

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
NORTHERN DIVISION

Heather Owings,)	
Plaintiff,)	
)	No.
v.)	
)	
LVNV Funding, LLC, D&A Services,)	
LLC, Jacob Law Group, PLLC,)	
Defendants.)	

VERIFIED COMPLAINT FOR VIOLATIONS OF 15 USC 1692K §807(2)(A)

COMES NOW Plaintiff, Heather Owings, by and through undersigned counsel, and pursuant to U.S.C. 1692K §807(2)(A), alleges as follows:

The Parties

1. Plaintiff is a citizen and resident of Roane County, Tennessee.
2. Defendants, LVNV Fundings, LLC (“LVNV”) and D&A Services, LLC (“D&A”), are limited liability companies that do business in Roane County, Tennessee.
3. LVNV is a debt collectors that sued Plaintiff in the Roane County General Sessions Court in the matter of *LVNV Fundings, LLC v. Heather Owings*, Docket No. 22-CV-1742.

Jurisdiction and venue

4. This action arises under and is brought pursuant to the Fair Debt Collection Practices Act. Subject matter jurisdiction is conferred upon this Court by 15 USC 1692K §807(2)(A), as the action arises under the laws of the United States. Supplemental jurisdiction exists for the state law claims pursuant to 28 U.S.C. §1367.

5. Venue is proper in this Court pursuant to 28 U.S.C. §1391 as Defendants conducts business within the Eastern District of Tennessee and a substantial portion of the events or omissions giving rise to the claims occurred within the Eastern District of Tennessee.

Statement of facts

6. On May 26, 2020, Plaintiff received a letter from D&A regarding her past due Credit One Bank account ending in 4712. The letter indicated the balance as of that time was \$1,144.62 and that the current creditor who owned the debt was LVNV. The letter presented Plaintiff with an offer to settle the debt for \$572.31 (Exhibit A).

7. Plaintiff at that time did not have the funds to pay off the debt.

8. In October of 2020, Plaintiff hired a debt consolidation company known as Global Holdings, LLC to work with her to pay off her various debts.

9. On October 20, 2020, \$8,259.00 was posted to her account to fund settling her debts.

10. On October 21, 2020, Plaintiff spoke with a representative from D&A about settling her account ending in 4712. After negotiating with the representative from D&A, Plaintiff was told that the best offer they could make on her account was to settle the account in full for 43% of the balance, which is exactly \$492.19. Plaintiff informed the representative that she would accept the settlement offer and she promptly had Global Holdings, LLC issue the \$492.19 payment to D&A (Exhibit B).

11. Plaintiff was told by the representative from D&A that they would provide her with verification that the account was settled after receiving payment. Plaintiff has not received any such verification to this date.

12. Instead, on October 26, 2020, Plaintiff received another letter from D&A confirming the telephone conversation that Plaintiff had with their representative prior in the week. This letter, however, purported that the balance on the Plaintiff's account ending in 4712 was now \$652.43, \$492.19 less than the original balance from the letter dated on May 26, 2020. The letter went on to suggest that Plaintiff and D&A had agreed to settle the account for an additional settlement payment of \$430 (Exhibit C).

13. Whether by malicious intent or negligent error, D&A failed to settle the account with the agreed upon payment of \$492.19. Assuming for arguendo that D&A avers that Plaintiff's payment of \$492.19 was a payment made prior to the settlement offer being agreed upon, the inexplicably precise figure of \$492.19, which as stated *supra* is exactly 43% of the original balance of \$1,144.62, suggests that this figure was not a regular payment. Furthermore, Plaintiff asks that this Court take judicial notice that it is common practice for debt collectors and creditors to settle debts in whole number percentages.

14. D&A's failure to zero out Plaintiff's account after receiving the agreed upon settlement payment constitutes a mischaracterization of the character and amount of Plaintiff's debt.

15. LVNV has continued to attempt to collect on the debt despite Plaintiff informing LVNV funding on multiple occasions about her settlement payment with D&A. LVNV is complicit with D&A's action and has most recently sued Plaintiff in the Roane County General Sessions Court for \$652.43 (Exhibit D), constituting a mischaracterization of the character and amount of Plaintiff's debt.

