

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION

CASE NO.:

TASHUNBEE BENNETT, an individual,
on behalf of himself and all others
similarly situated,

Plaintiff,

v.

CLASS ACTION

STARBOARD GROUP MANAGEMENT
COMPANY INCORPORATED, a
Florida corporation,

Defendant.

COMPLAINT FOR DAMAGES AND INCIDENTAL RELIEF

Plaintiff, Tashunbee Bennett, an individual, on behalf of himself and all others similarly situated, sues Defendant, Starboard Group Management Company Incorporated, a Florida corporation, and alleges:

I. ALLEGATIONS AS TO PARTIES

1. Plaintiff, Tashunbee Bennett (“Mr. Bennett”), is *sui juris* and a resident of the State of Georgia and is a “consumer” under 15 U.S.C. § 1681a(c).

2. At all times material hereto, Defendant, Starboard Group Management Company Incorporated (“Starboard Group”), was a Florida corporation, organized and existing under the laws of the State of Florida.

3. At all times relevant to this Complaint, Starboard Group was a “person” using “consumer reports” to make “employment decisions” and take “adverse action” against “consumers,” as those terms are defined in 15 U.S.C. § 1681a.

4. The Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1331 because the claims asserted in this civil action arise under the laws of the United States, specifically 15 U.S.C. § 1681, *et sequi*.

5. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(2).

II. FACTUAL ALLEGATIONS

6. Starboard Group is headquartered in Coral Springs, Florida and operates Wendy's quick service restaurants in Alabama, Florida, Illinois, Michigan, Missouri, New Jersey, Pennsylvania, Virginia, and Wisconsin.

7. Mr. Bennett works in the Information Technology field and has substantial work experience in IT support and helpdesk functions.

8. On February 3, 2016, Mr. Bennett applied for a job with Starboard Group, specifically seeking an open position as an IT Support Coordinator.

9. On February 11, 2016, Mr. Bennett received a job offer from Starboard Group for the IT Support Coordinator position he was seeking. The offer was expressly made contingent upon Mr. Bennett's successful completion of a background check.

10. On February 11, 2016, Mr. Bennett signed Starboard Group's offer letter, returned it to Starboard Group's Human Resources Director and began making plans to move to Florida where he would be working.

11. Thereafter, Starboard Group engaged a background check company called Sterling Backcheck ("Sterling") to conduct a background check on Mr. Bennett. Sterling is a consumer reporting agency under 15 U.S.C. § 1681a(f).

12. In its capacity as a consumer reporting agency, Sterling conducted a background check on Mr. Bennett, prepared a report setting forth the results of its work and sold that report to

Starboard Group. The report that Sterling prepared on Mr. Bennett was a consumer report under 15 U.S.C. § 1681a(d).

13. Sterling sold Mr. Bennett's consumer report to Starboard Group for employment purposes, which is a permissible purpose under 15 U.S.C. § 1681b.

14. On February 17, 2016, Starboard Group's Human Resources Director informed Mr. Bennett that his background check revealed a "criminal conviction" and on the basis of that information, Starboard Group rescinded its offer of employment to Mr. Bennett.

15. The actions of Starboard Group described in the preceding paragraph constituted "adverse action" against Mr. Bennett under 15 U.S.C. § 1681a(k).

16. Prior to taking adverse action against Mr. Bennett, Starboard Group failed to comply with the requirements set forth in 15 U.S.C. § 1681b(b)(3). Specifically, Starboard Group (i) failed to provide Mr. Bennett with a copy of his background check and (ii) failed to provide Mr. Bennett with a summary of his rights under Fair Credit Reporting Act as required by 15 U.S.C. § 1681b(b)(3).

17. Mr. Bennett immediately contacted Starboard Group and informed them that he did not have a criminal conviction and that the consumer report that Sterling had prepared on him was inaccurate. Starboard Group refused to reconsider its decision to rescind Mr. Bennett's offer and told him that he would need to take up the matter with Sterling.

18. Furthermore, Starboard Group did not provide Mr. Bennett with (i) a statement that Sterling did not make the decision to take adverse action against him, (ii) notice of Mr. Bennett's right to obtain a free copy of his consumer report from Sterling or the 60-day period for obtaining such free copy of his consumer report, and (iii) notice of Mr. Bennett's right to dispute the accuracy

or completeness of information in his consumer report. These acts and omissions were in violation of 15 U.S.C. § 1681m(a).

