

**RECEIVED**  
**Jun 13 2022**  
**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas

Perry H. Gravely, Circuit Court Judge

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Trial Case No. 2020-04644  
Appellate Case No. 2021-000265

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Sula Adams, Appellant,

v.

PennyMac Loan Services, LLC; The United States of America, acting by and through its agency, The Secretary of Housing and Urban Development; Lanier Law Firm, LLC; Abby Robertson; Investors Title Insurance Company; TransUnion; Experian Information Solutions, Inc.; and Equifax, LLC, Defendants.

Of whom PennyMac Loan Services, LLC; The United States of America, acting by and through its agency, The Secretary of Housing and Urban Development; Lanier Law Firm, LLC; Abby Robertson; and Investors Title Insurance are the Respondents.

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RECORD ON APPEAL

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Michanna Talley Tate  
P. O. Box 8175  
Greenville, SC 29604  
(864) 498-7411 – Phone  
(866) 708-0374 – Fax  
attorney@accesslawsc.com  
**Attorney for Appellant**

Jason Alexander Richardson  
Matthew Douglas Patterson  
Nelson Mullins Riley & Scarborough LLP  
1320 Main Street/ 17<sup>th</sup> Floor  
P. O. Box 11070 (29211-1070)  
Columbia, SC 29201  
(803) 799-2000  
matt.patterson@nelsonmullins.com  
**Attorneys for Respondent PennyMac Loan  
Services, LLC**

Matthew Holmes Henrikson  
Henrikson Law Firm, LLC  
P. O. Box 26554  
Greenville, SC 29616  
(864) 672-7106  
**Attorney for Respondents Lanier Law Firm,  
LLC and Abby Robertson**

Demetri K. Koutrakos  
Callison Tighe & Robinson, LLC  
1812 Lincoln Street, Suite #200  
P. O. Box 1390  
Columbia, SC 29202-1390  
(803) 404-6900  
**Attorney for Respondent Investors Title  
Insurance Company**

Andrew Robert de Holl  
Unites States Attorneys Office  
141 Meeting Street, Suite 200  
Charleston, SC 29401  
(843) 266-1604  
**Attorney for Respondent USA/HUD**

## INDEX

Order of February 3, 2021 .....	1
Complaint .....	7
Answer of PennyMac Loan Services, LLC .....	17
Answer of TransUnion .....	24
Answer of Experian Information Solutions, Inc.....	32
Answer of Equifax, LLC .....	43
Motion to Dismiss of PennyMac Loan Services, LLC.....	57
Motion to Dismiss and Memorandum of The United States of America .....	73
Motion to Dismiss of Lanier Law Firm, LLC and Abby Robertson .....	77
Motion to Dismiss of Investors Title Insurance Company.....	80
Amended Motion to Dismiss of Investors Title Insurance Company .....	83
Notice of Appeal .....	87
Certificate of Appellant .....	91

Order of February 3, 2021

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	THIRTEENTH JUDICIAL CIRCUIT
	)	
Sula Adams,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
PennyMac Loan Services, LLC; The	)	<b>ORDER OF DISMISSAL</b>
United States of America, acting by and	)	
through its agency, The Secretary of	)	
Housing and Urban Development; Lanier	)	2020CP2304644
Law Firm, LLC; Abby Robertson;	)	
Investors Title Insurance Company;	)	
TransUnion; Experian Information	)	
Solutions, Inc.; and Equifax, LLC,	)	
	)	
Defendants.	)	
_____	)	

This matter came before the Court upon multiple motions. Plaintiff filed a Motion for Temporary Restraining Order (“TRO”). Defendants Lanier Law Firm (“Lanier”); Abby Robertson (“Robertson”); Investors Title Insurance Company (“Investors”); PennyMac Loan Services, LLC (“PennyMac”); United States of American, acting by and through its Agency, The Secretary of Housing and Urban Development (“HUD”) filed Motions to Dismiss. Plaintiff informed the Court that she was in settlement negotiations with Defendants TransUnion; Experian Information Solutions, Inc.; and Equifax, LLC. As to Plaintiff’s Motion for TRO against HUD, she withdrew her motion pursuant to HUD’s agreement not to garnish wages during the pendency of this action.

This action arises out of the failure of Plaintiff to properly satisfy two existing mortgages in connection with the sale of her home. Plaintiff sold her house to a third-party and at the time of the closing on September 30, 2016, there were two mortgages against the property. For some

reason, only one of the mortgages was satisfied from the closing proceeds, which left the other mortgage still outstanding. Plaintiff contends the error was a result of Defendants failure to properly reference both mortgages in the payoff statements. As a result of the outstanding mortgage, HUD sought garnishment of Plaintiff's wages to satisfy the debt. Plaintiff brought this action against all parties involved in the closing for claims of breach of contract, intentional infliction of emotional distress, and unfair trade practices. Subsequently, the current Motions to Dismiss were filed. All of these Motions to Dismiss have various grounds for their dismissal, but all contend that this action was not commenced with the Statute of Limitations. The Court will address the Statute of Limitations action and then address the specific grounds for dismissal related to each Defendant's Motion.

To grant a Motion to Dismiss, the court “must base its ruling solely on allegations set forth in the complaint.” *Doe v. Marion*, 373 S.C. 390, 395, 645 S.E.2d 245, 247 (2007). “The complaint should not be dismissed merely because the court doubts the plaintiff will prevail in the action.” *Marion* at 395, 645 S.E.2d 245, 248. For a Motion to Dismiss, the Court looks at the facts alleged in the light most favorable to the plaintiff to determine whether the plaintiff is entitled to relief on any legal theory. *Marion* at 395, 645 S.E.2d 245, 247.

All Defendants asserted that the Statute of Limitations bars this action, which is supported by looking only at the Complaint. The Complaint asserts causes of action for breach of contract, intentional infliction of emotional distress and violation of the S.C. Unfair Trade Practices Act. The relevant statute of limitations for all of these causes of action is three years as provided by S.C. Code Ann. §15-3-530 and §39-5-150. The event which gives rise to Plaintiff's claim took place on September 30, 2016. The Summons and Complaint was not filed until October 8, 2020. In the Complaint, Plaintiff alleges she received a letter dated June 12, 2017 from Robertson

outlining the issues and acknowledging that the second mortgage had not been satisfied (Complaint, Paragraph 16). Plaintiff further alleges she received a letter dated August 25, 2017 from HUD demanding payment on the outstanding loan and that it planned to pursue garnishment of wages for payment of the debt. (Complaint, Paragraph 17). As of these dates, Plaintiff was advised the second mortgage had not been paid off and she would have clearly known she had a claim against the responsible parties. However, Plaintiff failed to commence an action until October 8, 2020, more than four years after the closing and more than three years after she was advised in writing of the issues. Plaintiff argues equitable tolling should apply as she was awaiting an administrative decision from HUD on the wage garnishment issue. Based on the Complaint, Plaintiff alleges she objected to wage garnishment because of financial hardship and because Robertson was to blame for providing incorrect information about the two mortgages. This would not toll the statute because she was merely contesting HUD's right to garnish her wages and not awaiting any type of decision on whether the debt was owed. As a practical matter, Plaintiff should have been aware that she received more proceeds than she was entitled to at closing and should have known one of the mortgages had not been paid off. Therefore, the Court finds this action was not commenced within the applicable statute of limitations and Defendants' Motions are GRANTED.

Although the each of the Defendants filed additional grounds to support their Motions to Dismiss, the Court has not addressed those because the dismissal was granted based on the Statute of Limitations.

Given the failure of Plaintiff to file this action within a timely manner under the Statute of Limitations, Defendants HUD's, Lanier's, Robertson's, Investor's, and PennyMac's Motions to Dismiss are GRANTED.

**IT IS SO ORDERED.**

*Judge Gravely's Signature Page to Follow*



Greenville Common Pleas

**Case Caption:** Sula Adams vs. PennyMac Loan Services LLC , defendant, et al  
**Case Number:** 2020CP2304644  
**Type:** Order/Dismissal

So Ordered

s/ Honorable Perry H. Gravely, #2755

Electronically signed on 2021-02-03 10:58:11 page 5 of 5

## Complaint

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STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF GREENVILLE )

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

Sula Adams Plaintiff(s)

vs.

Penny Mac Loan Services, et al. Defendant(s)

-CP-  
2020-CP-23-04644

Submitted By: Michael F. Talley  
Address: 206 Green Avenue  
Greenville, SC 29601

SC Bar #: 5465  
Telephone #: (864) 233-6229  
Fax #: (864) 370-0071  
Other:  
E-mail: talleylaw@aol.com

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

\*If Action is Judgment/Settlement do not complete

- JURY TRIAL demanded in complaint.  NON-JURY TRIAL demanded in complaint.
- This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- |  |  |   |  |
|--|--|---|--|
| <p><b>Contracts</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Constructions (100)</li> <li><input type="checkbox"/> Debt Collection (110)</li> <li><input type="checkbox"/> Employment (120)</li> <li><input type="checkbox"/> General (130)</li> <li><input checked="" type="checkbox"/> Breach of Contract (140)</li> <li><input type="checkbox"/> Other (199)</li> </ul>  | <p><b>Torts - Professional Malpractice</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Dental Malpractice (200)</li> <li><input type="checkbox"/> Legal Malpractice (210)</li> <li><input type="checkbox"/> Medical Malpractice (220)</li> <li>Previous Notice of Intent Case #<br/>20 -CP- _____</li> <li><input type="checkbox"/> Notice/ File Med Mal (230)</li> <li><input type="checkbox"/> Other (299)</li> </ul>  | <p><b>Torts - Personal Injury</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Assault/Slander/Libel (300)</li> <li><input type="checkbox"/> Conversion (310)</li> <li><input type="checkbox"/> Motor Vehicle Accident (320)</li> <li><input type="checkbox"/> Premises Liability (330)</li> <li><input type="checkbox"/> Products Liability (340)</li> <li><input type="checkbox"/> Personal Injury (350)</li> <li><input type="checkbox"/> Wrongful Death (360)</li> <li><input type="checkbox"/> Other (399)</li> </ul>   | <p><b>Real Property</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Claim &amp; Delivery (400)</li> <li><input type="checkbox"/> Condemnation (410)</li> <li><input type="checkbox"/> Foreclosure (420)</li> <li><input type="checkbox"/> Mechanic's Lien (430)</li> <li><input type="checkbox"/> Partition (440)</li> <li><input type="checkbox"/> Possession (450)</li> <li><input type="checkbox"/> Building Code Violation (460)</li> <li><input type="checkbox"/> Other (499)</li> </ul>  |
| <p><b>Inmate Petitions</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> PCR (500)</li> <li><input type="checkbox"/> Mandamus (520)</li> <li><input type="checkbox"/> Habeas Corpus (530)</li> <li><input type="checkbox"/> Other (599)</li> </ul>   | <p><b>Administrative Law/Relief</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Reinstate Drv. License (800)</li> <li><input type="checkbox"/> Judicial Review (810)</li> <li><input type="checkbox"/> Relief (820)</li> <li><input type="checkbox"/> Permanent Injunction (830)</li> <li><input type="checkbox"/> Forfeiture-Petition (840)</li> <li><input type="checkbox"/> Forfeiture-Consent Order (850)</li> <li><input type="checkbox"/> Other (899)</li> </ul> | <p><b>Judgments/Settlements</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Death Settlement (700)</li> <li><input type="checkbox"/> Foreign Judgment (710)</li> <li><input type="checkbox"/> Magistrate's Judgment (720)</li> <li><input type="checkbox"/> Minor Settlement (730)</li> <li><input type="checkbox"/> Transcript Judgment (740)</li> <li><input type="checkbox"/> Lis Pendens (750)</li> <li><input type="checkbox"/> Transfer of Structured Settlement Payment Rights Application (760)</li> <li><input type="checkbox"/> Confession of Judgment (770)</li> <li><input type="checkbox"/> Petition for Workers Compensation Settlement Approval (780)</li> <li><input type="checkbox"/> Other (799)</li> </ul> | <p><b>Appeals</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Arbitration (900)</li> <li><input type="checkbox"/> Magistrate-Civil (910)</li> <li><input type="checkbox"/> Magistrate-Criminal (920)</li> <li><input type="checkbox"/> Municipal (930)</li> <li><input type="checkbox"/> Probate Court (940)</li> <li><input type="checkbox"/> SCDOT (950)</li> <li><input type="checkbox"/> Worker's Comp (960)</li> <li><input type="checkbox"/> Zoning Board (970)</li> <li><input type="checkbox"/> Public Service Comm. (990)</li> <li><input type="checkbox"/> Employment Security Comm (991)</li> <li><input type="checkbox"/> Other (999)</li> </ul> |
| <p><b>Special/Complex /Other</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Environmental (600)</li> <li><input type="checkbox"/> Automobile Arb. (610)</li> <li><input type="checkbox"/> Medical (620)</li> <li><input type="checkbox"/> Other (699)</li> <li><input type="checkbox"/> Pharmaceuticals (630)</li> <li><input checked="" type="checkbox"/> Unfair Trade Practices (640)</li> <li><input type="checkbox"/> Out-of State Depositions (650)</li> <li><input type="checkbox"/> Motion to Quash Subpoena in an Out-of-County Action (660)</li> <li><input type="checkbox"/> Sexual Predator (610)</li> </ul> |  |   |  |

Submitting Party Signature:

Date: 10-8-2020

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRPC, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF GREENVILLE )  
 )  
 Sula Adams, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 PennyMac Loan Services, LLC; The United )  
 States of America, acting by and through its )  
 Agency, The Secretary of Housing and )  
 Urban Development; Lanier Law Firm, LLC;) )  
 Abby Robertson; Investors Title Insurance )  
 Company; TransUnion; Experian Information )  
 Solutions, Inc.; and Equifax, LLC, )  
 )  
 )  
 Defendant(s). )

THE COURT OF COMMON PLEAS

**2020-CP-23-04644**

**COMPLAINT**  
 (Jury Trial Demanded)

The Plaintiff, complaining of the acts of the Defendant(s) above-named, would respectfully show unto this Court as follows:

1. That the Plaintiff is a citizen and resident of the County of Greenville, State of South Carolina.
2. That Defendant PennyMac Loan Services, LLC is a Delaware corporation, registered as a foreign corporation and in good standing with the South Carolina Secretary of State.
3. That the United States of America, acting by and through its agency, The Secretary of Housing and Urban Development (“HUD”), may claim some interest in the real estate, which is subject, at least in part, of this action, and this Court has proper jurisdiction pursuant to S.C. Code Ann. §36-2-803.