16. This has resulted in wrongful debt collection activity, litigation, and incorrect credit reporting which has harmed Plaintiff's credit.

17. Plaintiff has been denied credit as the result of Defendant's actions as alleged *supra*. Damage to her credit has cost her more than \$115,000, as she has already paid over \$15,000 in higher interest rates, and is unable to use her credit to make substantial purchases, as will be proven at trial.

Count I: Violation of 15 USC 1692K §807(2)(A)

18. D&A and LVNV Funding are debt collectors as defined by 15 USC § 1692(a)(6) of the Fair Debt Collection Practices Act ("FDCPA").

19. Pursuant to 15 USC 1692K §807(2)(A), debt collectors are in violation of the FDCPA if they falsely represent, "the character, amount, or legal status of any debt."

20. D&A's letter to Plaintiff showing Plaintiff's account ending in 4712 with a balance of \$652.43 after she had made the agreed upon settlement payment, as shown in Exhibit C, constitutes a false representation of the character, amount, and legal status of Plaintiff's debt.

21. LVNV's filing of a lawsuit against Plaintiff with a sworn account that Plaintiff's account ending in 4712 has a balance of \$652.43, as shown in Exhibit D, constitutes a false representation of the character, amount, and legal status of Plaintiff's debt.

22. Pursuant to 15 USC 1692K §813(a)(1),(2)(A), and (2)(C), both Defendants are liable for actual damages, statutory damages of \$1,000 (for each Defendant), reasonable attorneys fees, and court costs.

Count II: Damage to Plaintiff's credit

23. Despite making all of the payments to Defendants as agreed, Defendants have continued to report Plaintiff's debt as delinquent.

24. Defendants have wrongfully and repeatedly reported Plaintiff's account as being delinquent to the credit bureaus.

25. Because of Defendants' reporting, Plaintiff has suffered a significant reduction in her credit rating, which has substantially increased the rates at which lenders have required to pay in order to borrow money.

26. These increased rates have resulted in at least \$15,000 in interest payments and fees that Plaintiff is obligated to make as a result of Defendants false reporting.

27. She is also being denied credit and is unable to use her credit to make purchases. This has damaged the value of her credit in excess of \$100,000.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that this Court:

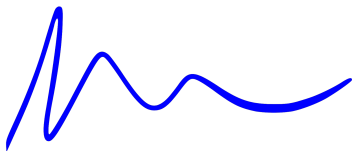
28. Award Plaintiff actual damages for damage to her credit in the amount of at least \$115,000, or in the amount proven at trial.

29. Award Plaintiff statutory damages in the amount of \$1,000 for each Defendant (for a total of \$3,000), and reasonable attorneys fees of at least \$30,000 plus court costs, pursuant to 15 USC 1692K §813(a)(1),(2)(A), and (2)(C).

30. Enjoin Defendants from further pursuit of this invalid collection.

31. Award Plaintiff any other relief it sees fair and just.

Respectfully submitted on this the 19th day of July, 2023.



/s/ Bennett Hirschhorn
BENNETT HIRSCHHORN, ESQ (BPR #025937)
Attorney for Plaintiff
800 South Gay Street, Suite 700
Knoxville, TN 37929

VERIFICATION

I, **Heather Owings** state under penalty of perjury, according to law, hereby depose and state that the facts and statements contained in the foregoing Complaint are true and correct to the best of my information, knowledge and belief.

Heather O Owings 07/19/2023
Heather Owings Date

Sworn to and subscribed before me this the 19th day of July, 2023.

Caleb P. Moore
Notary Public

My Commission Expires:

Aug 3rd. 2024



My Commission Expires
Aug. 3, 2024

EXHIBIT A

From: Heather Owings heatherowings@me.com
Subject: settlement offer
Date: June 17, 2020 at 8:01 PM
To: clientservice@wordenaa.com



Hello my name is Heather Owings attached you will find a settlement offer from Credit One. My client ID is 4447525.
Thank you,
Heather Owings