19. Starboard Group's violations of the FCRA were not a mistake. Starboard Group's conduct directed against Mr. Bennett and the putative class members was willful.

20. Upon information and belief, Starboard Group has purchased hundreds and perhaps thousands of consumer reports from consumer reporting agencies such as Sterling, which were then used as a basis for taking adverse action against job applicants.

21. As a matter of practice, Starboard Group regularly and consistently fails to provide the "adverse action notice" to job applicants as required by 15 U.S.C. § 1681b(b)(3) and 15 U.S.C. § 1681m(a).

22. Starboard Group is well aware of its legal obligations under the FCRA. These obligations are established in the plain language of the FCRA and in the promulgations of the Federal Trade Commission and the Consumer Financial Protection Bureau.

23. Further, upon information and belief, Starboard Group obtained or had available substantial written materials that informed it of its duties under the FCRA. For example, Sterling, which is Starboard Group's consumer report vendor, offers FCRA compliance information and forms necessary to comply with FCRA employment background screening requirements, as well as other FCRA compliance material specifically targeted to employers, on its website.

24. Despite knowing of these legal obligations, Starboard Group acted consciously and willfully in breaching its known duties and depriving Mr. Bennett and the putative class members of their rights under the FCRA.

25. Starboard Group's conduct as alleged herein was consistent with its established and systematically executed procedures and policies of noncompliance with the FCRA.

26. Therefore, Starboard Group's conduct was willful and entitles Mr. Bennett and the putative class members to recover punitive damages for their violations of the FCRA.

III. CLASS ACTION ALLEGATIONS

A. The FCRA Class

27. Pursuant to Fed. R. Civ. P. 23(b)(3), Mr. Bennett brings this action individually and on behalf of a class initially defined as follows ("the Class"):

All employees or prospective employees of Starboard Group residing in the United States (including all territories and other political subdivisions of the United States) who were the subject of a consumer report used by Starboard Group to make an employment decision and against whom Starboard Group took an adverse action based in whole or in part on information contained in the consumer report before providing the applicant with a copy of the consumer report or other adverse action disclosures during the two year period prior to the filing of the Complaint to certification.

B. Numerosity

28. The Class members are so numerous that joinder of all is impractical. Starboard Group operates over 180 Wendy's restaurants in Alabama, Florida, Illinois, Michigan, Missouri, New Jersey, Pennsylvania, Virginia and Wisconsin. During the relevant time period, the average fast food restaurant, like Wendy's, had more than 15 employees. In light of the high turnover rate of fast food employees, it is projected that the Class would contain hundreds, if not thousands of members who are geographically dispersed over nine states. Thus, joinder of all Class members is impractical. The names and addresses of the Class members are identifiable through documents maintained by Starboard Group, and the Class members may be notified of the pendency of this action by published and/or mailed notice. Upon information and belief, the class will consist of thousands of class members.

C. Commonality

29. Common questions of law and fact exist as to all members of the Class. These questions predominate over the questions affecting only individual members. These common legal and factual questions include, among other things: (a) whether Starboard Group provided a copy of the consumer report to the applicant or employee prior to refusing to hire the applicant or terminating the employee based on the results thereof; (b) whether Starboard Group provided a copy of a summary of the applicant or employee's rights under the FCRA before declining to hire, promote or discharging the applicant or employee; (c) whether Starboard Group waited an appropriate length of time before taking adverse action against Class Members and (d) whether Starboard Group acted knowingly and intentionally or with conscious disregard of the rights of the consumers.

D. Typicality

30. Mr. Bennett's claims are typical of the claims of each Class member and all are based on the same facts and legal theories. Upon information and belief, it is Starboard Group's standard hiring practice to obtain and rely on consumer reports for employment purposes, refusing to hire applicants without giving them any advance notice of the adverse action, without first providing them with a copy of their consumer report, and without providing them with a summary of their rights under the FCRA before taking the adverse action. For purposes of class certification only, Mr. Bennetts seeks only statutory and punitive damages. Mr. Bennett would seek individual or actual damages only if class certification is denied. In addition, Mr. Bennett is entitled to the relief under the same causes of action as the other members of the Class.

