

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

**Romeo Chicco, individually
and on behalf of others**

INTRODUCTION

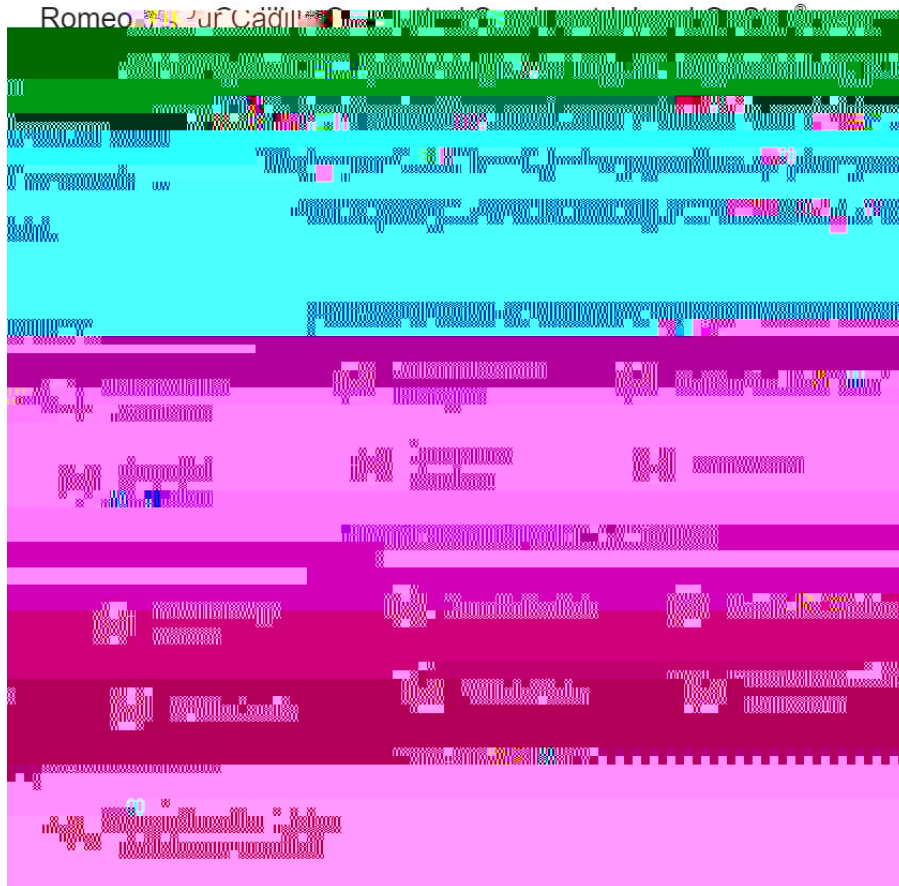
1. The United States Congress has found that inaccurate consumer reports directly impair the efficiency of our economy and undermine public confidence. Congress enacted the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.* ensure fair and accurate reporting, promote efficiency in the banking system, and protect consumer privacy. Because consumer reporting agencies have assumed such a vital role in assembling and evaluating consumer credit and other consumer

information, the FCRA seeks to ensure consumer reporting agencies exercise their grave responsibilities with fairness, impartiality, and a duties on the sources that provide consumer information to credit

2. The purpose of the Deceptive and Unfair Trade Practices Act is to protect the consuming public and legitimate business enterprises from those who engage in unfair methods of competition, or unconscionable, deceptive, or unfair acts or practices in the conduct of

collective conduct caused Plaintiff damages and significant emotional distress.

4.



27. Plaintiff did not want OnStar services and so he did not push the blue

The email provides no mention of

28. Plaintiff began to receive diagnostic emails from OnStar, but he believed that they were provided by his MyCadillac App. Furthermore, neither the welcome email nor the diagnostic reports mentioned data-sharing to third parties.

report does not explain how or why Plaintiff might have experienced these events. Stating these events, by themselves, says nothing of the other driving conditions and factors Plaintiff may have experienced.

44.

The representative would not provide this information to Plaintiff; however, they informed him that he could opt-out of the program. Plaintiff explained that he never opted *into*

insurance. Moreover, notwithstanding the extreme frustration and solitude and peace of mind.

52. Plaintiff would not have even bought the Cadillac vehicle to begin with had he known of this grave invasion of privacy.

53. The entire ordeal left Plaintiff hopeless and distressed because no matter who he spoke with, nobody could explain to him how his driving data had been publicly shared without his knowledge or consent.

54. Additionally, the data presented on the Lexis Consumer report is so decontextualized that it can hardly be called accurate. Nevertheless, insurance companies rely upon these consumer reports to determine pricing or flatly reject a potential customer, as has happened here.