D & A Services, LLC
1400 E. Touhy Ave, Ste. G2
Des Plaines, IL 60018

D&A #	Original Creditor	Current Creditor	Original Account #	Balance	Settlement Offer
6757321	Credit One Bank, N.A.	LVNV Funding LLC	XXXXXXXXXXXX4712	\$1,144.62	\$572.31

Toll Free: 877-867-9201
Web: <https://myaccount.dnasllc.com>

Hours of Operations: M-Th 8 am – 7 pm CST
Fri 8 am – 5 pm CST

3774

Heather Owings
829 Alma Ln
Kingston, TN 37763-3302

May 26, 2020

Dear Heather Owings:

Over 35 days ago we sent you a letter providing pertinent information regarding the above referenced outstanding debt on behalf of our client, seeking a resolution. However, since that time you have not resolved this debt. Accordingly, we ask that you contact us promptly at our address or phone numbers above to make arrangements for resolving such debt. We are offering an opportunity for you to resolve your balance of \$1,144.62 for only \$572.31!!! (unless it has already been paid). If you cannot pay the amount due, please call us at 1-877-867-9201 to discuss further arrangements.

This is an attempt to collect a debt. Any information obtained will be used for that purpose. This communication is from a debt collector.

You may pay online by using the following link. Web: <https://myaccount.dnasllc.com>

This collection agency is licensed by the Collection Service Board of the Department of Commerce and Insurance.

detach below and return in the enclosed envelope with your payment

1400 E. Touhy Ave
Suite G2
Des Plaines, IL 60018

Toll Free: 1-877-867-9201

D&A#	Balance	Settlement Offer
6757321	\$1,144.62	\$572.31

Contact Number	Payment Amount
	\$

Make your check or money order payable to:

Heather Owings
829 Alma Ln
Kingston, TN 37763-3302

D & A Services, LLC
1400 E. Touhy Ave
Suite G2

Des Plaines, IL 60018

*When you provide a check as payment, you authorize us either to use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction. When we use information from your check to make an electronic fund transfer, funds may be withdrawn from your account as soon as the same day we receive your payment, and you will not receive your check back from your financial institution. 00030

EXHIBIT B

RETURN SERVICE REQUESTED

August 18, 2022

Heather Owings
 829 Alma Ln
 Kingston, TN 37763

Please note that you have a right to receive a paper version of your monthly statement via U.S. mail. If you prefer to receive paper statements via standard mail, please contact our Customer Support group via email at customersupport@ghllc.com or phone at (800) 398-7191.

ACCOUNT ACTIVITY STATEMENT (THIS IS NOT A BILL)

DATE	DESCRIPTION	TYPE	AMOUNT	BALANCE
10/01/2020	Monthly Service Charge - 09/20	Global Fee	-\$9.95	\$0.00
10/07/2020	Monthly Draft - 10/05/20	Deposit	\$248.83	\$248.83
10/07/2020	Second Round LP	Payment	-\$85.00	\$163.83
10/07/2020	Second Round LP	Payment	-\$10.00	\$153.83
10/07/2020	Global Direct Pay Fee	Global Fee	-\$2.00	\$151.83
10/07/2020	Global Direct Pay Fee	Global Fee	-\$2.00	\$149.83
10/07/2020	Settlement Fee - Second Round LP	Payment	-\$31.88	\$117.95
10/20/2020	Monthly Draft - 10/16/20	Deposit	\$8,259.00	\$8,376.95
10/21/2020	Second Round LP	Payment	-\$643.14	\$7,733.81
10/21/2020	Second Round LP	Payment	-\$600.56	\$7,133.25
10/21/2020	Second Round LP	Payment	-\$885.92	\$6,247.33
10/21/2020	Dynia & Associates LLC	Payment	-\$492.19	\$5,755.14
10/21/2020	Global Direct Pay Fee	Global Fee	-\$2.00	\$5,753.14
10/21/2020	Global Direct Pay Fee	Global Fee	-\$2.00	\$5,751.14
10/21/2020	Global Direct Pay Fee	Global Fee	-\$2.00	\$5,749.14
10/21/2020	Global Direct Pay Fee	Global Fee	-\$2.00	\$5,747.14
10/21/2020	Settlement Fee - Second Round LP	Payment	-\$326.24	\$5,420.90
10/21/2020	Settlement Fee - Dynia & Associates LLC	Payment	-\$286.15	\$5,134.75
10/23/2020	MCM-New-Midland Credit Management	Payment	-\$1,268.00	\$3,866.75
10/23/2020	Second Round LP	Payment	-\$322.99	\$3,543.76
10/23/2020	Javitch Block and Rothbone	Payment	-\$1,251.26	\$2,292.50
10/23/2020	Global Direct Pay Fee	Global Fee	-\$2.00	\$2,290.50
10/23/2020	Global Direct Pay Fee	Global Fee	-\$2.00	\$2,288.50
10/23/2020	Global Direct Pay Fee	Global Fee	-\$2.00	\$2,286.50
10/23/2020	Settlement Fee - MCM-New-Midland Credit Management	Payment	-\$792.48	\$1,494.02
10/23/2020	Settlement Fee - Second Round LP	Payment	-\$152.35	\$1,341.67
10/23/2020	Settlement Fee - Javitch Block and Rothbone	Payment	-\$1,251.26	\$90.41
10/28/2020	Credit Control LLC	Payment	-\$25.00	\$65.41
10/28/2020	Global Direct Pay Fee	Global Fee	-\$2.00	\$63.41
10/28/2020	Settlement Fee - Credit Control LLC	Payment	-\$2.00	\$0.95

