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9 *and Justin D. Holm*

7 **IN THE UNITED STATES DISTRICT COURT**  
8 **FOR THE DISTRICT OF ARIZONA**

9 Margaret R. Holm and Justin D. Holm,  
10 and wife and husband,

11 Plaintiffs,

12 vs.

13 AT&T Corp., a New York Corporation;  
14 and DirecTV, LLC, a California  
15 Limited-liability Company,

16 Defendants.

Case No.:

**COMPLAINT (Violation of FCRA;  
FDCPA; AzFDCPA; Negligence;  
Emotional Distress; Permanent  
Injunction Against Harassment; Loss  
of Consortium; Jury Demand)**

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19 Plaintiffs Margaret R. Holm and Justin D. Holm (collectively the "Holms"), by  
20 and through their attorneys, O'Connor & Dyet, P.C., bring this action against AT&T,  
21 Corp. and DirecTV, LLC (collectively "Defendants") in accordance with the Fair  
22 Credit Reporting Act ("FCRA")<sup>1</sup>, the Fair Debt Collection Practices Act ("FDCPA")<sup>2</sup>,  
23 and Arizona's Fair Debt Collection Practices Act ("AzFDCPA")<sup>3</sup>. The Holms ask  
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<sup>1</sup> 15 USC § 1681, *et seq.*

1 the Court for a finding that Defendants' actions violated federal and state law, for  
2 damages, and for other legal and equitable relief alleged as follows.

### 3 JURISDICTION AND VENUE

4 1. This Court has jurisdiction pursuant to 28 U.S.C. §1331 (federal  
5 question), 28 U.S.C. §1337 (commerce and antitrust regulations), 28 U.S.C. §1367  
6 (supplemental jurisdiction regarding state-law claims), and 15 U.S.C. §1681 of  
7 FCRA.

8 2. Venue is proper in this District because: (1) the acts and transactions  
9 occurred here; and (2) Defendants transact business here.

### 10 PARTIES

11 3. Plaintiffs Margaret R. Holm and Justin D. Holm are a wife and  
12 husband who are former residents of Arizona. During the relevant time period the  
13 Holms had been residents of Arizona, but were in the process of moving to Oregon.

14 4. Plaintiff Margaret R. Holm has the following aliases: (1) Margaret  
15 Rachel Jungwirth (her full maiden name); (2) Margaret R. Jungwirth; (3) M. Rachel  
16 Jungwirth; (4) Rachel Jungwirth; (5) Margaret Rachel Holm (her full married name);  
17 (6) Margaret R. Holm; (7) M. Rachel Holm; (8) Rachel Holm.

18 5. Mrs. Holm has never gone by, or used the name "Maggie."

19 6. Plaintiff Justin D. Holm has the following aliases: (1) Justin Dean Holm  
20 (his full legal name); (2) Justin D. Holm; (3) J.D. Holm; and (4) Justin Holm.

21 7. Mrs. Holm is a "consumer" as defined by FCRA.<sup>4</sup>

22 8. Mr. Holm is a "consumer" as defined by FCRA.<sup>5</sup>

23 9. Mrs. Holm is a "consumer" as defined by FDCPA.<sup>6</sup>

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26 <sup>4</sup> See 15 U.S.C. § 1681a(c).

<sup>5</sup> *Id.*

<sup>6</sup> See 15 U.S.C. § 1692a(3).

1 10. Mr. Holm is a “consumer” as defined by FDCPA.<sup>7</sup>

2 11. Mrs. Holm is a “person” as defined by AzFDCPA.<sup>8</sup>

3 12. Mr. Holm is a “person” as defined by AzFDCPA.<sup>9</sup>

4 13. AT&T Corp. is a New York corporation (“AT&T”), with its principle  
5 place of business in New York.

6 14. AT&T is authorized to conduct business in Arizona.

7 15. AT&T maintains a registered agent in Arizona.

8 16. AT&T conducts business in Arizona.

9 17. AT&T is a “person” as defined by FCRA.<sup>10</sup>

10 18. AT&T is a “creditor” as defined by FCRA.<sup>11</sup>

11 19. AT&T uses the instruments of interstate commerce for its business,  
12 which includes, in part, the collection of debts.

13 20. AT&T is a “debt collector” as defined by FDCPA.<sup>12</sup>

14 21. AT&T is a “collection agency” as defined by AzFDCPA.<sup>13</sup>

15 22. DirecTV, LLC is a California corporation (“DirecTV”), with its principle  
16 place of business in California.

