

**IN AND FOR THE SIXTH
JUDICIAL CIRCUIT OF FLORIDA
IN AND FOR PINELLAS COUNTY,
FLORIDA – CIVIL DIVISION**

STEFANIE RASMUSSEN

Plaintiff(s),

CASE NO.:

v.

DIVISION:

VIVINT SOLAR, INC.,
VIVINT SOLAR DEVELOPER, LLC, and
SOLAR MOSAIC, INC.

Defendant(s).

COMPLAINT

General Allegations

1. This is an action seeking damages in excess of \$15,000.00, exclusive of attorney’s fees and costs.

2. Plaintiff is Stefanie Rasmussen (“**Ms. Rasmussen**”), a consumer who resides at 6145 50th Ave North, Kenneth City, FL 33709. Ms. Rasmussen formerly lived at 513 44th Ave North, St. Petersburg, FL 33703, and the incident that is the subject of this Complaint occurred there.

3. Defendant Vivint Solar, Inc. is a Delaware corporation with a principal office at 1800 W. Ashton Blvd. Lehi, Utah 84043.

4. Defendant Vivint Solar Developer LLC is registered in Florida as a foreign limited liability company with a principal office at 1800 W. Ashton Blvd. Lehi, Utah 84043.

5. Defendant Solar Mosaic, Inc. is a Delaware corporation with a principal office at 1212 Broadway Suite 300, Oakland, CA 94612.

6. The three defendants in this matter are referred to at times herein as “**Defendants**” or “**Vivint Solar.**”

Count I – Violations of the Fair Credit Reporting Act

7. Ms. Rasmussen re-adopts and re-alleges paragraph 1 through 6 above and incorporates them by reference.

8. This is an action for damages and other relief brought by a consumer pursuant to the federal Fair Credit Reporting Act (“FCRA”), 15 U.S.C. § 1681, *et seq.* The FCRA restricts access to consumer credit reports except for specific, statutorily enumerated purposes under 15 U.S.C. §1681b.

9. Defendants, a solar energy provider and its captive finance company, without notice or permission, accessed Plaintiff’s consumer report under false pretenses, without any permissible purpose or authorization.

10. Defendants, as a part of their routine business practice, regularly obtain consumer credit reports from consumers in Florida and elsewhere upon false pretenses, without authorization by the consumer, and without a permissible purpose. Vivint Solar has been placed on notice of this illegal activity repeatedly, but has refused to discontinue the practice.

11. On or about October 4, 2016, Ms. Rasmussen was met in front of her home at 513 44th Ave North, St. Petersburg, FL by a door-to-door salesman from the Vivint Solar defendants.

12. The Vivint Solar representative, Jordan Beck, began to offer his pitch for enrolling Ms. Rasmussen for solar energy.

13. Ms. Rasmussen was in the process of putting her home on the market for sale and had no interest in solar power for a home she was going to sell. She told this to Vivint's salesman.

14. However, Vivint Solar's salesman persisted and pressured her. He told Ms. Rasmussen that solar would be of "no cost" to her and asked her permission to "qualify her home" to see what her energy "savings would be."

15. Vivint Solar asked her for her name and address, which Ms. Rasmussen provided.

16. Vivint Solar's representative then asked Ms. Rasmussen if she had good credit.

17. At this, Ms. Rasmussen recoiled, stating "yes, but you're not pulling my credit. I do not want my credit pulled. You're not going to pull my credit are you?"

18. Vivint Solar's representative stated "No. We won't be pulling your credit."

19. The representative then pointed to a signature box on his iPad and told Ms. Rasmussen to sign in order to "qualify the home" to see what the savings would be.

20. Ms. Rasmussen then signed in a box on the sales representative's iPad for the express purpose of qualifying the home to see what the alleged energy savings would be.

21. Ms. Rasmussen did not check any boxes, nor did she see anything on the iPad apart from the signature box that the salesman presented to her and pointed to.

22. Vivint Solar's representative expressly stated that Ms. Rasmussen's credit report would not be pulled and she did not consent to Vivint Solar obtaining her credit report.

23. Vivint Solar's representative made fraudulent representations about what he was having Ms. Rasmussen sign, telling her it was something altogether different – *i.e.*, qualify the home to see what the energy savings would be, a process which expressly did not involve a credit pull.

24. Ms., Rasmussen was not provided, nor given the opportunity to review, any paperwork or documents, paper or electronic.

25. Shortly after the Vivint Solar representative left, Ms. Rasmussen was shocked to receive an email from a company called “Solar Mosaic” stating that she was approved for “a Mosaic Home Solar Loan for up to \$50,000.00 to finance a home solar system...”

