

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

VICTORIA LOPEZ,

Plaintiff,

v.

LAW OFFICES OF FALONI & ASSOCIATES,
LLC, DAVID A. FALONI, SR., DAVID A.
FALONI, JR., LVNV FUNDING, LLC,
SHERMAN ORIGINATOR, LLC,
RESURGENT CAPITAL SERVICES, L.P.,
ALEGIS GROUP, LLC and JOHN DOES 1-10

Defendants.

Civil Action No:

2:16-cv-01117-SDW-LDW

**LAW OFFICES OF FALONI &
ASSOCIATES, LLC, DAVID A.
FALONI, SR., DAVID A. FALONI, JR.,
LVNV FUNDING, LLC, SHERMAN
ORIGINATOR, LLC, RESURGENT
CAPITAL SERVICES, L.P., ALEGIS
GROUP, LLC'S ANSWER TO
PLAINTIFF'S AMENDED
COMPLAINT**

Defendants Law Office of Faloni & Associates, LLC (the "Faloni Law Firm"), David A. Faloni, Sr., David A. Faloni, Jr., LVNV Funding LLC, ("LVNV"), Sherman Originator, LLC, ("Sherman") Resurgent Capital Services, L.P. ("Resurgent") and Alegis Group, LLC ("Alegis") (collectively "Defendants") specially appearing in this case, and reserving all jurisdictional defenses, including those under *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1543 (2016), by and through their undersigned attorneys, Gordon & Rees, LLP, as and for their Answer to the Amended Complaint (the "Complaint") of Plaintiff Victoria Lopez ("Plaintiff"), respond as follows:

I. NATURE OF THE ACTION

1. Defendants admit that Plaintiff purports to bring a civil action for damages and declaratory and injunctive relief, but deny that there is any legal or factual basis for same. Defendants deny the remaining allegations contained in Paragraph 1 of the Complaint.

2. The allegations contained in Paragraph 2 of the Complaint contain allegations

which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

3. Defendants deny the allegations contained in Paragraph 3 of the Complaint, and further allege that Plaintiff does not have standing to bring this claim under *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1543 (2016).

II. JURISDICTION AND VENUE

4. The allegations contained in Paragraph 4 of the Complaint contain conclusions of law, to which no responsive pleading is required. To the extent a further response is required, Defendants deny the allegations contained in Paragraph 4 of the Complaint, and specifically contend that Plaintiff does not have Article III standing under *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1543 (2016).

5. The allegations contained in Paragraph 5 of the Complaint contain conclusions of law, to which no responsive pleading is required. To the extent a further response is required, Defendants deny the allegations contained in Paragraph 5 of the Complaint.

III. PARTIES

6. Defendants are without sufficient knowledge to admit or deny the allegations contained in Paragraph 6 of the Complaint, and, therefore, deny same.

7. Defendants deny the allegations contained in Paragraph 7 of the Complaint except admit that Faloni Law Firm is a law firm located in the state of New Jersey.

8. Defendants deny the allegations contained in Paragraph 8 of the Complaint except admit that David A. Faloni, Sr. is an attorney licensed to practice law in the state of New Jersey.

9. Defendants deny the allegations contained in Paragraph 9 of the Complaint except admit that David A. Faloni, Jr. is an attorney licensed to practice law in the state of New Jersey.

10. Defendants deny the allegations contained in Paragraph 10 of the Complaint except admit that LVNV is incorporated in the state of Delaware.

11. Defendants deny the allegations contained in Paragraph 11 of the Complaint except admit that Sherman is incorporated in the state of Delaware.

12. Defendants deny the allegations contained in Paragraph 12 of the Complaint except admit that Resurgent is organized in the state of Delaware.

13. Defendants deny the allegations contained in Paragraph 13 of the Complaint except admit that Alegis is incorporated in the state of Delaware.

14. The allegations contained in Paragraph 14 of the Complaint contain conclusions of law, to which no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations and further deny any violations of the Fair Debt Practices Act (“FDCPA”), 15 U.S.C. § 1692 et seq.