11/09/2020	Monthly Draft - 11/05/20	Deposit	\$410.00	\$410.95
11/09/2020	Monthly Service Charge - 10/20	Global Fee	-\$9.95	\$401.00
11/10/2020	Credit Control LLC	Payment	-\$251.00	\$150.00
11/10/2020	Global Direct Pay Fee	Global Fee	-\$2.00	\$148.00
11/10/2020	Settlement Fee - Credit Control LLC	Payment	-\$109.54	\$38.46

Account Inquiries (800) 398-7191

Correspondence Address

4343 S. 118th E. Ave, Suite 220 Tulsa, OK 74146

Payment Address

PO Box 690870 Tulsa, OK 74169-0870

If you have any questions or need assistance you may contact us at the phone number referenced above or by email, customersupport@ghllc.com. Please note that the above account balance may not be the actual balance of your account due to pending transactions not yet processed.

Error Resolution Procedures: In case of errors or questions about transactions involving your Account, call or write customer service no later than sixty days after the transaction in question has been reflected on your monthly statement. Please provide the following information:

Your name and Account number.

Date and amount of the transaction.

Type of transaction and description of the suspected error. Please explain as clearly as possible why you believe there is an error or why you need additional information.

Dollar amount of the suspected error.

If you provide this information orally, you may also be required to provide it in writing within ten business days. You will be told of the results of the investigation of the suspected error within ten business days after you submit the information and any error will be promptly corrected. However, if more time is required to investigate the suspected error, it may take up to an additional thirty days to complete the investigation. If it is determined that there is no error, you will be provided with a written explanation within three business days of such determination; and you may ask for and receive copies of the documents used in making any such determination.

EXHIBIT C

D & A Services

1400 E. Touhy Avenue, Suite G2
Des Plaines, Illinois 60018

Toll Free: 866-818-6571

Web: <https://myaccount.dnasllc.com>

Hours of Operations: M-Th 8 am - 7 pm CST
Fri 8 am - 5 pm CST

Heather Owings
829 Alma Ln
Kingston, TN 377633302

October 26, 2020

Re:
Current Creditor: LVNV Funding LLC
Account Number: XXXXXXXXXXXXX4712
Balance: \$652.43
D&A Account Number: 6757321

Dear Heather Owings,

This letter is to confirm our telephone conversation regarding the proposed arrangement for the balance owed on the LVNV Funding LLC account referenced above. When we discussed the arrangement, you agreed to pay the amount listed below to resolve this account.

Total Settlement Amount

\$493.00

This arrangement is contingent upon timely payment. We will honor this offer, provided the full arrangement amount is paid by 10/30/2020 in accordance with the payment schedule outlined below:

If the arrangement consists of additional payments, please refer to the table on the additional page(s) for remaining schedule.