26. Ms. Rasmussen felt violated, panicked and irate. She never heard of “Solar Mosaic” and did not apply for any loan.

27. Ms. Rasmussen responded to the email from Solar Mosaic stating, “I did not authorize this individual to run my credit!”

28. Ms. Rasmussen never provided any authorization to have her credit report pulled by Vivint Solar.

29. Vivint Solar surreptitiously and intentionally obtained Ms. Rasmussen’s consumer report from the consumer reporting agencies.

30. Ms. Rasmussen did not authorize Vivint Solar to obtain her consumer reports at any time.

31. After discovering that her credit was pulled without her permission, Ms. Rasmussen filed a complaint with the Better Business Bureau that was forwarded to Vivint Solar.

32. Ms. Rasmussen also filed a complaint with Florida’s Attorney General that was forwarded to Vivint Solar.

33. After these complaints were filed, the Vivint Solar defendants investigated and determined and admitted that their representative gave “misinformation” and made “misrepresentations” to Ms. Rasmussen.

34. Upon information and belief, Vivint Solar defendants enrolled Ms. Rasmussen in electronic form contracts for solar services and financing without her knowledge or consent, and voluntarily and immediately voided these fraudulent contracts upon notice of her complaints.

35. Additionally, the Vivint Solar defendants wrote to the credit bureaus asking for the record of their inquiries to be deleted.

36. The Vivint Solar defendants received and possessed Ms. Rasmussen's sensitive and private credit and personal data.

37. Pursuant to 15 U.S.C. §1681b, a consumer report can be obtained only for the specific purposes stated thereunder, including for use in connection with a credit transaction that the consumer initiated, a firm credit offer, employment purposes, or a business transaction in which an individual has accepted personal liability for business credit.

38. Vivint Solar never had a permissible purpose to obtain Ms. Rasmussen's credit report.

39. Vivint Solar obtained Ms. Rasmussen's consumer report under false pretenses to the credit bureaus because she never provided authorization for a credit pull, nor sought any extension of credit.

40. Vivint Solar defendants knew or should have known that Ms. Rasmussen did not authorize any inquiry into her credit information at any time, nor initiated any credit transaction.

41. The Vivint Solar defendants, as a pattern and practice, regularly obtain consumer reports on consumers without a permissible purpose and/or under false pretenses.

42. Consumers across Florida and across the country have complained to the Vivint Solar defendants that Vivint's agents pulled their credit without consent or authorization.

43. Consumers across Florida and across the country have complained to Vivint Solar that Vivint's agents obtained credit reports upon false pretenses, a federal crime.

44. Despite ample notice of this problem, Vivint Solar continued to allow its salespeople to routinely invade the privacy of consumers and intentionally violate the Act by pulling credit reports without a permissible purpose.

45. As a result of Defendants' willful, wanton, reckless, and/or negligent action, Ms. Rasmussen has been damaged.

46. The consumer reports obtained by Defendants included a trove of sensitive personal and private information about Ms. Rasmussen, such as credit history profile, pay histories, employer information and the like.

47. Ms. Rasmussen's privacy has been invaded as a result of the willful, wanton, reckless and/or negligent conduct of Defendants.

48. Ms. Rasmussen has lost trust and is suspicious, and has been constrained to monitor her credit regularly to prevent unauthorized access to her sensitive credit information.

49. Ms. Rasmussen has suffered mental and emotional distress, worry, and aggravation as a result of Defendants' actions.

50. Defendants have violated the Fair Credit Reporting Act by willfully and/or negligently obtaining Ms. Rasmussen's consumer credit report without a statutorily permissible purpose. 15 U.S.C. § 1681b; 1681n and §1681o.

Count II – Declaratory Relief

51. This is an action for declaratory relief pursuant to Chapter 86, Florida Statutes (the Florida Declaratory Judgment Act).¹

¹ Florida law clearly provides that the Florida Declaratory Judgment Act confers substantive legal rights. *See*, § 86.101, Fla. Stat. (stating that chapter 86 "is declared to be substantive and remedial. Its purpose is to settle and to afford relief from insecurity and uncertainty with respect to rights, status, and other equitable or legal relations and is to be liberally administered and construed"). Florida appellate courts likewise hold that the Florida Declaratory Judgment Act is

52. Ms. Rasmussen re-alleges and incorporates paragraphs 1 through 6 and 9 through 44, and incorporates them by reference.