15. The allegations contained in Paragraph 15 of the Complaint contain conclusions of law, to which no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

IV. FACTS

16. The allegations contained in Paragraph 16 of the Complaint contain conclusions of law, to which no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations and further deny any violations of the FDCPA, 15 U.S.C. § 1692 et seq.

17. The allegations contained in Paragraph 17 of the Complaint contain conclusions of law, to which no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations and further deny any violations of the FDCPA, 15 U.S.C. § 1692 et seq.

18. The allegations contained in Paragraph 18 of the Complaint contain conclusions of law, to which no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations and further deny any violations of the FDCPA, 15 U.S.C. § 1692 et seq.

19. The allegations contained in Paragraph 19 of the Complaint contain conclusions of law, to which no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations and further deny any violations of the FDCPA, 15 U.S.C. § 1692 et seq.

20. Defendants deny the allegations contained in Paragraph 20 of the Complaint as stated, except admit that LVNV purchased the right and title to Plaintiff's debt.

21. The allegations contained in Paragraph 21 of the Complaint contain conclusions of law, to which no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations and further deny any violations of the FDCPA, 15 U.S.C. § 1692 et seq.

22. The allegations contained in Paragraph 22 of the Complaint contain conclusions of law, to which no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations and further deny any violations of the FDCPA, 15 U.S.C. § 1692 et seq. Furthermore, the allegations contained in Paragraph 2 of the Complaint contain

allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required.

23. Defendants deny the allegations contained in Paragraph 23 of the Complaint as stated and respectfully refer this Honorable Court to the document cited and the contents therein.

24. The allegations contained in Paragraph 24 of the Complaint contain conclusions of law, to which no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations and further deny any violations of the FDCPA, 15 U.S.C. § 1692 et seq.

25. The allegations contained in Paragraph 25 of the Complaint contain conclusions of law, to which no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations and further deny any violations of the FDCPA, 15 U.S.C. § 1692 et seq.

26. Defendants deny the allegations in Paragraph 26 of the Complaint as stated and refer this Honorable Court to the document cited and the contents therein.

27. The allegations contained in Paragraph 27 of the Complaint contain conclusions of law, to which no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations and further deny any violations of the FDCPA, 15 U.S.C. § 1692 et seq.

28. The allegations contained in Paragraph 28 of the Complaint contain conclusions of law, to which no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations and further deny any violations of the FDCPA, 15 U.S.C. § 1692 et seq.

29. The allegations contained in Paragraph 29 of the Complaint contain conclusions of law, to which no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations and further deny any violations of the FDCPA, 15 U.S.C. § 1692 et seq.

30. Defendants admit the allegations in Paragraph 30 of the Complaint.

31. Defendants are without sufficient knowledge to admit or deny the allegations contained in Paragraph 31 of the Complaint, and, therefore, deny same.

32. Defendants are without sufficient knowledge to admit or deny the allegations contained in Paragraph 32 of the Complaint, and, therefore, deny same.

33. Defendants admit the allegations in Paragraph 33 of the Complaint.

34. Defendants deny the allegations in Paragraph 34 of the Complaint as stated, except admit that the Plaintiff's Debt is owned by Defendants.

35. Defendants deny the allegations in Paragraph 35 of the Complaint as stated, except admit that the Plaintiff's Debt is owned by Defendants and that the Faloni Law Firm attempted to collect the past-due Debt owed by Plaintiff to Defendants.

36. Defendants deny the allegations in Paragraph 36 of the Complaint as stated, except admit that the Faloni Law Firm is a law firm in New Jersey.

37. Defendants deny the allegations in Paragraph 37 of the Complaint as stated, except admit that David A. Faloni, Sr. is licensed to practice law in the State of New Jersey.

38. Defendants deny the allegations in Paragraph 38 of the Complaint as stated, except admit that David A. Faloni, Jr. is licensed to practice law in the State of New Jersey.

39. Defendants deny the allegations in Paragraph 39 of the Complaint as stated, except admit that David A. Faloni, Sr. is licensed to practice law in the State of New Jersey.

