay, the file would be transferred to Hanover County, Virginia to pick her up. Ms. Trueheart believed that this meant that the defendant would have her arrested.
18. The plaintiff said she would have to figure out how to come up with the money, and why wasn’t this debt included in her Bankruptcy.
19. Defendant began yelling at plaintiff and berating her for not paying, advising her that she needed to pay before the start of 2012 because the fraud charge would be beyond the statute of limitations in 2012.
20. Plaintiff was transferred to Nicky Harper, who advised plaintiff that Harper was a manager.
21. Harper advised plaintiff that their job was to get plaintiff to pay the debt, and they will do whatever they have to do.
22. Plaintiff understood the statement of Harper to mean that if she failed to pay that she would be arrested.
23. Plaintiff got a gift card from WalMart for $200, and gave the card number to Harper.
24. That same day, plaintiff consulted with her Bankruptcy Lawyer, John Roberts.
25. Roberts advised the plaintiff that the demand for money was unlawful.
26. Roberts contacted defendants by phone and fax in an attempt to recover the money from defendants for plaintiff.
27. Defendant advised first on the phone, then by fax to Roberts that the money would be returned.
28. As of the date of the filing of this lawsuit, Liberty sent plaintiff a check for $190.00, and not for $200.00 the amount drafted.
29. Plaintiff’s suffered harm and humiliation and embarrassment as a result of the actions of the defendants.
30. Plaintiff’s trust in the Bankruptcy court system and in the American system of justice has been shaken as a result of the actions of the defendant.
31. Defendant now has a fear of answering the phone, and a fear of law enforcement officers, unjustifiably so, as a result of the actions of the defendant.

**FIRST CLAIM FOR RELIEF - Violation of 15 U.S.C. § 1692**

**(Liberty Processing, Kim Watson, Nicky Harper)**

1. Ms. Trueheart restates and re-alleges the above paragraphs as if fully set forth herein.
2. Defendants Liberty, Watson and Harper have violated 15 U.S.C. § 1692 in that they
3. Defendants have caused injury in fact, by causing, among other effects, mental and emotional distress.
4. Defendants have done so either negligently or willfully.
5. Ms. Trueheart is entitled to actual damages, statutory damages, attorney fees and costs pursuant to 15 U.S.C. § 1692k.

**SECOND CLAIM FOR RELIEF - Violation of 15 U.S.C. § 1692**

**(Midland Funding, LLC)**

1. Ms. Trueheart restates and re-alleges the above paragraphs as if fully set forth herein.
2. Defendant Midland has violated 15 U.S.C. § 1692 in that they
   1. Made false representations in an attempt to collect a debt, in violation of 15 U.S.C. §1692e.
   2. Falsely represented the amount, character or legal status of the debt, in violation of 15 U.S.C. §1692e(2)(A).
   3. By their agent, used harassing and abusive means to collect a debt, in violation of 15 U.S.C. §1692d.
3. Defendants have caused injury in fact, by causing, among other effects, mental and emotional distress.
4. Ms. Trueheart is entitled to actual damages, statutory damages, attorney fees and costs pursuant to 15 U.S.C. § 1692k.

**THIRD CLAIM FOR RELIEF - VIOLATION OF VIRGINIA PAYDAY LENDING ACT (Virginia Code §6.2-1800 et seq) AND VIRGINIA CONSUMER PROTECTION ACT (Virginia Code §59.1-198 et seq)**

**(Advance America, Cash Advance Centers of America, Inc.)**

1. Ms. Trueheart restates and re-alleges the above paragraphs as if fully set forth herein.
2. Defendants Advance America have violated Virginia Code §6.2-1800 in that they
   1. By their agent, Liberty, threatened criminal prosecution for the dishonor of a check given as security for a loan, in violation of Virginia Code §6.2-1800(9).
   2. Negotiated the check to a third party, in violation of Virginia Code §6.2-1800(13).
   3. In collecting or attempting to collect a payday loan, failed to comply with the restrictions and prohibitions applicable to debt collectors contained in the Fair Debt Collection Practices Act (15 U.S.C. § 1692 et seq.) regarding harassment or abuse, false or misleading misrepresentations, and unfair practices in collections.
3. Any violation of the Virginia Payday Lending Act, is a violation of the Virginia Consumer Protection Act, pursuant to Virginia Code §6.2-1829, and a therefore a violation of §59.1-200.
4. Defendants have caused injury in fact, by causing, among other effects, mental and emotional distress.
5. Defendants have done so either negligently or willfully.
6. Ms. Trueheart is entitled to actual damages, statutory damages, attorney fees and costs pursuant to Virginia Code §59.1-204.

**FOURTH CLAIM FOR RELIEF - VIOLATION OF AUTOMATIC STAY OF BANKRUPTCY 11 U.S.C. §362(a)**

**(Liberty Processing, Corp; Kim Watson; Nicky Harper; Midland Funding, LLC; Advance America, Cash Advance Centers of America, Inc.)**

1. Ms. Trueheart restates and re-alleges the above paragraphs as if fully set forth herein.
2. Defendants have violated 11 U.S.C. § 362(a) in that they
   1. Knowing the debt to be included in a Bankruptcy, attempted to collect the debt, either directly in indirectly.
3. Defendants have caused injury in fact, by causing, among other effects, mental and emotional distress.
4. Defendants have done so either negligently or willfully.
5. Ms. Trueheart is entitled to actual damages, punitive damages, attorney fees and costs pursuant to 11 U.S.C. § 362.

**WHEREFORE**, the Ms. Trueheart, by counsel moves for judgment in an amount to be determined by a finder of fact for actual damages, statutory damages, attorney fees, and costs.

**LATONYA M. TRUEHEART**

/s/ Jason M. Krumbein, Esq.

by: Jason M. Krumbein, Esq. VSBN 43538

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