1. \$493.00 by 10/30/2020

Payments may be made through ACH, check or money order. If paying by ACH, in accordance with our arrangement, payments will be processed by D&A Services, LLC on the above referenced dates. If paying by check or money order, please make payments payable to D&A Services, LLC and write your D&A account number on the check or money order.

Upon receipt and clearance of the payment for the full arrangement amount, no further attempts will be made to collect the remaining balance. You must make all required payments by their agreed upon due date(s). Failure to remit timely payment for the full arrangement amount by the date referenced above may result in further collection efforts to recover the full balance owed.

There may be tax consequences as a result of a settlement. Please consult a tax professional if you have questions or want advice about any potential tax consequences.

Regards,

D & A Services

This communication is from a debt collector. This is an attempt to collect a debt and any information obtained will be used for that purpose.
This collection agency is licensed by the Collection Service Board of the Tennessee Department of Commerce and Insurance.

EXHIBIT D

STATE OF TENNESSEE, COUNTY OF ROANE

Case No. 23-CV-1742

CIVIL SUMMONS

To Any Lawful Officer To Execute and Return: Summon Heather Owings, 829 Alma Ln, Kingston TN 37763-3302

To appear before the General Sessions Court of ROANE County, Tennessee. To be held in 200 EAST RACE STREET, KINGSTON, TN 37763

on the 8 day of February, 2023 at 9:00am; then and there to answer in a civil action brought by LVNV Funding LLC.

for This claim arises from delinquent account number *****4712 that originated with Credit One Bank, N.A., and has been assigned to LVNV Funding LLC.
Under \$A money judgment in the amount of \$652.43 plus court cost and post judgment interest.

LVNV Funding LLC

2623 West Oxford Loop/PO Box 948 Oxford, MS 38655

1-866-287-5283

Plaintiff

Address

Phone

vs.

Heather Owings

829 Alma Ln, Kingston TN 37763-3302

Defendant

Address

Defendant

Address

Judgment for _____

Against _____

JUDGMENT

For \$ _____ plus interest at the rate of _____ % and cost of suit, for which execution may issue.

Judgment entered by: Default Agreement Trial

Dismissed: Without Prejudice With Prejudice

Costs taxed to: Plaintiff Defendant

Defendant(s) _____ in court
and admitted to jurisdiction of court. This the _____ day of _____, 202__.

_____, Judge Division _____

ORDER

This the _____ day of _____, 202__.

_____, Judge

CIVIL SUMMONS
Court of General Sessions
ANN GOLDSTON, Clerk

By [Signature], Deputy Clerk

Issued 11-21, 2022

Set for February 8, 2023 at 9:00am

Reset for _____

Served Upon All Named Defendants
 All Defendants

Except: _____

Served _____, 202__.

Sheriff/Constable (Process Server)

Attorney for Plaintiff Michael A. Jacob, II, Esq. #028597
Telephone 1-866-287-5283

Attorney for Defendant
Telephone _____

ORIGINAL

AFFIDAVIT

To the best of my information and belief, after investigation of Defendant's employment, I hereby make affidavit that the Defendant is not a member of a military service.

Michael A. Jacob, II BPR-028597

Attorney for the Plaintiff

Melissa Jordan
Notary Public

My Comm. Exp. Aug. 22, 2025



NOTICE

This communication is from a debt collector and is an attempt to collect a debt. Any information obtained will be used for that purpose.

The American with Disabilities Act prohibits discrimination against any qualified individual with a disability. The Tennessee Judicial Branch does not permit discrimination against any individual on the basis of physical or mental disability in accessing its judicial programs. In accordance with the Americans with Disabilities Act, if necessary, the Tennessee Judicial Branch will provide reasonable modifications in order to access all or its programs, services and activities to qualified individuals with disabilities.

If you need assistance, have questions or need additional information, please contact the Local Judicial Program ADA Coordinator.