40. Defendants deny the allegations in Paragraph 40 of the Complaint as stated, except admit that David A. Faloni, Jr. is licensed to practice law in the State of New Jersey.

41. Defendants deny the allegations in Paragraph 41 of the Complaint as stated, except admit that the Plaintiff's Debt is owned by Defendants and that the Faloni Law Firm attempted to collect the past-due Debt owed by Plaintiff to Defendants.

42. Defendants deny the allegations in Paragraph 42 of the Complaint as stated, except admit that the Plaintiff's Debt is owned by Defendants and that the Faloni Law Firm attempted to collect the past-due Debt owed by Plaintiff to Defendants.

43. Defendants deny the allegations in Paragraph 43 of the Complaint as stated, except admit that the Plaintiff's Debt is owned by Defendants and that the Faloni Law Firm attempted to collect the past-due Debt owed by Plaintiff to Defendants.

44. Defendants deny the allegations in Paragraph 44 of the Complaint as stated, except admit that the Plaintiff's Debt is owned by Defendants and that the Faloni Law Firm attempted to collect the past-due Debt owed by Plaintiff to Defendants.

V. THE COLLECTION COMPLAINT

45. The allegations contained in Paragraph 45 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

46. The allegations contained in Paragraph 46 of the Complaint contain allegations

which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

47. The allegations contained in Paragraph 47 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

48. The allegations contained in Paragraph 48 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

49. The allegations contained in Paragraph 49 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

50. The allegations contained in Paragraph 50 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

51. The allegations contained in Paragraph 51 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required,

Defendants deny these allegations.

52. The allegations contained in Paragraph 52 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

53. The allegations contained in Paragraph 53 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

54. The allegations contained in Paragraph 54 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

55. The allegations contained in Paragraph 55 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

56. The allegations contained in Paragraph 56 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

57. The allegations contained in Paragraph 57 of the Complaint contain allegations

which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

58. The allegations contained in Paragraph 58 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

59. The allegations contained in Paragraph 59 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

60. The allegations contained in Paragraph 60 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

61. The allegations contained in Paragraph 61 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

62. The allegations contained in Paragraph 62 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required,

Defendants deny these allegations.

63. The allegations contained in Paragraph 63 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

64. The allegations contained in Paragraph 64 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

65. The allegations contained in Paragraph 65 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

66. The allegations contained in Paragraph 66 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

67. The allegations contained in Paragraph 67 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

68. The allegations contained in Paragraph 68 of the Complaint contain allegations

which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

69. The allegations contained in Paragraph 69 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

70. The allegations contained in Paragraph 70 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

71. The allegations contained in Paragraph 71 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

72. The allegations contained in Paragraph 72 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

73. The allegations contained in Paragraph 73 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required,

Defendants deny these allegations.

74. The allegations contained in Paragraph 74 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

75. The allegations contained in Paragraph 75 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

76. The allegations contained in Paragraph 76 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

77. The allegations contained in Paragraph 77 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

78. The allegations contained in Paragraph 78 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

79. The allegations contained in Paragraph 79 of the Complaint contain allegations

which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

80. The allegations contained in Paragraph 80 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

81. The allegations contained in Paragraph 81 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

VI. UNLAWFUL INTEREST/COLLECTION

82. The allegations contained in Paragraph 82 of the Complaint contain conclusions of law, to which no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations and further deny any violations of the FDCPA, 15 U.S.C. § 1692 et seq. Defendants also specifically contend that even if this allegation were true, it caused Plaintiff no injury, and that Plaintiff lacks standing under *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1543 (2016).

83. The allegations contained in Paragraph 83 of the Complaint contain conclusions of law, to which no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations and further deny any violations of the FDCPA, 15 U.S.C. § 1692 et seq. Defendants also specifically contend that even if this allegation were true, it caused

Plaintiff no injury, and that Plaintiff lacks standing under *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1543 (2016).