E. Adequacy

31. Mr. Bennett will fairly and adequately protect the interests of the class. Mr. Bennett has retained counsel experienced in handling actions involving unlawful practices against consumers and class actions. Neither Mr. Bennett nor his counsel have any interests that might cause them not to vigorously pursue this action. Mr. Bennett is aware of his responsibilities to the putative class and has accepted such responsibilities.

32. Certification of the class under Rule 23(b)(3) of the Federal Rules of Civil Procedure is also appropriate in that:

a. Predominance – As alleged above, the questions of law or fact common to the members of the classes predominate over any questions affecting an individual member. Each of the common facts and legal questions in the case overwhelm the more modest individual damages issues. The statutory and punitive damages sought by each member are such that the individual prosecution would prove burdensome and expensive given the complex and extensive litigation necessitated by Starboard Group's conduct. Further, any individual issues that might exist can be effectively streamlined and resolved in a manner that minimizes the individual complexities and differences in proof in the case.

b. Superiority – A class action is superior to other available methods for the fair and efficient adjudication of the controversy. Consumer claims generally are ideal for class treatment as they involve many, if not most, consumers who are otherwise disempowered and unable to afford and bring such claims individually. Further, most consumers whom the Defendants refused to hire or whose employment was terminated based on a consumer report without complying with the requirements of the FCRA are likely unaware of their rights under the law or of who they could find to represent them in federal litigation. Individual litigation of

the uniform issues in this case would be a waste of judicial resources as well. The issues at the core of this case are class wide and should be resolved at one time.

COUNT I – VIOLATION OF 15 U.S.C. § 1681B(B)(3)

33. Starboard Group wilfully violated 15 U.S.C. § 1681b(b)(3) by failing to provide a copy of the consumer report used to make an employment decision and the statutorily-required summary of rights to Mr. Bennett and members of the Class before taking adverse action against them based in whole or in part on such reports.

34. As a proximate result of Starboard Group's willful violations of law described in the preceding paragraph, Mr. Bennett and members of the Class have suffered injury and are entitled to recover statutory damages and punitive damages, as well as attorney's fees and costs pursuant to 15 U.S.C. § 1681n. In the alternative, Mr. Bennett is entitled to recover actual damages he has suffered as well as attorney's fees and costs for himself and all others similarly situated for Starboard Group's negligent violation of the FCRA pursuant to 15 U.S.C. § 1681o.

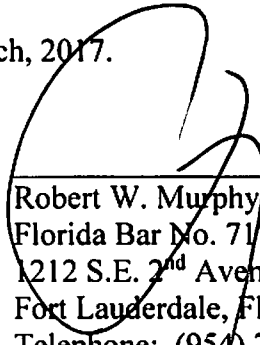
WHEREFORE, Plaintiff, Tashunbee Bennett, an individual, on behalf of himself and all others similarly situated, respectfully requests judgment be entered in his favor and in favor of the class against Defendant, Starboard Group Management Company Incorporated, a Florida corporation, for:

- A. Statutory damages pursuant to 15 U.S.C. § 1692k;
- B. Punitive damages pursuant to their violations of the FCRA;
- C. An award of costs and attorney's fees, including pre-judgment and post-judgment interest at the legal rate; and
- D. Such other and further relief as the Court may deem just and equitable.

DEMAND FOR JURY TRIAL

Plaintiff, Plaintiff, Tashunbee Bennett, an individual, on behalf of himself and all others similarly situated, pursuant to Rule 38(b), Federal Rules of Civil Procedure, demands a trial by jury of all issues so triable.

Respectfully submitted this 17th day of March, 2017.



Robert W. Murphy
Florida Bar No. 717223
1212 S.E. 2nd Avenue
Fort Lauderdale, Florida 33316
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Fax: (954) 763-8607
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rphyu@aol.com

Craig E. Bertschi *pro hac admission pending*
Georgia Bar No. 055739
Charles J. Cole *pro hac admission pending*
Georgia Bar No. 176704
McRae Bertschi & Cole LLC
Suite 200, 1350 Center Drive
Dunwoody, Georgia 30338
Telephone: (678) 999-1100
Email: ceb@mcraebertschi.com;
cjc@mcraebertschi.com

Counsel for Plaintiff

CIVIL COVER SHEET

JS 44 (Rev. 07/16) FLSD Revised 07/01/2016

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.) NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.