53. Ms. Rasmussen maintains that Defendants conduct violates the Fair Credit Reporting Act, 15 U.S.C. § 1681b, as the Defendants knew or should have known they did not have a permissible purpose to pull her credit., were on notice of the complained conduct, but continued and continue to allow their employees to violate the FCRA.

54. Defendants engaged and continue to engage in the complained of conduct despite being put on notice of the same in violation of the FCRA.

55. Ms. Rasmussen is in doubt concerning her rights, and a bona fide present controversy exists between Ms. Rasmussen and the Defendants concerning the proper interpretation of the FCRA and the parties' respective rights and obligations thereunder, with respect to issues which include but are not limited to the following:

(a) Were Defendants lawfully able to pull Ms. Rasmussens' credit report under the circumstances?

(b) What are the parties' respective rights and obligations concerning the Fair Credit Reporting Act in relation to Defendants' complained of conduct?

56. The rights, status, or other equitable or legal relations of the parties are affected by the FCRA. Accordingly, pursuant to Chapter 86, Florida Statutes, Ms. Rasmussen may obtain a declaration of rights, status, or other equitable or legal relations thereunder.

57. Section 86.011, Florida Statutes states that this Court has "jurisdiction ... to declare rights, status, and other equitable or legal relations whether or not further relief is or

substantive. *School Bd. of Leon County v. Mitchell* 346 So.2d 562, 564 (Fla. 1st DCA 1977) ("Chapter 86 is both substantive and remedial, and is to be liberally construed"); *Koscot Interplanetary, Inc. v. State ex rel. Conner*, 230 So.2d 24, 25 (Fla. 4th DCA 1970) (Chapter 86 "providing for declaratory decrees, is substantive and remedial").

could be claimed.” Thus, regardless of whether damages are available to Ms. Rasmussen under Count I, this Court still has jurisdiction to determine the parties' respective rights, status, and other equitable or legal relations under the FCRA.

58. Section 86.011(2), Florida Statutes states that “The court may render declaratory judgments on the existence, or nonexistence ... Of any fact upon which the existence or nonexistence of such immunity, power, privilege, or right does or may depend, whether such immunity, power, privilege, or right now exists or will arise in the future.” Thus, the Court still has jurisdiction to determine whether Defendants’ conduct has been unlawful, in order to prevent the same unlawful conduct in the future.

59. Section 86.021, Florida Statutes states, “Any person claiming to be interested or who may be in doubt about his or her rights under a ... contract, ... or whose rights, status, or other equitable or legal relations are affected by a statute ... may have determined any question of construction or validity arising under such statute, ... contract, ... or any part thereof, and obtain a declaration of rights, status, or other equitable or legal relations thereunder.” Thus, the Court has jurisdiction to determine the rights of "any person" (such as Ms. Rasmussen) who is in doubt about her rights under the FCRA.

60. Section 86.071, Florida Statutes states, in pertinent part, that when a declaratory action “concerns the determination of an issue of fact, the issue may be tried as issues of fact are tried in other civil actions in the court in which the proceeding is pending. To settle questions of fact necessary to be determined before judgment can be rendered, the court may direct their submission to a jury.” Thus, the existence of disputed fact issues does not prevent the Court from providing declaratory relief under Chapter 86.

61. Section 86.101, Florida Statutes states, “This chapter is declared to be substantive and remedial. Its purpose is to settle and to afford relief from insecurity and uncertainty with respect to rights, status, and other equitable or legal relations and is to be liberally administered and construed.” Thus, Chapter 86 is substantive in nature, and this Court must liberally administer and construe Chapter 86, in order to afford the parties relief from insecurity and uncertainty with respect to their respective rights, status, and other equitable or legal relations under the Fair Credit Reporting Act.

62. Section 86.111, Florida Statutes states, “The existence of another adequate remedy does not preclude a judgment for declaratory relief.” Again, this statute confirms that declaratory relief is available under Chapter 86, regardless of whether damages are available to Ms. Rasmussen under Count I.

WHEREFORE, Plaintiff Stefanie Rasmussen demands judgment against Defendants Vivint Solar, Inc., Vivint Solar Developer LLC and Solar Mosaic, Inc. for:

- (a) Actual and compensatory damages as provided for in the FCRA;
- (b) Punitive damages as provided for in the FCRA;
- (c) A declaration that the conduct complained of violates the provisions of the FCRA, 15 U.S.C. § 1681b;
- (d) An Order requiring return of Plaintiff’s confidential consumer report and destruction of any copies;
- (e) Attorney’s fees and costs; and
- (f) Such other and further relief as the Court shall deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury as to all issues so triable.

Respectfully submitted,

CRAIG E. ROTHBURD, P.A.

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