84. The allegations contained in Paragraph 84 of the Complaint contain conclusions of law, to which no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations and further deny any violations of the FDCPA, 15 U.S.C. § 1692 et seq. Defendants also specifically contend that even if this allegation were true, it caused Plaintiff no injury, and that Plaintiff lacks standing under *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1543 (2016).

85. The allegations contained in Paragraph 85 of the Complaint contain conclusions of law, to which no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations and further deny any violations of the FDCPA, 15 U.S.C. § 1692 et seq. Defendants also specifically contend that even if this allegation were true, it caused Plaintiff no injury, and that Plaintiff lacks standing under *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1543 (2016).

86. The allegations contained in Paragraph 86 of the Complaint contain conclusions of law, to which no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations and further deny any violations of the FDCPA, 15 U.S.C. § 1692 et seq. Defendants also specifically contend that even if this allegation were true, it caused Plaintiff no injury, and that Plaintiff lacks standing under *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1543 (2016).

87. The allegations contained in Paragraph 87 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required,

Defendants deny these allegations.

88. The allegations contained in Paragraph 88 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

89. The allegations contained in Paragraph 89 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

90. The allegations contained in Paragraph 90 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

91. The allegations contained in Paragraph 91 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

92. The allegations contained in Paragraph 92 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

93. The allegations contained in Paragraph 93 of the Complaint contain allegations

which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

94. The allegations contained in Paragraph 94 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

95. The allegations contained in Paragraph 95 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

96. The allegations contained in Paragraph 96 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

97. The allegations contained in Paragraph 97 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

98. The allegations contained in Paragraph 98 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required,

Defendants deny these allegations.

99. The allegations contained in Paragraph 99 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

100. The allegations contained in Paragraph 100 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

101. The allegations contained in Paragraph 101 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

102. The allegations contained in Paragraph 102 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

103. The allegations contained in Paragraph 103 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. Even if these allegations persisted, Plaintiff lacks standing under *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1543 (2016).

VII. CLASS ACTION ALLEGATIONS

104. – 115. Responding to the allegations of Paragraphs 104 to 115 (inclusive), Defendants admit that Plaintiff purports to bring this action as a class action, but deny that there is any legal or factual basis for same. Defendants deny the remaining allegations contained in Paragraphs 104 to 115 of the Complaint, and specifically deny that Plaintiff individually, or a class representative, lacks standing under *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1543 (2016), and that any putative class member would lack standing under *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1543 (2016).

VIII. VIOLATIONS OF THE FDCPA

116. The allegations contained in Paragraph 116 of the Complaint contain conclusions of law, to which no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations and further deny any violations of the FDCPA, 15 U.S.C. § 1692 et seq.

117. The allegations contained in Paragraph 117 of the Complaint contain conclusions of law, to which no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations and further deny any violations of the FDCPA, 15 U.S.C. § 1692 et seq.

118. The allegations contained in Paragraph 118 of the Complaint contain conclusions of law, to which no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations and further deny any violations of the FDCPA, 15 U.S.C. § 1692 et seq.

119. The allegations contained in Paragraph 119 of the Complaint contain conclusions

of law, to which no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations and further deny any violations of the FDCPA, 15 U.S.C. § 1692 et seq.

120. The allegations contained in Paragraph 120 of the Complaint contain conclusions of law, to which no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations and further deny any violations of the FDCPA, 15 U.S.C. § 1692 et seq.

121. The allegations contained in Paragraph 121 of the Complaint contain conclusions of law, to which no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations and further deny any violations of the FDCPA, 15 U.S.C. § 1692 et seq.

122. The allegations contained in Paragraph 122 of the Complaint contain conclusions of law, to which no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations and further deny any violations of the FDCPA, 15 U.S.C. § 1692 et seq.

123. The allegations contained in Paragraph 123 of the Complaint contain conclusions of law, to which no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations and further deny any violations of the FDCPA, 15 U.S.C. § 1692 et seq.

124. The allegations contained in Paragraph 124 of the Complaint contain conclusions of law, to which no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations and further deny any violations of the FDCPA, 15 U.S.C. §

1692 et seq.

