

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

LINDA ROUNDTREE, individually and on
behalf of all others similarly situated,

Plaintiff,

Case No.: 8:14-cv-00357-JDW-AEP

v.

BUSH ROSS, P.A.,

Defendant.

**THIRD AMENDED ANSWER AND AFFIRMATIVE DEFENSES TO PLAINTIFF'S
CLASS ACTION COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF**

COMES NOW, Defendant BUSH ROSS, P.A. ("DEFENDANT") in the Complaint, by and through its undersigned counsel, pursuant this Court's Order dated April 10, 2015 (DE 76), and files this Third Amended Answer and Affirmative Defenses to Plaintiff's Class Action Complaint for Damages and Injunctive Relief and Demand for Jury Trial, and states:

1. Admitted that Plaintiff has filed the instant Complaint as a class action pursuant to the Fair Debt Collection Practices Act. Otherwise, denied.
2. Admitted.
3. DEFENDANT is without sufficient knowledge to admit or deny the allegations contained in this Paragraph of Plaintiff's Complaint and therefore, denies and demands strict proof thereof.
4. DEFENDANT is without sufficient knowledge to admit or deny the allegations contained in this Paragraph of Plaintiff's Complaint and therefore, denies and demands strict proof thereof.

5. DEFENDANT is without sufficient knowledge to admit or deny the allegations contained in this Paragraph of Plaintiff's Complaint and therefore, denies and demands strict proof thereof.
6. DEFENDANT is without sufficient knowledge to admit or deny the allegations contained in this Paragraph of Plaintiff's Complaint and therefore, denies and demands strict proof thereof.
7. DEFENDANT is without sufficient knowledge to admit or deny the allegations contained in this Paragraph of Plaintiff's Complaint and therefore, denies and demands strict proof thereof.
8. Admitted.
9. Admitted.
10. Denied.
11. Denied.
12. Admitted that DEFENDANT sent the letter attached to the Complaint as Exhibit A to Linda Faye Roundtree, 6315 Newtown Cir., Ap. B5, Tampa, FL 33615-3611. Otherwise, denied.
13. DEFENDANT is without sufficient knowledge to admit or deny the allegations contained in this Paragraph of Plaintiff's Complaint and therefore, denies and demands strict proof thereof.
14. Admitted that Exhibit "A" to the Complaint speaks for itself. Otherwise, denied.
15. Admitted that Exhibit "A" to the Complaint speaks for itself. Otherwise, denied.
16. Admitted that Exhibit "A" to the Complaint speaks for itself. Otherwise, denied.
17. Admitted.

18. Admitted.

19. DEFENDANT is without sufficient knowledge to admit or deny the allegations contained in this Paragraph of Plaintiff's Complaint and therefore, denies and demands strict proof thereof.

20. DEFENDANT is without sufficient knowledge to admit or deny the allegations contained in this Paragraph of Plaintiff's Complaint and therefore, denies and demands strict proof thereof.

21. DEFENDANT is without sufficient knowledge to admit or deny the allegations contained in this Paragraph of Plaintiff's Complaint and therefore, denies and demands strict proof thereof.

22. DEFENDANT is without sufficient knowledge to admit or deny the allegations contained in this Paragraph of Plaintiff's Complaint and therefore, denies and demands strict proof thereof.

23. Denied.

24. Admitted that Plaintiff has filed the instant Complaint as a class action pursuant to Federal Rule of Civil Procedure 23. Otherwise, denied.

25. Denied.

26. Denied.

27. Denied.

28. Denied (a – f, inclusive).

29. DEFENDANT re-alleges and re-incorporates paragraphs one (1) through twenty-eight (28) as if fully restated herein.

30. Admitted that Plaintiff has correctly restated 15 U.S.C. § 1692g. Defendant denies that it

has violated said statute.

31. Denied.

32. Denied.

33. Denied.

34. Denied.

35. Admitted that 15 U.S.C. § 1692g(3) states what it states. Defendant denies that it has violated said statute.

36. Denied.

37. DEFENDANT re-alleges and re-incorporates paragraphs one (1) through twenty-eight (28) as if fully restated herein.

38. Admitted that Plaintiff has correctly restated 15 U.S.C. § 1692e(2). Defendant denies that it has violated said statute.