4. That Defendant Lanier Law Firm, LLC is a domestic corporation in good standing with the South Carolina Secretary of State.

5. That upon information and belief, the Defendant, Abby Robertson, is a citizen and resident of the State of South Carolina and is/was an employee and/or agent of the Lanier Law Firm, LLC.

6. That Investors Title Insurance Company a/k/a National Investors Title Insurance Company is a Texas corporation, registered as a foreign corporation and in good standing with the South Carolina Secretary of State.

7. That Trans Union LLC is a Delaware corporation, registered as a foreign corporation and in good standing with the South Carolina Secretary of State.

8. That Experian Information Solutions, Inc. a/k/a Experian, in Ohio corporation, registered as a foreign corporation and in good standing with the South Carolina Secretary of State.

9. That Equifax Inc. is a Georgia corporation registered as a foreign corporation and in good standing with the South Carolina Secretary of State.

10. That the property upon which the mortgage and/or lien at issue is attached to is located in Greenville County, State of South Carolina.

#### **FACTS**

11. That on September 30 of 2016, the sale of 216 Dairwood Drive, Simpsonville, South Carolina 29680 occurred by way of a real estate closing at the Lanier Law Firm. The seller of the property was the Plaintiff Sula Adams. The Buyers of the property, Jason Linton and Alicia Linton, purchased the property for \$295,000.00.

12. That prior to the sale and up to the date of closing, two (2) mortgages existed on the property. The first mortgage, held by Academy Mortgage Corporation, for loan number 2224083, was dated November 16, 2012 and was recorded November 21 of 2012 in Mortgage Book 5188 at Page 1642 in the Greenville County Register of Deeds office. The mortgage was then assigned to PennyMac Loan Services LLC, as recorded on July 23, 2014 in Mortgage Book 5262 at Page 3092 in the Greenville County Register of Deeds office. A Partial Claim Mortgage from HUD was dated June 10, 2015 and recorded July 9, 2015 in Mortgage Book 5302 at Page 1419 in the Greenville County Register of Deeds Office.

13. That the first mortgage was issued in the amount of \$267,603.00. Said mortgage had a loan number of 2224083 and a MIN number of 100060800022240830. The Partial Claim Mortgage, issued by HUD, in the amount of \$78,478.13, had a loan number of 8000100368 with a MIN number of 100060800022240830, the same as the original mortgage after it had been assigned. The mortgage issued by HUD specifically states that no payments are due on this Note as long as the first mortgage on the property is still owed. However once the primary note has been paid in full, the second mortgage would need to be paid. If the home were sold then a payoff would be required at closing.

14. That at the closing, and referenced on the settlement statement, were two (2) payoffs on behalf of the seller. One such payoff was to Discover and the other was a mortgage payoff. A payoff was issued by PennyMac on September 16, 2016 for loan number 8000100368. The payoff statement does not reference a MIN number. The payoff statement was in the amount of \$202,312.05. However, the original loan amount for loan

number 8000100368 was only \$78,478.13. No other mortgage payoffs were obtained by the closing attorney.

15. That following the real estate closing, the Plaintiff was contacted by HUD. They stated that a second mortgage on the property in the amount of \$78,478.13 had not been paid off at closing, as required.

16. That in a letter dated June 12, 2017, closing attorney Abby Robertson conveyed to the Plaintiff that when the title search was conducted, two (2) mortgages were found that had been recorded and neither had been satisfied at that time. Robertson explained that the mortgages referenced the same loan number and both were held by PennyMac Loan Services. Robertson went on to state that PennyMac conveyed to her that only one payoff statement was required for both mortgages. However, following the closing, PennyMac indicated they would not satisfy the second mortgage even though they provided incorrect information. However, in opposition to Robertson's statement, the two (2) mortgages have different loan numbers. Also, the payoff provided by PennyMac referenced the second mortgage on the home which was in an original amount of \$78,478.13. The payoff provided, with that loan number, was in amount in excess of the original mortgage amount of \$78,478.13 with a payoff of \$202,312.05.

17. That in a letter dated August 25, 2017, HUD conveyed to the Plaintiff that the original loan amount was now in the amount of \$106,879.13. Due to that amount being owed, HUD moved forward with wage garnishment of the Plaintiff.

18. That the Plaintiff requested a hearing with HUD regarding the proposed administrative wage garnishment. On September 15 of 2017, the Plaintiff, by way of a

letter, requested a hearing and conveyed to HUD what she had been told by her attorney, as well as the closing attorney.

19. That in a letter dated September 19, 2017 an attorney for Investors Title Insurance Company wrote to HUD, requesting that their lien on the property be released, on the basis that PennyMac provided incorrect information regarding the payoff(s). No lien has been released by HUD.

20. That the Plaintiff has claimed financial hardship to HUD as a reason that her wages should not be garnished. She also later claimed that the amount owed should not be due because PennyMac provided the closing attorney incorrect information. HUD has continued to garnish the Plaintiff's wages.

**FOR A FIRST CAUSE OF ACTION**  
(Breach of Contract)

21. Plaintiff hereby realleges and incorporates by reference the allegations in paragraphs one (1) through 20 as though fully set forth in this cause of action.

22. A breach of contract occurs when a binding contract entered into by the parties is breached or there is an unjustifiable failure to perform the contract, and one party suffers damage as a direct and proximate result of the breach.

23. A valid contract should be construed so as to give full force and effect of every part of that contract. If ambiguities exist, they are construed against the party who prepared the contract.

24. That Plaintiff has performed all duties, promises, and obligations required of Plaintiff and all conditions precedent that Plaintiff agreed to perform in the Contract between her and the Defendant(s). She did her part in the performance of an execution of the sale of her home by way of a real estate closing. She fulfilled all requirements of

herself in regards to executing all documents for the full execution of the closing. The Defendant(s) have breached their Contracts with the Plaintiff by:

- A) Failing to issue proper payoff statements; and
- B) Failing to mark a lien as satisfied when debtor has fulfilled all her responsibilities for which she was personally and individually responsible; and
- C) Failing to properly prepare all aspects of the real estate closing, and
- D) Failing to obtain all payoffs, and
- E) Failing to properly close a real estate sale; and
- F) Failing to properly insure the title of the property at issue; and
- G) Failing by adding negative information to a credit report without judgment entered into against the Plaintiff in a Court of law.

25. That Because of Defendant(s)' breach of the Contract(s) Plaintiff has suffered general and consequential damages. Plaintiff further requests damages that accrue during the pendency of this lawsuit that arise from any and all claims related to claims described herein as a result of Defendant(s)' actions.

26. That Defendant(s) are liable for all attorney's fees and costs necessary to enforce the Contract(s).

**FOR A SECOND CAUSE OF ACTION**  
(Intentional Infliction of Emotional Distress)

27. That Plaintiff hereby realleges and incorporates by reference the allegations in paragraphs one (1) through 26 as though fully set forth in this cause of action.

28. That the Defendant(s), by extreme and outrageous conduct, intentionally or recklessly caused several emotional distress to the Plaintiff and is therefore subject to liability for such emotional distress.

**FOR A THIRD CAUSE OF ACTION**  
(Unfair Trade Practices)

29. That Plaintiff hereby realleges and incorporates by reference the allegations in paragraphs one (1) through 28 as though fully set forth in this cause of action.

30. That the Defendant(s) committed unfair and deceptive practices causing damage to Plaintiff. The Plaintiff fulfilled all her requirements in the fulfillment of the real estate closing. This transaction is commonplace for the Defendant(s). Their failure to complete the transaction and payoff process in this matter is unfair. The Defendant(s) knew or should have known of the false nature of the documentation produced or received during the closing process and had a reckless disregard for its truth or falsity. The Defendant(s) should not punish the Plaintiff for actions and events not within her control.

31. That the error is unfair and injurious to members of the public, violates S.C. Code Ann. § 39-5-20.

32. That this conduct gives rise to specific deceptive and unfair practices by Defendant(s). This conduct is governed by S.C. Code Ann. § 39-5-10 et seq, SCUTPA. The acts were the direct and proximate cause of actual damages incurred by the Plaintiff. Their conduct was knowing and willful, and intentionally designed to harm consumers (students) such as Plaintiff, and to enrich the Defendant(s) unfairly.

33. That in operating a business, “Unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful.”

34. That Defendant(s) breached the South Carolina Unfair Trade Practices Act in the following manner giving rise to a recovery for the Plaintiff:

- a. Completing an act that is unfair and has an impact on public interest due to the potential for repetition;
- b. Being the Proximate Cause;
- c. Of damages to the Plaintiff.

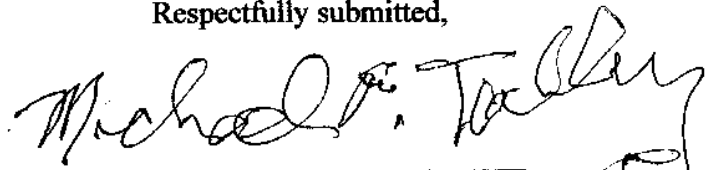
35. As a direct and proximate result of the Defendants’ breach of the South Carolina Unfair Trade Practices Act, the Plaintiff has suffered monetary damages.

36. On information and belief, Plaintiff is entitled to judgment against the Defendant(s) including attorney’s fees and costs.

**WHEREFORE**, Plaintiff prays for a judgment against the Defendant(s) as follows:

1. For all actual, consequential, special, and punitive damages in an appropriate amount (as determined by a jury);
2. For the cost of this action; and
3. For such other relief in law or equity as the Court may deem just and proper.

Respectfully submitted,

A handwritten signature in black ink that reads "Michael Talley". The signature is written in a cursive style with a large, looping flourish at the end.

---

Michael Talley, Esq. #5465  
206 Green Avenue  
Greenville, SC 29601  
Phone: (864) 233-6229  
Fax: (864) 370-0071  
talleylaw@aol.com  
**Attorney for Plaintiff**

October 6, 2020  
Greenville, South Carolina

Answer of PennyMac Loan Services, LLC

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STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
 ) FOR THE THIRTEENTH JUDICIAL  
COUNTY OF GREENVILLE ) CIRCUIT

Sula Adams, ) Civil Action No. 2020-CP-23-04644  
 )

Plaintiff, )  
 )

v. )  
 )

PennyMac Loan Services, LLC; The )  
United States of America, acting by and )  
through its Agency, The Secretary of )  
Housing and Urban Development; )  
Lanier Law Firm, LLC; Abby )  
Robertson; Investors Title Insurance )  
Company; TransUnion; Experian )  
Information Solutions, Inc.; and Equifax, )  
LLC, )

**DEFENDANT PENNYMAC LOAN SERVICES, LLC'S ANSWER TO PLAINTIFF'S COMPLAINT**

Defendants. )  
\_\_\_\_\_ )

Reserving all rights and remedies available to it, Defendant PennyMac Loan Services, LLC, ("PennyMac") hereby answers Plaintiff Sula Adams Complaint as follows:

**GENERAL DENIAL**

Each and every allegation of the Plaintiff's Complaint is expressly denied unless specifically admitted, qualified, or explained herein.