17 23. DirecTV is authorized to conduct business in Arizona.

18 24. DirecTV maintains a registered agent in Arizona.

19 25. DirecTV conducts business in Arizona.

20 26. DirecTV is a “person” as defined by FCRA.<sup>14</sup>

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23 <sup>7</sup> *Id.*

24 <sup>8</sup> ARIZ. REV. STAT. § 32-1001(5).

25 <sup>9</sup> *Id.*

26 <sup>10</sup> 15 U.S.C. § 1681a(b).

<sup>11</sup> 15 U.S.C. § 1681m(e)(4).

<sup>12</sup> See 15 U.S.C. § 1692a(6).

<sup>13</sup> ARIZ. REV. STAT. § 32-1001(2).

<sup>14</sup> 15 U.S.C. § 1681a(b).

1 27. DirecTV is a “creditor” as defined by FCRA.<sup>15</sup>

2 28. DirecTV uses the instruments of interstate commerce for its business,  
3 which includes, in part, the collection of debts.

4 29. DirecTV is a “debt collector” as defined by FDCPA.<sup>16</sup>

5 30. DirecTV is a “collection agency” as defined by AzFDCPA.<sup>17</sup>

6 **FACTUAL ALLEGATIONS**

7 31. The Holms recently moved to Oregon from Arizona.

8 32. Their Arizona home closed escrow on **May 21, 2019**.

9 33. The fraudulent DirecTV account, Account No. 295225870 that is the  
10 basis of this lawsuit, was opened using Mrs. Holm’s name, address, and Social  
11 Security Number on **May 22, 2019**, the day after the Holms left Arizona for Oregon.

12 34. On **June 6, 2019**, the Holms received a Welcome Packet for  
13 AT&T/DirecTV Service forwarded from their old Arizona address.

14 35. The Holms immediately knew something was wrong and ordered  
15 credit reports from all three credit bureaus.

16 36. While reviewing these reports, Mrs. Holm discovered a “hard inquiry”  
17 on her Equifax Credit Report from AT&T.

18 37. Upon information and belief, this type of “hard” inquiry can only be  
19 submitted using the individual’s name and Social Security Number.

20 38. The Holms have **never** had DirecTV service and did not ask AT&T to  
21 perform this credit inquiry.

22 39. The Holms immediately contacted AT&T and discovered a criminal  
23 had opened a DirecTV account in Mrs. Holm’s name.

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<sup>15</sup> 15 U.S.C. § 1681m(e)(4).

<sup>16</sup> See 15 U.S.C. § 1692a(6).

<sup>17</sup> ARIZ. REV. STAT. § 32-1001(2).

1           40. The criminal used the Holms' Arizona address (4534 E. Rock Wren  
2 Rd. Phoenix, AZ 85044), and upon information and belief, Mrs. Holm's Social  
3 Security Number to fraudulently set-up Account No. 295225870.

4           41. On **June 7, 2019**, after speaking to several AT&T employees and  
5 being transferred between departments several times, Mrs. Holm was finally able  
6 to file a fraudulent credit inquiry with "Princess" from AT&T's Global Fraud  
7 Management Department.

8           42. Princess assured Mrs. Holm she would: (1) close out the fraudulent  
9 account and (2) submit a request to have the inquiry removed.

10          43. These phone calls and promises establish an important pattern in  
11 AT&T's behavior.

12          44. AT&T representatives consistently adopt, and engage in, a pattern of  
13 "blame the victim."

14          45. Through this pattern AT&T and DirecTV personnel made knowingly  
15 false and/or misleading statements to the Holms.

16          46. During these phone calls AT&T customer-service and fraud  
17 representatives falsely misrepresented: (1) identity theft had **not** occurred; (2) they  
18 would need to "verify" the account by contacting the presumed criminal who  
19 opened the account; and (3) written verification the account had been properly  
20 closed could **not** be provided for "internal policy" reasons.

21          47. The Holms trusted Princess's representations and promises that she  
22 would fully close the account and ensure the fraudulent inquiry was removed from  
23 Mrs. Holm's credit file.

24          48. In partial fulfillment of these promises, on **June 14, 2019**, the Holms  
25 received a letter from AT&T regarding the hard credit inquiry.

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