39. Denied.

40. Denied.

41. Denied.

42. Denied.

43. DEFENDANT re-alleges and re-incorporates paragraphs one (1) through twenty-eight (28) as if fully restated herein.

44. Admitted that Plaintiff has correctly restated 15 U.S.C. § 1692e(10). Defendant denies that it has violated said statute.

45. Denied.

46. Denied.

47. Denied.

48. DEFENDANT re-alleges and re-incorporates paragraphs one (1) through twenty-eight (28) as if fully restated herein.

49. Admitted that Plaintiff has correctly restated 15 U.S.C. § 1692f(1). Defendant denies that it has violated said statute.

50. Denied.

51. Denied.

52. DEFENDANT re-alleges and re-incorporates paragraphs one (1) through twenty-eight (28) as if fully restated herein.

53. Admitted that Plaintiff has correctly restated 15 U.S.C. § 1692f. Defendant denies that it has violated said statute.

54. Denied.

55. Denied.

56. DEFENDANT re-alleges and re-incorporates paragraphs one (1) through twenty-eight (28) as if fully restated herein.

57. Admitted that Plaintiff has correctly restated 15 U.S.C. § 1692e(10). Defendant denies that it has violated said statute.

58. Admitted.

59. Denied.

60. Denied (3 – 6, inclusive).

61. Denied.

62. Denied.

63. Denied.

AFFIRMATIVE DEFENSES

DEFENDANT pleads the following affirmative defenses to the claims asserted by Plaintiff in the Class Action Complaint:

DEFENDANT asserts, without admitting any liability whatsoever, that to the extent Plaintiff's or a putative class members' claims are based on actions or communications that occurred more than one year from the filing of the instant lawsuit, Plaintiff's or the putative class members' claims are barred by the one-year statute of limitations contained in 15 U.S.C. §1692k(d).

DEFENDANT asserts, without admitting any liability whatsoever, that Plaintiff lacks standing under the FDCPA as she has suffered no injury-in-fact as the result of any act or omission by Defendant.

DEFENDANT asserts, without admitting any liability whatsoever, that the FDCPA claims of any putative class member who settled claims brought by Defendant's clients are barred by the doctrine of settlement and compromise pursuant to an agreement that would have included a release of claims in favor of Defendant.

DEFENDANT asserts, without admitting any liability whatsoever, that to the extent any putative class member asserted Defendant's alleged violation of the FDCPA as an affirmative defense to lawsuit filed by Defendant in which Defendant later obtained a judgment for its client, the member's FDCPA claims are barred by the doctrine of collateral estoppel.

DEFENDANT asserts, without admitting any liability whatsoever, that to the extent any putative class member asserted Defendant's alleged violation of the FDCPA as an affirmative defense to lawsuit filed by Defendant in which Defendant later obtained a judgment for its client, the member's FDCPA claims are barred by the doctrine of res judicata.

DEFENDANT asserts, without admitting any liability whatsoever, that to the extent any putative class member filed for Chapter 7 Bankruptcy protection after receiving an allegedly unlawful communication from Defendant, the putative class member lacks standing as the pre-petition claim became the property of the bankruptcy estate.

DEFENDANT asserts, without admitting any liability whatsoever, that to the extent any putative class member filed for Chapter 7 Bankruptcy protection after receiving an allegedly unlawful communication from Defendant, the class member's claims are barred by judicial estoppel unless the class members listed the potential claim as an asset in his/her bankruptcy petition.

DEFENDANT asserts, without admitting any liability whatsoever, that the claims of Plaintiff and the class members are barred by state and federal litigation immunity/privilege as all conduct complained of was necessarily preliminary to or occurred during the course of litigation.

DEMAND FOR A JURY TRIAL

DEFENDANT demands a trial by jury of all issues so triable.

WHEREFORE, Defendant Bush Ross, P.A., demands judgment against the Plaintiff dismissing the Class Action Complaint herein, together with costs and disbursements of this action.

[Attorney signature appears on the following page]

Respectfully submitted by:

/s/ Dale T. Golden

DALE T. GOLDEN, ESQ.

Florida Bar No.: 0094080

/s/ Benjamin W. Raslavich

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Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on April 13, 2015, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF. I also certify that the foregoing document is being served this day on all counsel either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

/s/ Dale T. Golden

Dale T. Golden, Esquire