**FOR A FIRST DEFENSE**

1. PennyMac is without sufficient information to form a belief as to the truth or falsity of the allegations contained in Paragraph 1 and, therefore, denies those allegations.
2. PennyMac admits Paragraph 2.
3. PennyMac is without sufficient information to form a belief as to the truth or falsity of the allegations contained in Paragraph 3 and, therefore, denies those allegations.

4. PennyMac is without sufficient information to form a belief as to the truth or falsity of the allegations contained in Paragraph 4 and, therefore, denies those allegations.

5. PennyMac is without sufficient information to form a belief as to the truth or falsity of the allegations contained in Paragraph 5 and, therefore, denies those allegations.

6. PennyMac is without sufficient information to form a belief as to the truth or falsity of the allegations contained in Paragraph 6 and, therefore, denies those allegations.

7. PennyMac is without sufficient information to form a belief as to the truth or falsity of the allegations contained in Paragraph 7 and, therefore, denies those allegations.

8. PennyMac is without sufficient information to form a belief as to the truth or falsity of the allegations contained in Paragraph 8 and, therefore, denies those allegations.

9. PennyMac is without sufficient information to form a belief as to the truth or falsity of the allegations contained in Paragraph 9 and, therefore, denies those allegations.

10. Paragraph 10 concerns a written mortgage and/or deed that speak for themselves, and PennyMac denies any allegations inconsistent with those documents.

11. Paragraph 11 concerns a written contract and a written deed that speak for themselves, and PennyMac denies any allegations inconsistent with those documents.

12. Paragraph 12 concerns written mortgages that speak for themselves, and PennyMac denies any allegations inconsistent with those documents.

13. Paragraph 13 concerns a written note and written mortgages that speak for themselves, and PennyMac denies any allegations inconsistent with those documents.

14. Paragraph 14 concerns a written settlement statement and written loan payoff documents that speak for themselves, and PennyMac denies any allegations inconsistent with those documents.

15. PennyMac is without sufficient information to form a belief as to the truth or falsity of the allegations contained in Paragraph 15 and, therefore, denies those allegations.

16. PennyMac denies Paragraph 16.

17. PennyMac is without sufficient information to form a belief as to the truth or falsity of the allegations contained in Paragraph 17 and, therefore, denies those allegations.

18. PennyMac is without sufficient information to form a belief as to the truth or falsity of the allegations contained in Paragraph 18 and, therefore, denies those allegations.

19. PennyMac is without sufficient information to form a belief as to the truth or falsity of the allegations contained in Paragraph 19 and, therefore, denies those allegations.

20. PennyMac is without sufficient information to form a belief as to the truth or falsity of the allegations contained in Paragraph 20 and, therefore, denies those allegations.

21. Responding to Paragraph 21, PennyMac incorporates its responses to the proceeding paragraphs as if repeated verbatim herein.

22. Paragraph 22 states a legal conclusion to which no response is required.

23. Paragraph 23 states a legal conclusion to which no response is required.

24. PennyMac denies Paragraph 24, including subparts “A” through “G.”

25. PennyMac denies Paragraph 25.

26. PennyMac denies Paragraph 26.

27. Responding to Paragraph 27, PennyMac incorporates its responses to the proceeding paragraphs as if repeated verbatim herein.

28. PennyMac denies Paragraph 28.

29. Responding to Paragraph 29, PennyMac incorporates its responses to the proceeding paragraphs as if repeated verbatim herein.

- 30. PennyMac denies Paragraph 30.
- 31. PennyMac denies Paragraph 31.
- 32. PennyMac denies Paragraph 32.
- 33. Paragraph 33 states a legal conclusion to which no response is required.
- 34. PennyMac denies Paragraph 34, including subparts “a.” through “c.”
- 35. PennyMac denies Paragraph 35.
- 36. PennyMac denies Paragraph 36.
- 37. Responding to Plaintiff’s prayer for relief beginning with “WHEREFORE,” including subparts “1” through “3,” PennyMac denies that Plaintiff is entitled to the requested relief or any relief whatsoever.

**FOR A SECOND DEFENSE**

Plaintiff’s claims fail to state a claim for relief against PennyMac upon which relief may be granted and, therefore, should be dismissed.

**FOR A THIRD DEFENSE**

Plaintiff is comparatively or contributorily at fault for her damages, if any.

**FOR A FOURTH DEFENSE**

Plaintiff failed to mitigate her damages, if any exist and are proven at trial.

**FOR A FIFTH DEFENSE**

Plaintiff’s state law claims are pre-empted, in whole or in part, by federal law, including, but not limited to the Real Estate Settlement Procedures Act, the Truth in Lending Act, and the Financial Institutions Reform, Recovery, and Enforcement Act.

**FOR A SIXTH DEFENSE**

Plaintiff’s claims in equity are barred because she has an adequate remedy at law.

**FOR A SEVENTH DEFENSE**

To the extent Plaintiff seeks punitive or exemplary damages, those claims violate PennyMac’s rights to procedural and substantive due process under the Fourteenth Amendment of the United States Constitution and the Constitution of the State of South Carolina.

Pursuant to S.C. Code Ann. § 15-32-520, PennyMac hereby requests trial bifurcation on the issues of actual damages and punitive damages. To the extent the Court submits the question of punitive damages to the jury, the award of punitive damages, if any, is subject to the caps and limitations set forth in S.C. Code Ann. § 15-32-530, and PennyMac pleads and incorporates all defenses, limitations on damages, and other privileges contained in S.C. Code Ann. §§ 15-32-520 and 15-32-530 as if fully stated herein verbatim.

**FOR AN EIGHTH DEFENSE**

Plaintiff’s damages, to the extent she has any, were proximately caused by the acts or omissions of third parties and not by the acts or omissions of PennyMac.

**FOR A NINTH DEFENSE**

PennyMac would show that Plaintiff’s claims are barred by the doctrines of waiver, estoppel, laches, unclean hands, release, and/or accord and satisfaction

**FOR A TENTH DEFENSE**

Plaintiff’s damages, if any exist and are proven at trial, were proximately caused by Plaintiff’s own acts or omissions, and not by the acts or omissions of PennyMac.

**FOR AN ELEVENTH DEFENSE**

Plaintiff’s claims are barred by the plain terms of the applicable contracts, loan documents, and mortgages.

**FOR A TWELFTH DEFENSE**

Plaintiff's claims are barred by the applicable statutes of limitations.

**FOR A THIRTEENTH DEFENSE**

Plaintiff's claims should be dismissed, in whole or in part, because Plaintiff failed to exhaust her administrative remedies before filing her complaint.

**ADDITIONAL DEFENSES**

PennyMac reserves the right to amend and supplement its affirmative defenses to include any applicable defense of law or fact.

**WHEREFORE**, PennyMac respectfully requests the Court to dismiss all of Plaintiff's claims, with prejudice, to enter judgment in favor of PennyMac against Plaintiff, to award PennyMac its costs and attorneys' fees expended herein, and for such other and further relief as the Court may deem just and appropriate.

*[signature page to follow]*

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: s/Matthew D. Patterson

Matthew D. Patterson  
SC Bar No. 68316  
E-Mail: matt.patterson@nelsonmullins.com  
Jason A. Richardson  
SC Bar No. 104237  
E-Mail: jason.richardson@nelsonmullins.com  
1320 Main Street / 17th Floor  
Post Office Box 11070 (29211-1070)  
Columbia, SC 29201  
(803) 799-2000

Attorneys for PennyMac Loan Services, LLC

Columbia, South Carolina

December 15, 2020.

Answer of TransUnion

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STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS  
THIRTEENTH JUDICIAL CIRCUIT  
CASE NUMBER: 2020-CP-23-04644

Sula Adams,  
Plaintiff,

v.

PennyMac Loan Services, LLC, The United States of America, acting by and through its Agency, The Secretary of Housing and Urban Development, Lanier Law Firm, LLC, Abby Robertson, Investors Title Insurance Company, Trans Union, Experian Information Solutions, Inc., and Equifax, LLC,

Defendants.

**DEFENDANT TRANS UNION'S  
ANSWER AND DEFENSES TO  
PLAINTIFF'S COMPLAINT**

TO: MICHAEL TALLEY, ATTORNEY FOR THE PLAINTIFF SULA ADAMS

COMES NOW, Defendant Trans Union (“Trans Union”), and files its Answer and Defenses to Plaintiff’s Complaint (“Complaint”) filed by Sula Adams (“Plaintiff”). The paragraph numbers below correspond to the paragraph numbers contained in the Plaintiff’s Complaint to the extent possible.

1. Trans Union is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in paragraph 1 of the Complaint and, therefore, denies same.
2. Trans Union is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in paragraph 2 of the Complaint and, therefore, denies same.
3. Trans Union is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in paragraph 3 of the Complaint and, therefore, denies same.

4. Trans Union is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in paragraph 4 of the Complaint and, therefore, denies same.

5. Trans Union is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in paragraph 5 of the Complaint and, therefore, denies same.

6. Trans Union is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in paragraph 6 of the Complaint and, therefore, denies same.

7. Trans Union admits that its principal place of business located in Chicago, Illinois, and that it is authorized to do business within the State of South Carolina.

8. Trans Union is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in paragraph 8 of the Complaint and, therefore, denies same.

9. Trans Union is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in paragraph 9 of the Complaint and, therefore, denies same.

10. Trans Union is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in paragraph 10 of the Complaint and, therefore, denies same.

**FACTS**

11. Trans Union is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in paragraph 11 of the Complaint and, therefore, denies same.

12. Trans Union is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in paragraph 12 of the Complaint and, therefore, denies same.

13. Trans Union is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in paragraph 13 of the Complaint and, therefore, denies same.

14. Trans Union is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in paragraph 14 of the Complaint and, therefore, denies same.

15. Trans Union is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in paragraph 15 of the Complaint and, therefore, denies same.

16. Trans Union is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in paragraph 16 of the Complaint and, therefore, denies same.

17. Trans Union is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in paragraph 17 of the Complaint and, therefore, denies same.

18. Trans Union is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in paragraph 18 of the Complaint and, therefore, denies same.

19. Trans Union is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in paragraph 19 of the Complaint and, therefore, denies same.

20. Trans Union is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in paragraph 20 of the Complaint and, therefore, denies same.

**FOR A FIRST CAUSE OF ACTION**  
**(Breach of Contract)**

21. Trans Union restates and incorporates its responses to paragraphs 1 through 20 above as though fully stated herein.

22. Because of the vague and generalized nature of the allegations, Trans Union is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 22 of the Complaint and, therefore, denies same.

23. Because of the vague and generalized nature of the allegations, Trans Union is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 23 of the Complaint and, therefore, denies same.

24. Trans Union denies the allegations contained in paragraph 24 of the Complaint, including all subparts.

25. Trans Union denies the allegations contained in paragraph 25 of the Complaint.

26. Trans Union denies the allegations contained in paragraph 26 of the Complaint.

**FOR A SECOND CAUSE OF ACTION**  
**(Intentional Infliction of Emotional Distress)**

27. Trans Union restates and incorporates its responses to paragraphs 1 through 26 above as though fully stated herein.

28. Trans Union denies the allegations contained in paragraph 28 of the Complaint.

**FOR A THIRD CAUSE OF ACTION**  
**(Unfair Trade Practices)**

29. Trans Union restates and incorporates its responses to paragraphs 1 through 28 above as though fully stated herein.

30. Trans Union denies the allegations contained in paragraph 30 of the Complaint.

31. The provisions of S.C. Code Ann. § 39-5-20 are self-evident and speak for themselves. Trans Union denies the allegations contained in paragraph 31 of the Complaint.

32. The provisions of S.C. Code Ann. § 39-5-10 are self-evident and speak for themselves. Trans Union denies the allegations contained in paragraph 31 of the Complaint.

33. The provisions of S.C. Code Ann. § 39-5-20 are self-evident and speak for themselves. Trans Union denies the allegations contained in paragraph 33 of the Complaint.

34. Trans Union denies the allegations contained in paragraph 34 of the Complaint, including all subparts.

35. Trans Union denies the allegations contained in paragraph 35 of the Complaint.

36. Trans Union denies the allegations contained in paragraph 36 of the Complaint.

Trans Union denies the allegations contained in the prayer paragraph of the Complaint, including all subparts.

**FURTHER ANSWERING THE COMPLAINT AND  
AS A FURTHER DEFENSE THERETO**

37. Plaintiff has failed to state facts sufficient to constitute a cause of action pursuant to South Carolina Rule 12b(6).

**FURTHER ANSWERING THE COMPLAINT AND  
AS A FURTHER DEFENSE THERETO**

38. At all relevant times, Trans Union maintained and followed reasonable procedures to avoid violations of the FCRA and assure maximum possible accuracy of the information concerning Plaintiff in preparing consumer reports related to Plaintiff.