125. The allegations contained in Paragraph 125 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

126. The allegations contained in Paragraph 126 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

127. The allegations contained in Paragraph 127 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

128. The allegations contained in Paragraph 128 of the Complaint contain allegations which were dismissed by the Order of Honorable Susan D. Wigenton, dated September 14, 2016 and therefore no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations.

129. The allegations contained in Paragraph 129 of the Complaint contain conclusions of law, to which no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations and further deny any violations of the FDCPA, 15 U.S.C. § 1692 et seq.

130. The allegations contained in Paragraph 130 of the Complaint contain conclusions

of law, to which no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations and further deny any violations of the FDCPA, 15 U.S.C. § 1692 et seq.

131. The allegations contained in Paragraph 131 of the Complaint contain conclusions of law, to which no responsive pleading is required. To the extent a further response is required, Defendants deny these allegations and further deny any violations of the FDCPA, 15 U.S.C. § 1692 et seq.

IX. PRAYER FOR RELIEF

132. Defendants deny the allegations contained in the WHEREFORE paragraph of the Complaint, including subsections A through F.

X. JURY DEMAND

133. The allegations contained in this paragraph of the Complaint do not require a response.

XI. CERTIFICATION

134. The allegations contained in this paragraph of the Complaint do not require a response.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

The Complaint fails to state facts sufficient to constitute a cause of action against Defendants relative to the content of the alleged communications and further fails to state facts sufficient to entitle Plaintiff to the relief sought, or to any other relief whatsoever, from

Defendants.

SECOND AFFIRMATIVE DEFENSE

Plaintiff's claims contain insufficient information to permit Defendants to raise all appropriate defenses, and therefore, Defendants reserve their right to amend and/or supplement this Answer with additional and appropriate defenses.

THIRD AFFIRMATIVE DEFENSE

At all times relevant hereto, Defendants acted in good faith and/or with good cause and have not violated any rights which may be secured to Plaintiff under any federal, state, city or local laws, rules, regulations, codes or guidelines.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff's claims against Defendant are barred, in whole or in part, by the doctrines of waiver, unclean hands, laches and estoppel.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff's Complaint does not allege facts sufficient to rise to the level of conduct required to recover statutory damages under the FDCPA and thus all requests for statutory damages thereunder are improper.

SIXTH AFFIRMATIVE DEFENSE

The National Bank Act preempts state usury limits, including the interest limit specified in the Complaint. As such, Defendants' interest rates were not in violation of state or federal law.

SEVENTH AFFIRMATIVE DEFENSE

Defendants were legally assigned the rights attached to Plaintiff's account purchased from Credit One Bank, N.A. a national bank and, as such, benefit from the preemption of state

law by the National Bank Act.

EIGHTH AFFIRMATIVE DEFENSE

The Complaint does not describe the alleged actions with sufficient particularity to permit Defendants to ascertain what other defenses may exist at this time. Defendants therefore reserve the right to assert all defenses that may pertain to the Complaint as the facts of the case are discovered.

NINTH AFFIRMATIVE DEFENSE

Plaintiff has failed to show that Defendants have breached any duty owed to Plaintiff.

TENTH AFFIRMATIVE DEFENSE

Defendants are informed and believe and thereon allege that the applicable statutes of limitation bar all claims for relief in the Complaint.

ELEVENTH AFFIRMATIVE DEFENSE

The Complaint is barred due to Plaintiff's failure to exhaust administrative remedies.

TWELFTH AFFIRMATIVE DEFENSE

The Complaint does not contend that the subject debt is not owed, nor that the subject debt has been satisfied. As such, Plaintiff is in breach of the agreement with the credit originator, and but for the breach of that agreement, Defendants would not have communicated with Plaintiff.

THIRTEENTH AFFIRMATIVE DEFENSE

Defendants are informed and believe and thereon allege that any alleged damages sustained by Plaintiff were, at least in part, caused by the actions of Plaintiff and resulted from Plaintiff's own actions.