The Tennessee Judicial Branch Americans with Disabilities Act Regarding Access to Judicial Programs, as Well as a Request for Modification form may be found online at www.tsc.state.tn.us. For Assistance please call ADA Coordinator at 865/717-4158



TO THE DEFENDANT(S):

Failure to appear and answer this Summons will result in judgment by default being rendered against your for the relief requested. Tennessee law provides a ten thousand dollar (\$10,000) personal property exemption from execution or seizure to satisfy a judgment. If a judgment should be entered against you in this action and you wish to claim property as exempt, you must file a written list, under oath, of the items you wish to claim as exempt with the clerk of the court. The list may be filed at any time and may be changed by you thereafter as necessary; however, unless it is filed before the judgment becomes final, it will not be effective as to any execution or garnishment issued prior to the filing of the list. Certain items are automatically exempt by law and do not need to be listed; these items include items of necessary wearing apparel (clothing) for yourself and your family and trunks and other receptacles necessary to contain such apparel, family portraits, the family Bible, and school books. Should any of these items be seized you would have the right to recover them. If you do not understand your exemption right or how to execute it, you may wish to seek the counsel of a lawyer.

Legal Authority: TCA §20-2-101, TRCP 3

Our File # 00443241

PLAINTIFF'S AFFIDAVIT OF INDEBTEDNESS AND OWNERSHIP OF ACCOUNT

I am an Authorized Representative for the current owner, LVNV Funding LLC (hereafter the "Plaintiff"), and hereby certify as follows:

1. I have personal knowledge regarding Plaintiff's creation and maintenance of its normal business records which includes the computer records of its accounts and corresponding receivables. This information is regularly and contemporaneously maintained during the course of Plaintiff's business.
2. In the regular course of business, Plaintiff acquires revolving credit accounts, installment accounts, service accounts and/or other credit lines or obligations. The records provided to Plaintiff in connection with such acquisitions are represented to include accurate information provided by the original creditor and/or subsequent owners, and that information is incorporated into Plaintiff's business records. Such information includes the debtor's name and social security number, the account balance, the identity of the original creditor and the account number.
3. Based on the business records maintained on account XXXXXXXXXXXXXXX4712 and its corresponding receivables (hereinafter the "Account"), which are a compilation of the information provided upon acquisition and information obtained since acquisition, the Account was originated on 12/06/2016 by Credit One Bank, N.A. and represents a valid obligation of Heather Owings .
4. Plaintiff is the current owner of the Account. Plaintiff's business records indicate that subsequent to the Account's origination other owners of the Account included:

MHC Receivables, LLC and FNBM, LLC
Sherman Originator III LLC
Sherman Originator LLC
5. On 04/14/2020 all ownership rights in the Account were assigned to, transferred to and became vested in Plaintiff, including the right to collect the current balance owing of \$652.43 plus any legally permissible interest.
6. To the best of my knowledge and belief, the Defendant is not a minor or mentally incompetent person.
7. Based on the business records maintained in regard to the Account, the above-stated amount is justly and duly owed by the Defendant to the Plaintiff and all just and lawful offsets, payments and credits to the Account have been allowed. Demand for payment was made more than thirty days ago.

I affirm under penalty of perjury that the above facts are true and correct to the best of my knowledge based on the Plaintiff's business records.

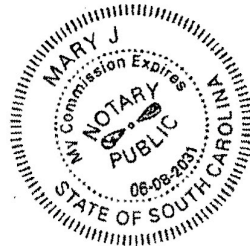
Mesha Hook

Dimeshia Hook
08/17/2022

The foregoing affidavit was signed to and subscribed before me this Wednesday, August 17, 2022

Mao

(Notary Public)



443241



692204464

CERTIFICATE OF SERVICE

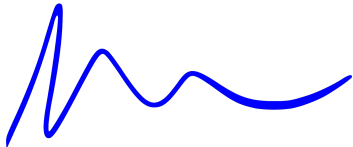
I certify that emailed a true and correct copy of this paper to the person listed below at the address below:

LVNV Funding, LLC
Defendant
2908 Poston Ave
Nashville, TN 37203

D&A Services, LLC
Defendant
205 Powell Pl
Brentwood, TN 37027

Jacob Law Group, PLLC
Defendant
2908 Poston Ave
Nashville, TN 37203

This the 19th day of July, 2023.

A handwritten signature in blue ink, appearing to be 'Bennett Hirschhorn', written in a cursive style.

/s/ **BENNETT HIRSCHHORN, ESQ.** (BPR #025937)