**FURTHER ANSWERING THE COMPLAINT AND  
AS A FURTHER DEFENSE THERETO**

39. Any alleged damages to Plaintiff, which Trans Union continues to deny, are the result of the acts or omissions of Plaintiff or others, over whom Trans Union has no control and for whom Trans Union has no responsibility.

**FURTHER ANSWERING THE COMPLAINT AND  
AS A FURTHER DEFENSE THERETO**

40. Trans Union has not published any false, inaccurate or defamatory information to a third-party regarding Plaintiff and has not acted with negligence, malice, actual malice, or willful intent to injure.

**FURTHER ANSWERING THE COMPLAINT AND  
AS A FURTHER DEFENSE THERETO**

41. Plaintiff's common law and/or state law claims are barred/preempted by the qualified immunity/privilege granted by the FCRA and state law.

**FURTHER ANSWERING THE COMPLAINT AND  
AS A FURTHER DEFENSE THERETO**

42. Some or all of Plaintiff's claims against Trans Union are barred by the applicable statute of limitations.

**FURTHER ANSWERING THE COMPLAINT AND  
AS A FURTHER DEFENSE THERETO**

43. Trans Union affirmatively pleads that it is entitled to attorney's fees in the event that the Court determines that the Plaintiff has filed an unsuccessful pleading, motion, or other paper in connection with this action under Section 1681n or 1681o of the FCRA in bad faith or for purposes of harassment.

**FURTHER ANSWERING THE COMPLAINT AND  
AS A FURTHER DEFENSE THERETO**

44. In the event that a settlement is reached between Plaintiff and any other party, Defendant Trans Union is entitled to any settlement credits permitted by law.

**FURTHER ANSWERING THE COMPLAINT AND  
AS A FURTHER DEFENSE THERETO**

45. Any alleged damages to Plaintiff, which Trans Union continues to deny, were caused in whole or in part by an intervening or superseding cause.

**FURTHER ANSWERING THE COMPLAINT AND  
AS A FURTHER DEFENSE THERETO**

46. Plaintiff lacks standing to assert the claims alleged in this action against Trans Union.

**FURTHER ANSWERING THE COMPLAINT AND  
AS A FURTHER DEFENSE THERETO**

47. The Court lacks subject matter jurisdiction over the claims asserted in this action against Trans Union.

**FURTHER ANSWERING THE COMPLAINT AND  
AS A FURTHER DEFENSE THERETO**

48. Plaintiff's claim for declaratory relief is not authorized, provided for, or allowed under the FCRA.

**FURTHER ANSWERING THE COMPLAINT AND  
AS A FURTHER DEFENSE THERETO**

49. Trans Union hereby gives notice that it intends to rely upon such other affirmative defenses as may become available or apparent during the course of this litigation and therefore, reserves the right to amend its Answer to assert such defenses.

WHEREFORE, PREMISES CONSIDERED, Defendant Trans Union, respectfully requests that this Honorable Court deny the relief requested in Plaintiff's Complaint, dismiss the action in its entirety, grant Trans Union its costs of suit and expenses incurred herein, including reasonable attorneys' fees, and for such other and further relief as the Court deems just.

Respectfully Submitted,

YOUNG CLEMENT RIVERS, LLP

*s/ Wilbur E. Johnson*

WILBUR E. JOHNSON SC Bar No.: 3062

[wjohnson@ycrlaw.com](mailto:wjohnson@ycrlaw.com)

25 Calhoun Street, Suite 400

Charleston, SC 29401

(843) 724-6659

(843) 579-1332 Fax

***Counsel for Trans Union***

Dated: November 24, 2020  
Charleston, South Carolina

**CERTIFICATE OF SERVICE**

I hereby certify that on this the 24<sup>th</sup> day of November 2020, I electronically transmitted the attached document to the Clerk's Office using the online filing system and copies were forwarded by Email and United States First Class Mail to the following:

Michael Talley  
[talleylaw@aol.com](mailto:talleylaw@aol.com)  
206 Green Avenue  
Greenville, SC 29601  
***Counsel for Plaintiff***

Matthew Holmes Henrikson  
[mhenrikson@henriksonlaw.com](mailto:mhenrikson@henriksonlaw.com)  
P.O. Box 26556  
Greenville, SC 29616  
***Counsel for Lanier Law Firm LLC and Abby Robertson***

Lyndey Ritz Zwing Bryant  
[lyndey.bryant@arlaw.com](mailto:lyndey.bryant@arlaw.com)  
Adams and Reese  
1501 Main Street, Fifth Floor  
Columbia, SC 29201  
***Counsel for Experian Information Solutions, Inc.***

Matthew Douglas Patterson  
[Matt.patterson@nelsonmullins.com](mailto:Matt.patterson@nelsonmullins.com)  
Jason Alexander Richardson  
[Jason.richardson@nelsonmullins.com](mailto:Jason.richardson@nelsonmullins.com)  
Nelson Mullins  
1320 Main Street, 17<sup>th</sup> Floor  
Columbia, SC 29201  
***Counsel for PennyMac Loan Services LLC***

*s/ Wilbur E. Johnson*  
\_\_\_\_\_  
WILBUR E. JOHNSON

Answer of Experian Information Solutions, Inc.

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3. In response to paragraph 3 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.

4. In response to paragraph 4 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.

5. In response to paragraph 5 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.

6. In response to paragraph 6 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.

7. In response to paragraph 7 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.

8. In response to paragraph 8 of the Complaint, Experian admits that it is an Ohio corporation with its principal place of business in Costa Mesa, California. Experian further admits that it is qualified to do business and does conduct business in the State of South Carolina.

9. In response to paragraph 9 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.

10. In response to paragraph 10 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.

**FACTS**

11. In response to paragraph 11 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.

12. In response to paragraph 12 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.

13. In response to paragraph 13 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.

14. In response to paragraph 14 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.

15. In response to paragraph 15 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.

16. In response to paragraph 16 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.

17. In response to paragraph 17 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.

18. In response to paragraph 18 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.

19. In response to paragraph 19 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.

20. In response to paragraph 20 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.

**FOR A FIRST CAUSE OF ACTION**  
**(Breach of Contract)**

21. In response to paragraph 21 of the Complaint, Experian incorporates by reference its responses to the foregoing paragraphs 1 to 20 as though fully set forth herein.

22. In response to paragraph 22 of the Complaint, Experian states that the allegations contained therein are so vague and ambiguous that Experian cannot reasonably formulate a response. Therefore, Experian is without knowledge or information sufficient to form a belief as to the truth of these allegations and on that basis denies, generally and specifically, each and every allegation contained in paragraph 22 of the Complaint.

23. In response to paragraph 23 of the Complaint, Experian states that the allegations contained therein are so vague and ambiguous that Experian cannot reasonably formulate a response. Therefore, Experian is without knowledge or information sufficient to form a belief as

to the truth of these allegations and on that basis denies, generally and specifically, each and every allegation contained in paragraph 23 of the Complaint.

24. In response to paragraph 24 of the Complaint, Experian denies, generally and specifically, each and every allegation contained therein that relates to Experian. As to the allegations in paragraph 24 of the Complaint that relate to the other defendants, Experian does not have knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, denies, generally and specifically, each and every remaining allegation of paragraph 24 of the Complaint.

25. In response to paragraph 25 of the Complaint, Experian denies, generally and specifically, each and every allegation contained therein that relates to Experian. As to the allegations in paragraph 25 of the Complaint that relate to the other defendants, Experian does not have knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, denies, generally and specifically, each and every remaining allegation of paragraph 25 of the Complaint.

26. In response to paragraph 26 of the Complaint, Experian denies, generally and specifically, each and every allegation contained therein that relates to Experian. As to the allegations in paragraph 26 of the Complaint that relate to the other defendants, Experian does not have knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, denies, generally and specifically, each and every remaining allegation of paragraph 26 of the Complaint.

**FOR A SECOND CAUSE OF ACTION**  
**(Intentional Infliction of Emotional Distress)**

27. In response to paragraph 27 of the Complaint, Experian incorporates by reference its responses to the foregoing paragraphs 1 to 26 as though fully set forth herein.

28. In response to paragraph 28 of the Complaint, Experian denies, generally and specifically, each and every allegation contained therein that relates to Experian. As to the allegations in paragraph 28 of the Complaint that relate to the other defendants, Experian does not have knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, denies, generally and specifically, each and every remaining allegation of paragraph 28 of the Complaint.

**FOR A THIRD CAUSE OF ACTION**  
**(Unfair Trade Practices)**

29. In response to paragraph 29 of the Complaint, Experian incorporates by reference its responses to the foregoing paragraphs 1 to 28 as though fully set forth herein.

30. In response to paragraph 30 of the Complaint, Experian denies, generally and specifically, each and every allegation contained therein that relates to Experian. As to the allegations in paragraph 30 of the Complaint that relate to the other defendants, Experian does not have knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, denies, generally and specifically, each and every remaining allegation of paragraph 30 of the Complaint.

31. In response to paragraph 31 of the Complaint, Experian denies, generally and specifically, each and every allegation contained therein that relates to Experian. As to the allegations in paragraph 31 of the Complaint that relate to the other defendants, Experian does not have knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, denies, generally and specifically, each and every remaining allegation of paragraph 31 of the Complaint.

32. In response to paragraph 32 of the Complaint, Experian denies, generally and specifically, each and every allegation contained therein that relates to Experian. As to the

allegations in paragraph 32 of the Complaint that relate to the other defendants, Experian does not have knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, denies, generally and specifically, each and every remaining allegation of paragraph 32 of the Complaint.

33. In response to paragraph 33 of the Complaint, Experian states that the allegations contained therein are so vague and ambiguous that Experian cannot reasonably formulate a response. Therefore, Experian is without knowledge or information sufficient to form a belief as to the truth of these allegations and on that basis denies, generally and specifically, each and every allegation contained in paragraph 33 of the Complaint.

34. In response to paragraph 34 of the Complaint, Experian denies, generally and specifically, each and every allegation contained therein that relates to Experian. As to the allegations in paragraph 34 of the Complaint that relate to the other defendants, Experian does not have knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, denies, generally and specifically, each and every remaining allegation of paragraph 34 of the Complaint.

35. In response to paragraph 35 of the Complaint, Experian denies, generally and specifically, each and every allegation contained therein that relates to Experian. As to the allegations in paragraph 35 of the Complaint that relate to the other defendants, Experian does not have knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, denies, generally and specifically, each and every remaining allegation of paragraph 35 of the Complaint.

36. In response to paragraph 36 of the Complaint, Experian denies, generally and specifically, each and every allegation contained therein that relates to Experian. As to the

allegations in paragraph 36 of the Complaint that relate to the other defendants, Experian does not have knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, denies, generally and specifically, each and every remaining allegation of paragraph 36 of the Complaint.

In response to the Prayer for Relief, Experian denies, generally and specifically, that Plaintiff is entitled to any relief whatsoever against Experian.

### **AFFIRMATIVE DEFENSES**

In further response to Plaintiff's Complaint, Experian hereby asserts the following affirmative defenses, without conceding that it bears the burden of persuasion as to any of them.

#### **FIRST AFFIRMATIVE DEFENSE**

##### **(FAILURE TO STATE A CLAIM)**

The Complaint herein, and each cause of action thereof, fails to set forth facts sufficient to state a claim upon which relief may be granted against Experian and further fails to state facts sufficient to entitle Plaintiff to the relief sought, or to any other relief whatsoever from Experian.

#### **SECOND AFFIRMATIVE DEFENSE**

##### **(INTERVENING, SUPERSEDING CAUSE)**

Experian is informed and believes and thereon alleges that if Plaintiff sustained any of the injuries alleged in the Complaint, there was an intervening, superseding cause and/or causes leading to such alleged injuries and, as such, any action on the part of Experian was not a proximate cause of the alleged injuries.

**THIRD AFFIRMATIVE DEFENSE**

**(TRUTH/ACCURACY OF INFORMATION)**

All claims against Experian are barred because all information Experian communicated to any third person regarding Plaintiff was true.

**FOURTH AFFIRMATIVE DEFENSE**

**(ACTS OR OMISSIONS OF THIRD PERSONS)**

Experian is informed and believes and thereon alleges that any purported damages allegedly suffered by Plaintiff are the results of the acts or omissions of third persons over whom Experian had neither control nor responsibility.

**FIFTH AFFIRMATIVE DEFENSE**

**(FAILURE TO MITIGATE DAMAGES)**

Plaintiff has failed to mitigate her damages.

**SIXTH AFFIRMATIVE DEFENSE**

**(LACHES)**

The Complaint and each claim for relief therein are barred by laches.

**SEVENTH AFFIRMATIVE DEFENSE**

**(CONTRIBUTORY/COMPARATIVE FAULT)**

Experian is informed and believes and thereon alleges that any alleged damages sustained by Plaintiff were, at least in part, caused by the actions of Plaintiff herself and/or third parties and resulted from Plaintiff's or third parties' own negligence which equaled or exceeded any alleged negligence or wrongdoing by Experian.