55. Moreover, Plaintiff is informed and believes that GM and OnStar mislead individuals about their data-sharing practices. Plaintiff, with little assistance from OnStar or GM, investigated how his data reached Lexis. Plaintiff never knowingly consented to these practices. Thus,

OnStar began to share his data.

56. The car purchase agreement said nothing of OnStar or data-sharing.

57.

60. OnStar includes a supplemental privacy statement for application

61. Finally, the OnStar Privacy Statement, reads in relevant part:

Third-Party Business Relationships: With business that GM enters into business relationships, such as SiriusXM, in connection with their products and services; research institutes, for research and development purposes (*for example, improving highway safety*); or dealers, fleet, or rental car companies, for service or maintenance of your vehicle. We may also share data with third parties for marketing activities (with necessary consents) or where you have elected to receive a service from them and/or authorized them to request data from GM (*for example, financial organizations who offer financing for the purchase or lease of GM vehicles or usage based insurance providers*).¹

62. This section, neatly hidden on their website, and made inconspicuous through the downloading of mobile applications, at worst, does not grant OnStar or GM the right to furnish car driving data to Lexis and is ambiguous at best. The applicable section e you have elected to receive a service from them and/or authorized them to request data from does not mention Lexis and is buried at the tail end of the paragraph. Furthermore, it shifts the onus on consumers, who are likely

¹ <https://www.onstar.com/legal/privacy-statement>. Last visited March 8, 2024.

already unaware that car data is being tracked and shared. If consumers are aware, they would then have to comb through every insurance

63. This scheme is deceptive, unfair, and misleading to consumers.

64. Plaintiff is informed and believes that Lexis continues to report this damaging information on consumer disclosures without regard to their context. This information, standing alone, is incomplete. These data metrics do not provide an accurate picture of the individual to whom the report relates.

65. And like with Plaintiff, much of this information is likely reported

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67.

68.

damages in the form of mental anguish and emotional distress, which manifested in symptoms including but not limited to stress, anxiety, worry, restlessness, irritability, embarrassment, loss of sleep, shame,

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77.

are all based on the same factual and legal theories.

PROTECTING THE INTERESTS OF THE CLASS MEMBERS

78. Plaintiff is a representative who will fully and adequately assert and

protect the interests of the Class and has retained competent counsel.

Accordingly, Plaintiff is an adequate representative and will fairly and

adequately protect the interests of the Class.

PROCEEDING VIA CLASS ACTION IS SUPERIOR AND

ADVISABLE

79. A class action is superior to all other available methods for the fair and

efficient adjudication of this lawsuit, because individual litigation of

the claims of all members of the Class is economically unfeasible and

procedurally impracticable. While the aggregate damages sustained by

the Class are in the millions of dollars, the individual damages incurred

conduct are too small to warrant the expense of individual lawsuits. The

likelihood of individual Class members prosecuting their own separate

claims is remote, and, even if every member of the Class could afford

individual litigation, the court system would be unduly burdened by individual litigation of such cases.

80. The prosecution of separate actions by members of the Class would create a risk of establishing inconsistent rulings and/or incompatible standards of conduct for Defendants. For example, one court might enjoin Defendants from performing the challenged acts, whereas another may not. Additionally, individual actions may be dispositive of the interests of the Class, although certain class members are not parties to such actions.
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81. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

82. Whenever a consumer reporting agency prepares a consumer report it shall follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom the report relates. 15 U.S.C. § 1681e(b).

83. By LexisNexis reporting these data metrics, insurance carriers and others who view this information receive an inaccurate representation

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95.

action include (1) the publication; (2) of private facts; (3) that are offensive; and (4) are not of public concern.⁴

96.

physically or otherwise, upon the solitude or seclusion of another or his
d be highly offensive

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97.

privacy because Defendants are publishing misleading information

Additionally, Defendants highly offensive actions sharing personal
driving data to third parties intrude into Plaintiffs private affairs.

³ *In re Mednax Servs.*, 603 F. Supp. 3d 1183, 1225 (S.D. Fla. 2022)

⁴ *Id.*

⁵ *Jackman v. Cebrink-Swartz*, 334 So. 3d 653, 656 (Fla. Dist. Ct. App. 2021); quoting Restatement (Second) of Torts § 652B (Am. Law Inst. 1977).

98.

WHEREFORE, Plaintiff, on behalf of himself and the other members of the Class, prays for the following relief:

An award of actual damages pursuant to 15 U.S.C. § 1681n(a)(1);

An award of statutory damages pursuant to 15 U.S.C. § 1681n(a)(1);

An award of punitive damages as the Court may allow pursuant to 15 U.S.C. § 1681n(a)(2);

A

sharing to third parties without their consent;

Any other relief the Court may deem just and proper.

TRIAL BY JURY

64. Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Dated: March 13, 2024

Respectfully submitted,

BY: /S/ RYAN L. MCBRIDE
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