I. (a) PLAINTIFFS Tashunbee Bennett

DEFENDANTS Starboard Group Management Company Incorporated

(b) County of Residence of First Listed Plaintiff Cobb County, Georgia
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Broward County
(IN U.S. PLAINTIFF CASES ONLY)

(c) Attorneys (Firm Name, Address, and Telephone Number)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Robert W. Murphy, Esquire, 1212 S.E. 2nd Avenue, Fort Lauderdale, Florida 33316 / Telephone: (954) 763-8660

(d) Check County Where Action Arose: MIAMI-DADE MONROE BROWARD PALM BEACH MARTIN ST LUCIE INDIAN RIVER OKEECHOBEE HIGHLANDS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

- | | | | | | |
|--|---|--|--|---|--|
| <p>CONTRACT</p> <ul style="list-style-type: none"> <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise <p>REAL PROPERTY</p> <ul style="list-style-type: none"> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property | <p>TORTS</p> <p>PERSONAL INJURY</p> <ul style="list-style-type: none"> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education <p>CIVIL RIGHTS</p> | <p>PERSONAL INJURY</p> <ul style="list-style-type: none"> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <p>PERSONAL PROPERTY</p> <ul style="list-style-type: none"> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability <p>PRISONER PETITIONS</p> <p>Habeas Corpus:</p> <ul style="list-style-type: none"> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <p>Other:</p> <ul style="list-style-type: none"> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement | <p>FORFEITURE/PENALTY</p> <ul style="list-style-type: none"> <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <p>LABOR</p> <ul style="list-style-type: none"> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <p>IMMIGRATION</p> <ul style="list-style-type: none"> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions | <p>BANKRUPTCY</p> <ul style="list-style-type: none"> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <p>PROPERTY RIGHTS</p> <ul style="list-style-type: none"> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <p>SOCIAL SECURITY</p> <ul style="list-style-type: none"> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <p>FEDERAL TAX SUITS</p> <ul style="list-style-type: none"> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <p>OTHER STATUTES</p> <ul style="list-style-type: none"> <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729 (a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes |
|--|---|--|--|---|--|

V. ORIGIN

(Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Re-filed (See VI below)
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation Transfer
- 7 Appeal to District Judge from Magistrate Judgment
- 8 Multidistrict Litigation - Direct File
- 9 Remanded from Appellate Court

VI. RELATED/ RE-FILED CASE(S)

(See instructions): a) Re-filed Case YES NO b) Related Cases YES NO

JUDGE:

DOCKET NUMBER:

VII. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity):

Violation of the Fair Credit Reporting Act, 15 U.S.C. §1681, et sequi

LENGTH OF TRIAL via days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: Yes No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE

DATE March 17, 2017 SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY RECEIPT #

AMOUNT

IFP

JUDGE

MAG JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Refiled (3) Attach copy of Order for Dismissal of Previous case. Also complete VI.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

Remanded from Appellate Court. (8) Check this box if remanded from Appellate Court.

VI. Related/Refiled Cases. This section of the JS 44 is used to reference related pending cases or re-filed cases. Insert the docket numbers and the corresponding judges name for such cases.

VII. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.**

Example: U.S. Civil Statute: 47 USC 553

Brief Description: Unauthorized reception of cable service

VIII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

Date and Attorney Signature. Date and sign the civil cover sheet.

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

Tashunbee Bennett, an individual, on behalf of himself and all others similarly situated

Plaintiff(s)

v.

Starboard Group Management Company Incorporated, a Florida corporation

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Starboard Group Management Company Incorporated

By serving its Registered Agent: Andrew Levy 12540 West Atlantic Boulevard Coral Springs, Florida 33071

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Robert W. Murphy, Esquire, 1212 S.E. 2nd Avenue, Fort Lauderdale, Florida 33316 / Telephone: (954) 763-8660

Craig E. Bertschi, Esquire, McRae Bertschi & Cole LLC, 1350 Center Drive, Suite 200, Dunwoody, Georgia 30338 / Telephone: (678) 999-1100

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Print

Save As...

Reset

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Starboard Group Management Co. Tossed with FCRA Lawsuit](#)