**EIGHTH AFFIRMATIVE DEFENSE**

**(ESTOPPEL)**

Any damages which Plaintiff may have suffered, which Experian continues to deny, were the direct and proximate result of the conduct of Plaintiff. Therefore, Plaintiff is estopped and barred from recovery of any damages.

**NINTH AFFIRMATIVE DEFENSE**

**(STATUTE OF LIMITATIONS)**

Experian is informed and believes and thereon alleges that some or all claims for relief in the Complaint herein are barred by the applicable statutes of limitation, including but not limited to 15 U.S.C. § 1681p.

**TENTH AFFIRMATIVE DEFENSE**

**(UNCLEAN HANDS)**

The Complaint, and each claim for relief therein that seeks equitable relief, are barred by the doctrine of unclean hands.

**ELEVENTH AFFIRMATIVE DEFENSE**

**(PUNITIVE DAMAGES)**

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

**TWELFTH AFFIRMATIVE DEFENSE**

**(QUALIFIED IMMUNITY)**

Certain state law claims against Experian are barred by the qualified immunity of 15 U.S.C. § 1681h(e).

Experian reserves the right to assert additional affirmative defenses at such time and to such extent as warranted by discovery and the factual developments in this case.

**PRAYER FOR RELIEF**

WHEREFORE, Defendant Experian Information Solutions, Inc. prays as follows:

- (1) That Plaintiff take nothing by virtue of the Complaint herein and that this action be dismissed in its entirety;
- (2) For costs of suit and attorneys' fees herein incurred; and
- (3) For such other and further relief as the Court may deem just and proper.

Dated: December 14, 2020

Respectfully Submitted,

/s/Lyndey R. Z. Bryant

Lyndey R. Z. Bryant (SC Bar No. 100804)

**ADAMS AND REESE LLP**

1501 Main Street, Fifth Floor

Columbia, South Carolina 29201

Telephone: 803-254-4190

Facsimile: 803-779-4749

[lyndey.bryant@arlaw.com](mailto:lyndey.bryant@arlaw.com)

*Counsel for Experian Information Solutions, Inc.*

Answer of Equifax, LLC

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STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE

THE COURT OF COMMON PLEAS

SULA ADAMS,

Case No. 2020-CP-23-04644

Plaintiff,

Civil Action No.

v.

**EQUIFAX INC.'S ANSWER TO  
PLAINTIFF'S COMPLAINT AND  
AFFIRMATIVE AND OTHER DEFENSES**

PENNYMAC LOAN SERVICES, LLC; THE UNITED STATES OF AMERICA, acting by and through its Agency, THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT; LANIER LAW FIRM, LLC; ABBY ROBERTSON; INVESTORS TITLE INSURANCE COMPANY; TRANSUNION; EXPERIAN INFORMATION SOLUTIONS, INC.; AND EQUIFAX, LLC,

Defendants.

Defendant, Equifax Inc. ("Equifax"), by Counsel, files its Answer and Defenses to Plaintiffs' Complaint ("Complaint") as follows:

Unless expressly admitted herein, Equifax denies each allegation of the Complaint.

**COMPLAINT ¶1:**

That the Plaintiff is a citizen and resident of the County of Greenville, State of South Carolina.

**ANSWER:**

Admitted on information and belief.

**COMPLAINT ¶2:**

That Defendant PennyMac Loan Services, LLC is a Delaware corporation, registered as a foreign corporation and in good standing with the South Carolina Secretary of State.

**ANSWER:**

Equifax lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

**COMPLAINT ¶3:**

That the United States of America, acting by and through its agency, The Secretary of Housing and Urban Development (“HUD”), may claim some interest in the real estate, which is subject, at least in part, of this action, and this Court has proper jurisdiction pursuant to S.C. Code Ann. §36-2-803.

**ANSWER:**

Equifax lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

**COMPLAINT ¶4:**

That Defendant Lather Law Firm, LLC is a domestic corporation in good standing with the South Carolina Secretary of State.

**ANSWER:**

Equifax lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

**COMPLAINT ¶5:**

That upon information and belief, the Defendant, Abby Robertson, is a citizen and resident of the State of South Carolina and is/was an employee and/or agent of the Lather Law Firm, LLC.

**ANSWER:**

Equifax lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

**COMPLAINT ¶6:**

That Investors Title Insurance Company a/k/a National Investors Title Insurance Company is a Texas corporation, registered as a foreign corporation and in good standing with the South Carolina Secretary of State.

**ANSWER:**

Equifax lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

**COMPLAINT ¶7:**

That Trans Union LLC is a Delaware corporation, registered as a foreign corporation and in good standing with the South Carolina Secretary of State.

**ANSWER:**

Equifax lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

**COMPLAINT ¶8:**

That Experian Information Solutions, Inc. a/k/a Experian, in Ohio corporation, registered as a foreign corporation and in good standing with the South Carolina Secretary of State.

**ANSWER:**

Equifax lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

**COMPLAINT ¶9:**

That Equifax Inc. is a Georgia corporation registered as a foreign corporation and in good standing with the South Carolina Secretary of State.

**ANSWER:**

Admitted.

**COMPLAINT ¶10:**

That the property upon which the mortgage and/or lien at issue is attached to is located in Greenville County, State of South Carolina.

**ANSWER:**

Equifax lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

**FACTS**

**COMPLAINT ¶11:**

That on September 30 of 2016, the sale of 216 Dairwood Drive, Simpsonville, South Carolina 29680 occurred by way of a real estate closing at the Lather Law Firm. The seller of the property was the Plaintiff Sula Adams The Buyers of the property, Jason Linton and Alicia Linton, purchased the property for \$295,000.00.

**ANSWER:**

Equifax lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

**COMPLAINT ¶12:**

That prior to the sale and up to the date of closing, two (2) mortgages existed on the property. The first mortgage, held by Academy Mortgage Corporation, for loan number 2224083, was dated November 16, 2012 and was recorded November 21 of 2012 in Mortgage Book 5188 at Page 1642 in the Greenville County Register of Deeds office. The mortgage was then assigned to PennyMac Loan Services LLC, as recorded on July 23, 2014 in Mortgage Book 5262 at Page 3092 in the Greenville County Register of Deeds office. A Partial Claim Mortgage from HUD was dated June 10, 2015 and recorded July 9, 2015 in Mortgage Book 5302 at Page 1419 in the Greenville County Register of Deeds Office.

**ANSWER:**

Equifax lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

**UNNUMBERED PARAGRAPH**

mortgage had a loan number of 2224083 and a MIN number of 100060800022240830. The Partial Claim Mortgage, issued by HUD, in the amount of \$78,478.13, had a loan number of 8000100368 with a MIN number of 100060800022240830, the same as the original mortgage after it had been assigned. The mortgage issued by HUD specifically states that no payments are due on this Note as long as the first mortgage on the property is still owed. However once the primary note has been paid in full, the second mortgage would need to be paid. If the home were sold then a payoff would be required at closing.

**ANSWER:**

Equifax lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

**COMPLAINT ¶14:**

That at the closing, and referenced on the settlement statement, were two (2) payoffs on behalf of the seller. One such payoff was to Discover and the other was a mortgage payoff. A payoff was issued by PennyMac on September 16, 2016 for loan number 8000100368. The payoff statement does not reference a MIN number. The payoff statement was in the amount of \$202,312.05. However, the original loan amount for loan number 8000100368 was only \$78,478.13. No other mortgage payoffs were obtained by the closing attorney.

**ANSWER:**

Equifax lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

**COMPLAINT ¶15:**

That following the real estate closing, the Plaintiff was contacted by HUD. They stated that a second mortgage on the property in the amount of \$78,478.13 had not been paid off at closing, as required.

**ANSWER:**

Equifax lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

**COMPLAINT ¶16:**

That in a letter dated June 12, 2017, closing attorney Abby Robertson conveyed to the Plaintiff that when the title search was conducted, two (2) mortgages were found that had been recorded and neither had been satisfied at that time. Robertson explained that the mortgages referenced the same loan number and both were held by PennyMac Loan Services. Robertson went on to state that PennyMac conveyed to her that only one payoff statement was required for both mortgages. However, following the closing, PennyMac indicated they would not satisfy the second mortgage even though they provided incorrect information. However, in opposition to Robertson's statement, the two (2) mortgages have different loan numbers. Also, the payoff provided by PennyMac referenced the second mortgage on the home which was in an original amount of \$78,478.13. The payoff provided, with that loan number, was in amount in excess of the original mortgage amount of \$78,478.13 with a payoff of \$202,312.05.

**ANSWER:**

Equifax lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

**COMPLAINT ¶17:**

That in a letter dated August 25, 2017, HUD conveyed to the Plaintiff that the original loan amount was now in the amount of \$106,879.13. Due to that amount being owed, HUD moved forward with wage garnishment of the Plaintiff.

**ANSWER:**

Equifax lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

**COMPLAINT ¶18:**

That the Plaintiff requested a hearing with HUD regarding the proposed administrative wage garnishment. On September 15 of 2017, the Plaintiff, by way of a letter, requested a hearing and conveyed to HUD what she had been told by her attorney, as well as the closing attorney.

**ANSWER:**

Equifax lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

**COMPLAINT ¶19:**

That in a letter dated September 19, 2017 an attorney for Investors Title Insurance Company wrote to HUD, requesting that their lien on the property be released, on the basis that PennyMac provided incorrect information regarding the payoff(s). No lien has been released by HUD.

**ANSWER:**

Equifax lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

**COMPLAINT ¶20:**

That the Plaintiff has claimed financial hardship to HUD as a reason that her wages should not be garnished. She also later claimed that the amount owed should not be due because PennyMac provided the closing attorney incorrect information. HUD has continued to garnish the Plaintiff's wages.

**ANSWER:**

Equifax lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

**FOR A FIRST CAUSE OF ACTION**  
(Breach of Contract)

**COMPLAINT ¶21:**

Plaintiff hereby realleges and incorporates by reference the allegations in paragraphs one (1) through 20 as though fully set forth in this cause of action.

**ANSWER:**

Equifax restates its answers to paragraphs 1 through 20 as its answer to this paragraph of the Complaint.

**COMPLAINT ¶22:**

A breach of contract occurs when a binding contract entered into by the parties is breached or there is an unjustifiable failure to perform the contract, and one party suffers damage as a direct and proximate result of the breach.

**ANSWER:**

Equifax lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

**COMPLAINT ¶23:**

A valid contract should be construed so as to give full force and effect of every part of that contract. If ambiguities exist, they are construed against the party who prepared the contract.

**ANSWER:**

Equifax lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

**COMPLAINT ¶24:**

That Plaintiff has performed all duties, promises, and obligations required of Plaintiff and all conditions precedent that Plaintiff agreed to perform in the Contract between her and the

Defendant(s). She did her part in the performance of an execution of the sale of her home by way of a real estate closing. She fulfilled all requirements of herself in regards to executing all documents for the full execution of the closing. The Defendant(s) have breached their Contracts with the Plaintiff by:

- A) Failing to issue proper payoff statements; and
- B) Failing to mark a lien as satisfied when debtor has fulfilled all her responsibilities for which she was personally and individually responsible; and
- C) Failing to properly prepare all' aspects of the real estate closing, and
- D) Failing to obtain all payoffs, and
- E) Failing to properly close a real estate sale; and
- F) Failing to properly insure the title of the property at issue; and
- G) Failing by adding negative information to a credit report without judgment entered into against the Plaintiff in a Court of law.

**ANSWER:**

Equifax denies that is party to any contract with Plaintiff. Equifax lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph.

**COMPLAINT ¶25:**

That Because of Defendant(s)' breach of the Contract(s) Plaintiff has suffered general and consequential damages. Plaintiff further requests damages that accrue during the pendency of this lawsuit that arise from any and all claims related to claims described herein as a result of Defendant(s)' actions.

**ANSWER:**

Denied.

**COMPLAINT ¶26:**

That Defendant(s) are liable for all attorney's fees and costs necessary to enforce the Contract(s).

**ANSWER:**

Denied.

**FOR A SECOND CAUSE OF ACTION**  
(Intentional Infliction of Emotional Distress)

**COMPLAINT ¶27:**

That Plaintiff hereby realleges and incorporates by reference the allegations in paragraphs one (1) through 26 as though fully set forth in this cause of action.

**ANSWER:**

Equifax restates its answers to paragraphs 1 through 26 as its answer to this paragraph of the Complaint.

**COMPLAINT ¶28:**

That the Defendant(s), by extreme and outrageous conduct, intentionally or recklessly caused several emotional distress to the Plaintiff and is therefore subject to liability for such emotional distress.

**ANSWER:**

Denied.

**FOR A THIRD CAUSE OF ACTION**  
(Unfair Trade Practices)

**COMPLAINT ¶29:**

That Plaintiff hereby realleges and incorporates by reference the allegations in paragraphs one (1) through 28 as though fully set forth in this cause of action.

