

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN

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JILL BATES,  
Plaintiff,  
v.

Case No. 2:17-cv-00346

PREMIER FINANCIAL CREDIT UNION,  
Defendant.

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**DEFENDANT'S ANSWER AND AFFIRMATIVE DEFENSES**

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Defendant Premier Financial Credit Union ("Premier"), by its attorneys, Litchfield Cavo LLP, for its Answer and Affirmative Defenses to Plaintiff's Complaint, states as follows.

**ANSWER**

**Nature of the Action**

1. Answering Paragraph 1, deny knowledge and information sufficient to form a belief as to the truth of the allegations.
2. Paragraph 2 contains legal conclusions to which no response is required; to the extent a response is required, admit.

**Jurisdiction and Venue**

3. Paragraph 3 contains legal conclusions to which no response is required; to the extent a response is required, admit.
4. Paragraph 4 contains legal conclusions to which no response is required; to the extent a response is required, deny knowledge and information sufficient to form a belief as to the truth of the allegations and legal conclusions concerning whether Premier is liable under the FCRA; and admit the remaining allegations and legal conclusions in Paragraph 4.

5. Paragraph 5 contains legal conclusions to which no response is required; to the extent a response is required, deny knowledge and information sufficient to form a belief as to the truth of the allegations and legal conclusions.

6. Paragraph 6 contain legal conclusions to which no response is required; to the extent a response is required, admit.

### **Parties**

7. Answering Paragraph 7, admit on information and belief.

8. Answering Paragraph 8, admit.

### **Factual Allegations**

9. – 10. Answering Paragraphs 9 – 10, admit.

11. Answering Paragraph 11, deny knowledge and information sufficient to form a belief as to the truth of the allegations.

12. – 13. Answering Paragraphs 12 – 13, admit.

14. Answering Paragraph 14, deny; and assert Plaintiff had a relationship with Premier as of Sep. 21, 2015 in that she previously owed a debt (mortgage) to Premier in conjunction with her former spouse.

### **Count 1 – Violations of the Fair Credit Reporting Act**

15. Answering Paragraph 15, reallege and incorporate by reference the admissions, denials and assertions contained within the preceding paragraphs of this Answer.

16. – 17. Paragraphs 16 – 17 contain legal conclusions to which no response is required; to the extent a response is required, deny knowledge and information sufficient to form a belief as to the truth of the allegations and legal conclusions.

18. Paragraph 18 contains legal conclusions to which no response is required; to the extent a response is required, admit Premier obtained a copy of Plaintiff's credit report; admit Plaintiff did not owe a debt to Premier as of Sep. 15, 2015; deny Plaintiff did not have a relationship with Premier as of Sep. 21, 2015; assert Plaintiff had a relationship with Premier as of Sep. 21, 2015 in that she previously owed a debt (mortgage) to Premier in conjunction with her former spouse; deny Premier's actions were willful; and deny Plaintiff is entitled to statutory and punitive damages pursuant to 15 U.S.C § 1681n(a).

19. Paragraph 19 contains legal conclusions to which no response is required; to the extent a response is required, deny Plaintiff is entitled to attorney's fees and costs pursuant to 15 U.S.C. §§ 1681n(a); and deny knowledge and information sufficient to form a belief as to the truth of the remaining allegations and legal conclusions.

### **Count 2 – Invasion of Privacy**

20. Answering Paragraph 20, reallege and incorporate by reference the admissions, denials and assertions contained within the preceding paragraphs of this Answer.

21. Paragraph 21 contains legal conclusions to which no response is required; to the extent a response is required, admit.

22. Paragraph 22 contains legal conclusions to which no response is required; to the extent a response is required, admit Premier obtained a copy of Plaintiff's credit report; and deny knowledge and information sufficient to form a belief as to the truth of the remaining allegations and legal conclusions.

23. – 24. Paragraphs 23 – 24 contain legal conclusions to which no response is required; to the extent a response is required, deny knowledge and information sufficient to form a belief as to the truth of the allegations and legal conclusions.

**Trial by Jury**

25. Paragraph 25 contains legal conclusions to which no response is required; to the extent a response is required, deny knowledge and information sufficient to form a belief as to the truth of the allegations and legal conclusions.

**AFFIRMATIVE DEFENSES**

1. The Complaint fails to state a claim upon which relief can be granted.
2. To the extent Plaintiff has suffered any damages, Plaintiff has failed to mitigate those damages.
3. Plaintiff has suffered no actual damages, and an award of statutory damages to Plaintiff would violate Defendant's due process rights as they are disproportionate to the harm alleged and are excessive.
4. Any claim by Plaintiff for statutory damages, attorney's fees and costs and punitive damages are barred because the violation of FCRA, if any, was accidental and not willful.
5. Premier alleges all affirmative defenses required to be pled under Fed. R. Civ. P. 8(c)(1) for the purpose of avoiding waiver of any such affirmative defenses as they may later apply. Premier also reserves the right to assert additional affirmative defenses that may become available as a result of future discovery in this action.

WHEREFORE, Defendant Premier Financial Credit Union seeks judgment as follows:

- A. Dismissing the Complaint;
- B. Awarding Premier all costs and attorneys fees allowed by law; and
- C. For other relief allowed in law and equity that the Court deems appropriate and just.

Dated this 13th day of April 2017.

LITCHFIELD CAVO LLP  
Attorneys for Defendant Premier Financial Credit Union

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