**ANSWER:**

Equifax restates its answers to paragraphs 1 through 29 as its answer to this paragraph of the Complaint.

**COMPLAINT ¶30:**

That the Defendant(s) committed unfair and deceptive practices causing damage to Plaintiff. The Plaintiff fulfilled all her requirements in the fulfillment of the real estate closing. This transaction is commonplace for the Defendant(s). Their failure to complete the transaction and payoff process in this matter is unfair. The Defendant(s) knew or should have known of the false nature of the documentation produced or received during the closing process and had a reckless disregard for its truth or falsity. The Defendant(s) should not punish the Plaintiff for actions and events not within her control.

**ANSWER:**

Equifax denies that it was party to any closing or transaction, but lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph.

**COMPLAINT ¶31:**

That the error is unfair and injurious to members of the public, violates S.C. Code Ann. § 39-5-20.

**ANSWER:**

Denied.

**COMPLAINT ¶32:**

That this conduct gives rise to specific deceptive and unfair practices by Defendant(s). This conduct is governed by S.C. Code Ann. § 39-5-10 et seq, SCUTPA. The acts were the direct and proximate cause of actual damages incurred by the Plaintiff Their conduct was knowing and willful, and intentionally designed to harm consumers (students) such as Plaintiff, and to enrich the Defendant(s) unfairly.

**ANSWER:**

Denied.

**COMPLAINT ¶33:**

That in operating a business, “Unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful.”

**ANSWER:**

Denied.

**COMPLAINT ¶34:**

That Defendant(s) breached the South Carolina Unfair Trade Practices Act in the following manner giving rise to a recovery for the Plaintiff:

- a. Completing an act that is unfair and has an impact on public interest due to the potential for repetition;
- b. Being the Proximate Cause;
- c. Of damages to the Plaintiff.

**ANSWER:**

Denied.

**COMPLAINT ¶35:**

As a direct and proximate result of the Defendants’ breach of the South Carolina Unfair Trade Practices Act, the Plaintiff has suffered monetary damages.

**ANSWER:**

Denied.

**COMPLAINT ¶36:**

On information and belief, Plaintiff is entitled to judgment against the Defendant(s) including attorney’s fees and costs.

**ANSWER:**

Denied.

**WHEREFORE**, Plaintiff prays for a judgment against the Defendant(s) as follows:

1. For all actual, consequential, special, and punitive damages in an appropriate amount (as determined by a jury);
2. For the cost of this action; and
3. For such other relief in law or equity as the Court may deem just and proper.

**ANSWER:**

Equifax admits that Plaintiff seeks damages, costs, and equitable relief but denies that Plaintiff is entitled to the relief requested or any relief whatsoever.

**AFFIRMATIVE AND OTHER DEFENSES**

Without assuming the burden of proof where it otherwise rests with Plaintiff, Equifax asserts the following affirmative and other defenses to the Complaint:

**FIRST DEFENSE**

Equifax is not subject to general or specific jurisdiction in this Court as to the claims brought by Plaintiff against it. Equifax is neither incorporated nor headquartered in South Carolina, and the conduct giving rise to Plaintiff's claim occurred outside of South Carolina and was not targeted at South Carolina.

**SECOND DEFENSE**

This Court is not the proper venue as to the claims Plaintiff brings against Equifax because the Court lacks personal jurisdiction over Equifax.

**THIRD DEFENSE**

To the extent Plaintiff failed to mitigate his alleged damages, his recovery, if any, must be reduced accordingly.

**FOURTH DEFENSE**

Plaintiff's purported causes of action are barred in whole or in part by the doctrine of laches.

**FIFTH DEFENSE**

Subject to proof through discovery, Plaintiff's causes of action are barred, in whole or in part, by the statute of limitations and/or statute of repose.

**SIXTH DEFENSE**

Plaintiff's state law claims and any injunctive relief sought by his Complaint are preempted by the FCRA.

**SEVENTH DEFENSE**

Plaintiff's claims are barred, in whole or in part, because Plaintiff did not make a direct dispute with Equifax concerning the information alleged in the Complaint.

**EIGHTH DEFENSE**

Plaintiff's claims are barred, in whole or in part, by 15 U.S.C. 1681h(e).

**NINTH DEFENSE**

Plaintiff's claims are preempted, in whole or in part, by 15 U.S.C. 1681t.

**TENTH DEFENSE**

Plaintiff's claim fails in whole or in part to state a claim against Equifax Inc. upon which relief can be granted.

**ELEVENTH DEFENSE**

Equifax Inc. is not a proper party to this lawsuit.

**TWELFTH DEFENSE**

Equifax Inc. is not a consumer reporting agency under the FCRA.

WHEREFORE, having fully answered or otherwise responded to the allegations in Plaintiff's Complaint, Equifax prays that:

- (1) Plaintiff's Complaint be dismissed in its entirety and with prejudice as to Equifax, with all costs taxed against Plaintiff;
- (2) it be dismissed as a party to this action; and
- (3) it recover such other and additional relief as the Court deems just and appropriate.

*(Signature on following page)*

DATED: January 14, 2021

Respectfully submitted,

By: /s/Rita Bolt Barker  
Rita Bolt Barker (SC Bar No. 77600)  
WYCHE, PA  
200 East Camperdown Way  
Greenville, SC 29601-2972  
Telephone: (864) 242-8235  
Facsimile: (864) 235-8900  
Email: rbarker@wyche.com

*Attorneys for Equifax Inc.*

Motion to Dismiss of PennyMac Loan Services, LLC

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STATE OF SOUTH CAROLINA     ) IN THE COURT OF COMMON PLEAS  
   ) FOR THE THIRTEENTH JUDICIAL  
 COUNTY OF GREENVILLE     ) CIRCUIT

Sula Adams,                             ) Civil Action No. 2020-CP-23-04644  
   )  
   ) Plaintiff,                             )  
   )

v.   )

**DEFENDANT PENNYMAC LOAN  
 SERVICES, LLC’S MOTION TO  
 DISMISS TO PLAINTIFF’S  
 COMPLAINT**

PennyMac Loan Services, LLC; The  
 United States of America, acting by and  
 through its Agency, The Secretary of  
 Housing and Urban Development;  
 Lanier Law Firm, LLC; Abby  
 Robertson; Investors Title Insurance  
 Company; TransUnion; Experian  
 Information Solutions, Inc.; and Equifax,  
 LLC,  
   )  
   ) Defendants.                         )  
 \_\_\_\_\_

Defendant PennyMac Loan Services, LLC (“PennyMac”) moves to dismiss the claims Plaintiff Sula Adams filed against it on October 8, 2020. *See* Rule 12(b)(6), SCRPC. This action concerns a mortgage loan between Plaintiff and Defendant The United States of America, acting by and through its Agency, The Secretary of Housing and Urban Development (“HUD”). PennyMac’s loan servicing relationship with Plaintiff ended in September 2016 when Plaintiff sold her house and paid off her PennyMac mortgage loan. Yet, Plaintiff asserts several claims against PennyMac in an attempt to hold it responsible for Plaintiff’s failure to use her sale proceeds to pay off her mortgage loan with HUD. Thus, the Court should dismiss Plaintiff’s claims against PennyMac as her Complaint fails to state facts sufficient to assert any cause of action against PennyMac.

## FACTUAL BACKGROUND<sup>1</sup>

Prior to its sale, Plaintiff's home was encumbered by two mortgages: one PennyMac mortgage and one HUD mortgage. (*See* Compl. ¶¶ 12-13.) Plaintiff alleges that when she sold her home the closing attorney only paid off the PennyMac mortgage. (*See* Compl. ¶ 14.) Despite each mortgage being granted to different mortgagees and each stating their own particular identifying information, Plaintiff alleges that PennyMac should have provided the closing attorney with the mortgage payoff information for HUD's mortgage. (*See* Compl. ¶¶ 13-16.)

The balance owed for Plaintiff's HUD mortgage remains outstanding and, prior to filing this action, Plaintiff sought recourse with HUD by way of an administrative hearing. (*See* Compl. ¶¶ 17-20.) Plaintiff now brings this action, which seeks to hold PennyMac and the six other Defendants responsible for her failure to repay her debt to HUD. (*See* Compl. ¶ 20.)

## STANDARD OF REVIEW

A defendant may move to dismiss a plaintiff's complaint for "failure to state facts sufficient to constitute a cause of action" under Rule 12(b)(6), SCRPC. On a motion to dismiss, the Court must accept "well pled facts" in the Complaint as true, but it need not accept "unsupported conclusions" of law. *Charleston Cty. Sch. Dist. v. Laidlaw Transit, Inc.*, 348 S.C. 420, 426, 559 S.E.2d 362, 364-65 (Ct. App. 2001). A mere recitation of legal elements in a complaint, however, is insufficient to survive a motion to dismiss. *RoTec Serv., Inc. v. Encompass Serv., Inc.*, 359 S.C. 467, 474, 597 S.E.2d 881, 884 (Ct. App. 2004) (holding a mere recitation that a defendant is pleading "the affirmative defense of privilege" is "purely a legal conclusion and clearly falls below the standard mandated by Rule 8").

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<sup>1</sup> These claims are taken from Plaintiff's complaint. PennyMac does not admit their veracity.

## ARGUMENT

### I. **Plaintiff's Complaint fails to allege facts supporting contract or tort claims against PennyMac.**

#### a. **Plaintiff has failed to allege what contract PennyMac allegedly breached.**

- i. “The elements for a breach of contract are the existence of a contract, its breach, and damages caused by such breach.” *Hotel and Motel Holdings, LLC v. BJC Enterprises, LLC*, 414 S.C. 635, 653, 780 S.E.2d 263, 272 (Ct. App. 2015) (quoting *S. Glass & Plastics Co. v. Kemper*, 399 S.C. 483, 491–92, 732 S.E.2d 205, 209 (Ct.App.2012)).
- ii. Plaintiff’s Complaint fails to identify or set forth any facts or allegations that can be construed as establishing the breach of any alleged contract between Plaintiff and PennyMac. (See Compl. ¶¶ 1-20, 21-25.)

#### b. **Plaintiff has failed to allege facts supporting its intentional infliction of emotional distress claim.**

- i. “To establish the tort of intentional infliction of emotional distress, or outrage, the plaintiff must establish the following: (1) the defendant intentionally or recklessly inflicted severe emotional distress, or knew that distress would probably result from his conduct; (2) the defendant's conduct was so extreme and outrageous that it exceeded all possible bounds of decency and was furthermore atrocious, and utterly intolerable in a civilized community; (3) the actions of the defendant caused the plaintiff's emotional distress; and (4) the emotional distress suffered by the plaintiff was so severe that no reasonable person could be expected to endure it.” *Gattison v. South Carolina State College*, 318 S.C. 148, 151 456 S.E.2d 414, 416 (1995).

- ii. Plaintiff's Complaint fails to identify or set forth any facts or allegations that can be construed as asserting a claim against PennyMac for infliction of intentional infliction of emotional distress under South Carolina law. (See Compl. ¶¶ 1-20, 27-28.)

**c. Plaintiff's tort and contract claims are barred by the statute of limitations.**

- i. Plaintiff had three years to bring her contract and tort claims. See S.C. Code Ann. § 15-3-530; see also *Carolina Marine Handling, Inc. v. Lasch*, 363 S.C. 169, 609 S.E.2d 548 (Ct. App. 2005) ("As a general rule, a three-year statute of limitations applies to contract actions in South Carolina."); *Terry v. Allen Univ.*, No. 2014-UP-192, 2014 WL 2721805, at \*1, n.2 (Ct. App. May 7, 2014) (noting that S.C. Code. Ann. § 15-3-530(5) sets a three year statute of limitations for negligence and intentional infliction of emotional distress claims.).
- ii. Plaintiff admits that the subject of her contract and intentional infliction of emotional distress claims arise exclusively from acts relating to the Sept. 30, 2016 sale of her home (the "Home Sale"). (See Compl. ¶¶ 11-15.)
- iii. S.C. Code Ann. § 15-3-530 bars Plaintiff from bringing her breach of contract and intentional infliction of emotional distress claims because more than three years have elapsed since the Home Sale.

**II. Plaintiff's Complaint does not meet the statutory requirements to bring forth a claim under the South Carolina Unfair Trade Practices Act.**

- a. **Plaintiff has failed to allege facts supporting its claim under the South Carolina Unfair Trade Practices Act ("SCUTPA").**
  - i. "To recover in an action under the SCUTPA, the plaintiff must show: (1) the defendant engaged in an unfair or deceptive act in the conduct of trade

or commerce; (2) the unfair or deceptive act affected the public interest; and (3) the plaintiff suffered monetary or property loss as a result of the defendant's unfair or deceptive act(s).” *Estate of Carr ex rel. Bolton v. Circle S. Enterprises, Inc.*, 379 S.C. 31, 43, 664 S.E.2d 83, 89 (Ct. App. 2008).

ii. Plaintiff’s Complaint fails to identify or set forth any facts or allegations that can be construed as a violation of SCUTPA. (See Compl. ¶¶ 1-20, 29-36.)

**b. Plaintiff’s SCUTPA claim is untimely.**

i. “No action may be brought under this article more than three years after discovery of the unlawful conduct which is the subject of the suit.” S.C. Code Ann. § 39-5-150; *see also Proctor v. Whitlark & Whitlark, Inc.*, 414 S.C. 318, 332 n.13, 778 S.E.2d 888, 895 n.13 (2015).

ii. Plaintiff admits that acts relating to the Home Sale form the basis of her SCUTPA claim. (See Compl. ¶¶ 11-15.)

iii. Because more than three years have elapsed since the Home Sale S.C. Code Ann. § 39-5-150 bars Plaintiff from bringing her SCUTPA claim.

**CONCLUSION**

In conclusion, Defendant PennyMac Loan Services, LLC respectfully asks this court to dismiss the Plaintiff’s Complaint for failure to state facts sufficient to assert a cause of action against PennyMac.

*[signature page to follow]*

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: s/Matthew D. Patterson

Matthew D. Patterson

SC Bar No. 68316

E-Mail: matt.patterson@nelsonmullins.com

Jason A. Richardson

SC Bar No. 104237

E-Mail: jason.richardson@nelsonmullins.com

1320 Main Street / 17th Floor

Post Office Box 11070 (29211-1070)

Columbia, SC 29201

(803) 799-2000

*Attorneys for PennyMac Loan Services, LLC*

Columbia, South Carolina

December 15, 2020.

Motion to Dismiss and Memorandum of The Unites States of America

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STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS  
Case No. 2020-CP-23-04644

Sula Adams,

Plaintiff,

vs.

PennyMac Loan Services, LLC; The United States of America, acting by and through its Agency, The Secretary of Housing and Urban Development; Lanier Law Firm, LLC; Abby Robertson; Investors Title Insurance Company; TransUnion; Experian Information Solutions, Inc.; and Equifax, LLC,

Defendants.

**MOTION TO DISMISS AND  
MEMORANDUM IN SUPPORT**

Defendant United States of America, acting by and through its Agency, The Secretary of Housing and Urban Development (“USA/HUD”), hereby moves for an order dismissing this case as to USA/HUD pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure because the court lacks jurisdiction due to sovereign immunity and the Complaint fails to state facts sufficient to constitute a cause of action against USA/HUD.

**FAILURE TO STATE A CLAIM**

As to failure to state a claim, the grounds for this motion are as follows:

1. Plaintiff filed this action against seven defendants. Plaintiff alleges three causes of action: breach of contract; intentional infliction of emotional distress; and unfair trade practices. It is not clear which causes of action are asserted against which defendants.

2. In paragraphs 11 through 20 of the Complaint, Plaintiff describes a

situation where Plaintiff sold the subject property, but on the day of closing, two mortgages were of record: one held by Defendant PennyMac Loan Services, LLC, (“PennyMac”) and one held by Defendant USA/HUD. Plaintiff alleges that when she sold the subject property the mortgage held by PennyMac was paid off, but the mortgage held by HUD was not.

3. In her breach of contract cause of action, Plaintiff does not allege which contract she claims to have with Defendant USA/HUD. Plaintiff does not describe how USA/HUD breached this unidentified contract. Plaintiff fails to allege facts as to USA/HUD to support the elements of a breach of contract cause of action.

4. In her intentional infliction of emotional distress cause of action, Plaintiff makes no allegation against USA/HUD and simply incorporates the prior allegations of the Complaint. Plaintiff fails to allege facts as to USA/HUD to support the elements of an intentional infliction of emotional distress cause of action.

5. As to her unfair trade practices act cause of action, Plaintiff makes no allegation against USA/HUD. Plaintiff fails to allege facts as to USA/HUD to support the elements of a cause of action for a violation of the unfair trade practices act.

6. Plaintiff fails to allege what role USA/HUD had in the subject transaction. Plaintiff fails to allege there is any privity of contract, relationship, or duty owed between Plaintiff and USA/HUD. Plaintiff does not identify any action or inaction by USA/HUD. Plaintiff fails to allege any malfeasance on behalf of USA/HUD.

7. Accordingly, the Complaint fails to state facts sufficient to constitute a cause of action against USA/HUD because the facts alleged, including inferences

reasonably deducible therefrom, do not entitle Plaintiff to relief against USA/HUD under any theory of the case.

### SOVEREIGN IMMUNITY

In addition to failing to allege facts sufficient to state a claim against USA/HUD, Plaintiff's complaint is barred by the doctrine of sovereign immunity. Defendant USA/HUD has not waived its sovereign immunity for the remedy which Plaintiff seeks. Consequently, this Court lacks jurisdiction to grant any relief to Plaintiff.

"The basic rule of federal sovereign immunity is that the United States cannot be sued at all without the consent of Congress." *Block v. N. Dakota ex rel. Bd. of Univ. & Sch. Lands*, 461 U.S. 273, 287 (1983). "Sovereign immunity deprives a court of jurisdiction to hear a case." *Glob. Mail Ltd. v. U.S. Postal Serv.*, 142 F.3d 208, 210 (4th Cir. 1998) (citing *FDIC v. Meyer*, 510 U.S. 471, 475 (1994); *United States v. Mitchell*, 463 U.S. 206, 212 (1983)). The burden is on the plaintiff to identify an applicable waiver of sovereign immunity for the remedy it seeks. *See Cunningham v. United States*, 786 F.2d 1445, 1446 (9th Cir. 1986) ("A party bringing a cause of action against the federal government bears the burden of demonstrating an unequivocal waiver of immunity.").

In the present case, Plaintiff has not identified any waiver for the relief it seeks because the United States has not waived its sovereign immunity for such a suit. Without such a waiver, the Court lacks jurisdiction. Therefore, the Court should dismiss the Complaint against USA/HUD with prejudice.

## CONCLUSION

The Complaint against USA/HUD should be dismissed with prejudice. Plaintiff has failed to allege facts showing any misconduct on the part of USA/HUD and the entire complaint is barred by the doctrine of sovereign immunity.

This motion is based upon the pleadings filed in this case, the South Carolina Rules of Civil Procedure, the law of this State, and other matters as may be properly presented to the Court at the time of the hearing.

Respectfully submitted,

PETER M. MCCOY, JR.  
United States Attorney  
District of South Carolina

By: s/George J. Conits  
George J. Conits (#1356)  
Assistant United States Attorney  
55 Beattie Place, Suite 700  
Greenville, South Carolina 29601  
Telephone: (864) 282-2116  
george.conits@usdoj.gov

Motion to Dismiss of Lanier Law Firm, LLC and Abby Robertson

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STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
 )  
COUNTY OF GREENVILLE ) THIRTEENTH JUDICIAL CIRCUIT

Sula Adams, ) Case No.: 2020-CP-23-04644  
 )  
 )

Plaintiff, )  
 )

vs. )

**NOTICE OF MOTION  
AND MOTION TO DISMISS**

PennyMac Loan Services, LLC; The )  
United States of America, acting by and )  
through its Agency, The Secretary of )  
Housing and Urban Development; Lanier )  
Law Firm, LLC; Abby Robertson; )  
Investors Title Insurance Company; )  
TransUnion; Experian Information )  
Solutions, Inc.; and Equifax, LLC., )

Defendants. )  
 )  
 )

**TO: MICHAEL F. TALLEY, ESQ., Attorney for Plaintiff:**

Defendants Lanier Law Firm, LLC, and Abby Robertson (Lanier Defendants) hereby move the Court at such time and place as counsel may be heard for an Order dismissing this case as to these Defendants pursuant to Rule 12(b)(6), SCRPC, for failure of the Complaint herein to state facts sufficient to constitute a cause of action against these Defendants, further on the grounds that it is barred by the applicable statute of limitations on its face, and further for failing to comply with the requirements of S.C. Code 15-36-100, et seq. which provides that in an action for damages alleging professional negligence, a contemporaneous affidavit of a qualified expert witness must be filed with the Complaint which specifies a negligent act or omission.

This motion is further based upon the pleadings filed in this case; the South Carolina Rules of Civil Procedure; any memorandum of law that may be filed by Lanier Defendants; and any other matters which may be properly presented to the Court at the

time of the hearing; and the following:

1. Plaintiff filed this action against seven defendants. Plaintiff alleges three causes of action: breach of contract; intentional infliction of emotional distress; and unfair trade practices. It is not clear which causes of action are asserted against certain which defendants and it appears that Plaintiff included the Lanier Defendants indirectly in all causes of action but failed to assert even a single allegation of any wrongdoing against them anywhere within the four corners in the Complaint.

2. Plaintiff identifies that the Lanier Defendants conducted a real estate closing involving Plaintiff as the seller of real estate in 2016, and that Defendant Robertson wrote a letter on June 12, 2017, reporting information from a title search and information learned from Defendant PennyMac Loan Services, LLC, regarding mortgages related to the property sold; however the Complaint does not at any point make any allegation of wrongdoing against the Lanier Defendants under any theory or under any cause of action.

3. Plaintiff fails to identify or set forth any allegations of any contract between Plaintiff and the Lanier Defendants or to allege any facts which could be construed as a breach of any such contract.

4. Plaintiff also fails to identify or set forth any facts or allegations against the Lanier Defendants which could possibly be construed as giving rise to any duty to Plaintiff or any breach of any duty under any theory or cause of action upon which to base Plaintiff's claim for intentional infliction of emotional distress or for a violation of the UTPA.

5. Moreover, even if any reasonable inference can be drawn to make out any actionable allegations against the Lanier Defendants, which is denied, Plaintiff failed to comply with the requirements of S.C. Code 15-36-100, et seq. which provides that in an

action for damages alleging professional negligence, a contemporaneous affidavit of a qualified expert witness must be filed with the Complaint which specifies a negligent act or omission. This was not done.

6. Lastly, even if there are any actionable allegations against the Lanier Defendants set forth in the Complaint, which is specifically denied, Plaintiff, by her own allegations set forth in the Complaint, knew or should have known of any potential wrongdoing, if any, of the Lanier Defendants or would at the very least have been put on inquiry notice no later than June 12, 2017, making the filing of the Summons and Complaint clearly outside of the time provided for by the applicable statute of limitations based on facts and allegations made in the Complaint, and accordingly the Complaint should be dismissed.

Respectfully submitted,

s/Matthew H. Henrikson  
Matthew H. Henrikson, Esq.  
Henrikson Law Firm, L.L.C.  
P.O. Box 26554  
Greenville, S.C. 29616  
864-672-7106  
[mhenrikson@henriksonlaw.com](mailto:mhenrikson@henriksonlaw.com)  
Attorney for Defendants  
Abby Robertson and Lanier Law Firm, LLC

November 24, 2020  
Greenville, South Carolina

Motion to Dismiss of Investors Title Insurance Company

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STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS  
Case No. 2020-CP-23-04644

Sula Adams,

Plaintiff,

vs.

PennyMac Loan Services, LLC; The United States of America, acting by and through its Agency, The Secretary of Housing and Urban Development; Lanier Law Firm, LLC; Abby Robertson; Investors Title Insurance Company; TransUnion; Experian Information Solutions, Inc.; and Equifax, LLC,

Defendants.

**DEFENDANT INVESTORS TITLE  
INSURANCE COMPANY'S NOTICE OF  
MOTION AND MOTION TO DISMISS**

**TO: MICHAEL F. TALLEY, Attorney for Plaintiff:**

Defendant Investors Title Insurance Company ("Investors Title") hereby moves for an order dismissing this case as to Investors Title pursuant to Rule 12(b)(6), SCRCF because the Complaint fails to state facts sufficient to constitute a cause of action against Investors Title.

This motion is based upon the pleadings filed in this case; the South Carolina Rules of Civil Procedure; a memorandum of law that may be filed by Investors Title; other matters as may be properly presented to the Court at the time of the hearing; and the following:

1. Plaintiff filed this action against seven defendants. Plaintiff alleges three causes of action: breach of contract; intentional infliction of emotional distress; and unfair trade practices. It is not clear which causes of action are asserted against certain defendants, so it appears all causes of action are asserted against all defendants.

2. The first nine paragraphs of Plaintiff's Complaint describe the parties. As to Investors Title, Plaintiff alleges "Investors Title is a Texas corporation, registered as a foreign corporation and in good standing with the South Carolina Secretary of State." *Complaint* ¶ 6.

3. In paragraphs 11 through 20 of the Complaint, Plaintiff describes a situation where Plaintiff sold the subject property, but on the day of closing two mortgages were of record, one held by Defendant PennyMac Loan Services, LLC ("PennyMac") and one held by Defendant the Secretary of Housing and Urban Development ("HUD"). Plaintiff alleges that when she sold the subject property the mortgage held by PennyMac was paid off, but the mortgage held by HUD was not.

4. Plaintiff alleges that "in a letter dated September 19, 2017 an attorney for Investors Title Insurance Company wrote to HUD, requesting that their lien on the property be released, on the basis that PennyMac provided incorrect information regarding the payoff(s). No lien has been released by HUD." *Complaint* ¶ 19. This is the only other allegation directed toward Investors Title.

5. In her breach of contract cause of action, Plaintiff does not allege what contract she claims to have with Investors Title. Plaintiff does not describe how Investors Title breached this unidentified contract. Plaintiff fails to allege facts as to Investors Title to support the elements of a breach of contract cause of action.

6. In her intentional infliction of emotional distress cause of action, Plaintiff makes no allegation against Investors Title and just incorporates the prior allegations of the Complaint. Plaintiff fails to allege facts as to Investors Title to support the elements of an intentional infliction of emotional distress cause of action.

7. As to her unfair trade practices act cause of action, Plaintiff makes no allegation against Investors Title. Plaintiff fails to allege facts as to Investors Title to support the elements of a cause of action for a violation of the unfair trade practices act.

8. In summary, Plaintiff identifies Investors Title and alleges Investors Title sent a letter to HUD. Plaintiff fails to allege what role Investors Title had in the subject transaction. Plaintiff fails to allege there is any privity of contract, relationship, or duty between Plaintiff and Investors Title. Plaintiff does not identify any action or inaction by Investors Title. Plaintiff fails to allege any malfeasance on behalf of Investors Title.

9. Accordingly, the Complaint fails to state facts sufficient to constitute a cause of action against Investors Title because the facts alleged, including inferences reasonably deducible therefrom, do not entitle Plaintiff to relief against Investors Title under any theory of the case.

Respectfully submitted,

**CALLISON TIGHE & ROBINSON, LLC**

*s/ Demetri K. Koutrakos*  
Demetri K. Koutrakos, SC Bar No. 11318  
1812 Lincoln Street, Suite #200  
P. O. Box 1390  
Columbia, SC 29202-1390  
Telephone: 803-404-6900  
Facsimile: 803-404-6902  
Email: [jimkoutrakos@callisontighe.com](mailto:jimkoutrakos@callisontighe.com)

**ATTORNEYS FOR DEFENDANT  
INVESTORS TITLE INSURANCE  
COMPANY**

November 23, 2020

3420.063\MotionDismiss

Amended Motion to Dismiss of Investors Title Insurance Company

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STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS  
Case No. 2020-CP-23-04644

Sula Adams,

Plaintiff,

vs.

PennyMac Loan Services, LLC; The United States of America, acting by and through its Agency, The Secretary of Housing and Urban Development; Lanier Law Firm, LLC; Abby Robertson; Investors Title Insurance Company; TransUnion; Experian Information Solutions, Inc.; and Equifax, LLC,

Defendants.

**DEFENDANT INVESTORS TITLE  
INSURANCE COMPANY'S NOTICE OF  
MOTION AND MOTION TO DISMISS**

**TO: MICHAEL F. TALLEY, Attorney for Plaintiff:**

Defendant Investors Title Insurance Company (“Investors Title”) hereby moves for an order dismissing this case as to Investors Title pursuant to Rule 12(b)(6), SCRPC because the Complaint fails to state facts sufficient to constitute a cause of action against Investors Title.

This motion is based upon the pleadings filed in this case; the South Carolina Rules of Civil Procedure; a memorandum of law that may be filed by Investors Title; other matters as may be properly presented to the Court at the time of the hearing; and the following:

1. Plaintiff filed this action against seven defendants. Plaintiff alleges three causes of action: breach of contract; intentional infliction of emotional distress; and unfair trade practices. It is not clear which causes of action are asserted against certain defendants, so it appears all causes of action are asserted against all defendants.

2. The first nine paragraphs of Plaintiff's Complaint describe the parties. As to Investors Title, Plaintiff alleges "Investors Title is a Texas corporation, registered as a foreign corporation and in good standing with the South Carolina Secretary of State." *Complaint* ¶ 6.

3. In paragraphs 11 through 20 of the Complaint, Plaintiff describes a situation where Plaintiff sold the subject property, but on the day of closing two mortgages were of record, one held by Defendant PennyMac Loan Services, LLC ("PennyMac") and one held by Defendant the Secretary of Housing and Urban Development ("HUD"). Plaintiff alleges that when she sold the subject property the mortgage held by PennyMac was paid off, but the mortgage held by HUD was not.

4. Plaintiff alleges that "in a letter dated September 19, 2017 an attorney for Investors Title Insurance Company wrote to HUD, requesting that their lien on the property be released, on the basis that PennyMac provided incorrect information regarding the payoff(s). No lien has been released by HUD." *Complaint* ¶ 19. This is the only other allegation directed toward Investors Title.

5. In her breach of contract cause of action, Plaintiff does not allege what contract she claims to have with Investors Title. Plaintiff does not describe how Investors Title breached this unidentified contract. Plaintiff fails to allege facts as to Investors Title to support the elements of a breach of contract cause of action.

6. In her intentional infliction of emotional distress cause of action, Plaintiff makes no allegation against Investors Title and just incorporates the prior allegations of the Complaint. Plaintiff fails to allege facts as to Investors Title to support the elements of an intentional infliction of emotional distress cause of action.

7. As to her unfair trade practices act cause of action, Plaintiff makes no allegation against Investors Title. Plaintiff fails to allege facts as to Investors Title to support the elements of a cause of action for a violation of the unfair trade practices act.

8. In summary, Plaintiff identifies Investors Title and alleges Investors Title sent a letter to HUD. Plaintiff fails to allege what role Investors Title had in the subject transaction. Plaintiff fails to allege there is any privity of contract, relationship, or duty between Plaintiff and Investors Title. Plaintiff does not identify any action or inaction by Investors Title. Plaintiff fails to allege any malfeasance on behalf of Investors Title.

9. Accordingly, the Complaint fails to state facts sufficient to constitute a cause of action against Investors Title because the facts alleged, including inferences reasonably deducible therefrom, do not entitle Plaintiff to relief against Investors Title under any theory of the case.

Respectfully submitted,

**CALLISON TIGHE & ROBINSON, LLC**

*s/ Demetri K. Koutrakos*  
Demetri K. Koutrakos, SC Bar No. 11318  
1812 Lincoln Street, Suite #200  
P. O. Box 1390  
Columbia, SC 29202-1390  
Telephone: 803-404-6900  
Facsimile: 803-404-6902  
Email: [jimkoutrakos@callisontighe.com](mailto:jimkoutrakos@callisontighe.com)

**ATTORNEYS FOR DEFENDANT  
INVESTORS TITLE INSURANCE  
COMPANY**

November 23, 2020

3420.063\MotionDismiss

Notice of Appeal

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**THE STATE OF SOUTH CAROLINA**

**In The Court of Appeals**

**APPEAL FROM GREENVILLE COUNTY**  
Greenville County Court of Common Pleas  
**PERRY H. GRAVELY, CIRCUIT JUDGE**

21 NOV 10 AM 9:47  
Paul H. Kistner - Circuit Clerk

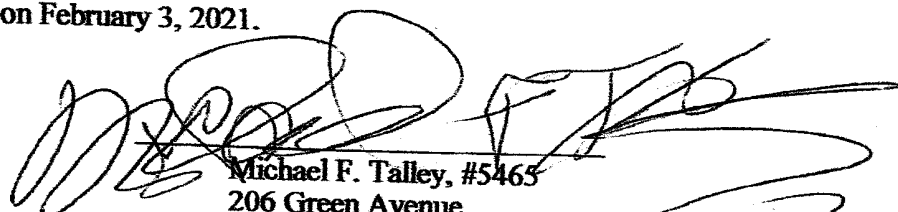
**Case No. 2020-CP-23-04644**

Sula Adams .....Appellant,  
vs.

PennyMac Loan Services, LLC; The United States of America, acting by and  
through Its Agency, The Secretary of Housing and Urban Development; Lanier Law  
Firm, LLC, Abbey Robertson, Investors Title Insurance Company and Equifax, LLC. ..  
.....Respondents.

**AMENDED  
NOTICE OF APPEAL**

Sula Adams appeals the Final Order of Dismissal of the Honorable Perry H.  
Gravelly, Circuit Judge for South Carolina, dated February 3, 2021. Appellant's  
Counsel was served with a written notice of entry of this Attached Order of Dismissal  
by electronic filing on February 3, 2021.



Michael F. Talley, #5465  
206 Green Avenue  
Greenville, S. C. 29601  
(864) 233-6229 (864) 275-7572  
(864) 370-0071 (fax)  
Attorney for the Appellants

**Other Counsel of Record:**

**Mr. Jason A. Richardson,**

**Matthew W. Patterson**

**Nelson and Mullins**

**Meridian/17th floor.**

**1320 Main Street**

**Columbia, S. C. 29201**

**Mr. George John Conits**

**for U. S. Dept. of Housing and Urban of Development**

**55 Beattie Place, Suite 700**

**Greenville, S.C. 29601**

**Mr. Matthew Holmes Henrikson**

**P.O. Box 26556**

**Greenville, S. C. 29616**

**(864) 242-40500**

**(864) 242-4277 (fax)**

**Rita Bolt Barker,**

**Wyche P.A.**

**200 E. CamperdownWay**

**Greenville, S. C. 29601**

**Attorneys for the Respondents**

**THE STATE OF SOUTH CAROLINA**

**In The Court of Appeals**

**APPEAL FROM GREENVILLE COUNTY**  
Greenville County Court of Common Pleas  
**PERRY H. GRAVELY, CIRCUIT JUDGE**

**CASE NO. 2020-CP-23-04644**

21 NOV 10 AM 9:47  
Perry H. Gravelly  
Circuit Judge  
COC SVL 50

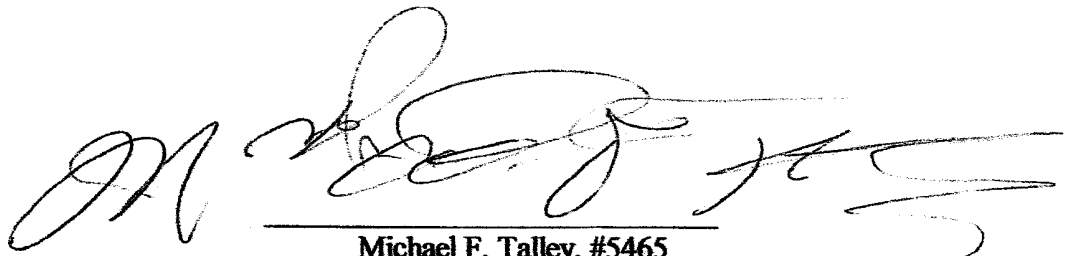
Sula Adams .....Appellants,

v.

PennyMac Loan Services, LLC; The United States of America, Acting by and through  
The Secretary of Housing and Urban Development, Lanier Law Firm, LLC, Abbey  
Robertson and Investors Title Insurance Company,.....Respondents.

**AMENDED  
PROOF OF SERVICE**

I certify that I, as the Appellant's undersigned attorney, have served a copy  
of the Appellant's Notice of Appeal upon the Respondents, PennyMac Loan Services,  
LLC, The United States of America, Acting by and through its Agency, The Secretary  
of Housing and Urban Development, Lanier Law Firm, LLC, Abbey Robertson, and,  
Investors Title Insurance Company by depositing a copy of same in the United States  
Mail, postage pre-paid on March 4, 2021, addressed to the Respondents' Attorneys of  
record, Mr. Jason Alexander Richardson and Mr. Matthew Douglas Paterson  
for PennyMac Loan Services, LLC, Mr. George John Conits for the U. S. Secretary of  
Housing and Urban Development, Mr. Mathew Holmes Henrikson for Lanier Law Firm,  
LLC and Abbey Robertson, Mr. Demetri Koutrakos for Investors Title Insurance Co.,  
and Ms. Rita Bolt Barker, for Equifax, LLC, respectively, at the above addresses.



---

**Michael F. Talley, #5465**  
**206 Green Avenue**  
**Greenville, S.C. 29601**  
**(864) 233-6229 (864) 275-752**  
**(864) 370-0071 (fax)**

**Dated: March 4, 2021**  
**and March 5, 2021**

**RECEIVED**

**Jun 13 2022**

**SC Court of Appeals**

Certificate of Appellant

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The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

June \_\_\_\_\_, 2022

/s/ Michanna Talley Tate  
Michanna Talley Tate  
P. O. Box 8175  
Greenville, SC 29604  
(864) 498-7411 – Phone  
(866) 708-0374  
attorney@accesslawsc.com  
**Attorney for Appellant**