

**IN THE COUNTY COURT OF THE EIGHTH JUDICIAL CIRCUIT  
IN AND FOR ALACHUA COUNTY, FLORIDA  
CIVIL DIVISION**

VANESSA SCOTT,

Plaintiff,

Case No. 01 2023 CC 003371

v.

COLLECTO, INC. D/B/A EOS CCA,

Defendant.

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**ORDER GRANTING DEFENDANT'S MOTION TO  
DISMISS PLAINTIFF'S COMPLAINT**

THIS CAUSE, having come before the Court for hearing on January 22, 2024, on Defendant, Collecto, Inc. d/b/a EOS CCA's (EOS), Motion to Dismiss Plaintiff's Complaint, whereas Plaintiff, through counsel, failed to appear despite having cleared the date and time for hearing and being duly noticed, the Court finds:

**I. Facts and Procedural History**

On August 11, 2023, Vanessa Scott (plaintiff), filed a lawsuit alleging EOS violated the Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. § 1692, *et seq.*, by allegedly utilizing a third-party letter vendor to send her a debt collection letter and by providing an incorrect deadline to dispute or request validation of the debt in that same letter. Specifically, plaintiff claims EOS communicated information regarding her debt to a third-party letter vendor it used to prepare and mail its August 17, 2022 letter to plaintiff. Plaintiff also alleges the date EOS provided on the August 17, 2022 letter by which to dispute the debt or request validation (September 21, 2022) was less than the 30

days required by law because, “upon information and belief,” EOS did not actually mail the letter on August 17th. Plaintiff also includes claims for negligence, negligence per se, and negligent misrepresentation based upon the same factual allegations.

Plaintiff fails to allege a single injury as a result of EOS’ August 17, 2022 letter. Instead, plaintiff relies upon a series of allegations of what she claims she “justifiably fears” may happen in the future.

On September 6, 2023, EOS filed a Motion to Dismiss Plaintiff’s Complaint for lack of subject matter jurisdiction. On November 10, 2023, EOS filed a Supplement to its Motion to Dismiss to more specifically address plaintiff’s negligence claims. EOS’ motion was set for hearing on January 22, 2024. See Order Setting Remote Hearing filed on December 13, 2023. The hearing was properly and duly noticed after having cleared the hearing date and time with all parties.

On January 22, 2024, the Court heard oral argument from EOS.

## **II. Legal Analysis**

### **A. Florida Standing**

While “Florida Courts are generally considered ‘tribunals of plenary jurisdiction,’” “Florida jurisdiction clearly has limitations.” *Southam v. Red Wing Shoe Co., Inc.*, 343 So. 3d 106, 110 (Fla. 4th Dist. App. 2022), *review denied*, 2022 WL 16848677 (Fla. Nov. 10, 2022). As a result, “Florida recognizes a general standing requirement in the sense that every case must include a real controversy as to the issue or issues presented.” *Id*; see also *Saleh v. Miami Gardens Square One, Inc.*, 353 So. 3d 1253, 1255 (Fla. 3d Dist. App. 2023) (“Florida law also imports an injury in fact requirement under our standing

framework.”); *Pet Supermarket, Inc. v. Eldridge*, 2023 WL 3327267, at \*3 (Fla. 3d Dist. App. May 10, 2023) (same).

“Thus, ‘except as otherwise required by the constitution, Florida recognizes a general standing requirement in the sense that every case must involve a real controversy as to the issue or issues presented.’” *Southam*, 343 So. 3d at 109. “[S]tanding is a threshold issue which must be resolved before reaching the merits of a case. [Thus,] [b]efore a court can consider whether an action is illegal, the court must be presented with a justiciable case or controversy between parties who have standing.” *Solares v. City of Miami*, 166 So. 3d 887, 888 (Fla. 3d Dist. App. 2015).

The Florida Supreme Court has identified “three requirements that constitute the irreducible constitutional minimum for standing. First, a plaintiff must demonstrate an injury in fact, which is concrete, distinct and palpable, and actual or imminent. Second, a plaintiff must establish a causal connection between the injury and the conduct complained of. Finally, ‘a plaintiff must show a substantial likelihood that the requested relief will remedy the alleged injury in fact.’” *Southam*, 343 So. 3d at 109; *Ostiguy v. Radius Global Solutions, LLC*, No. 2023 CC 001105 F, 2023 WL 8468554, at \*2 (Fla.Co.Ct. Nov. 17, 2023); *Community Power Network Corp. v. JEA*, 327 So. 3d 412, 415 (Fla. 1st DCA 2021); *Chihaiia v. Go Giveaways LLC et al*, No. 2021-009231-CA-01, 2022 WL 2047192, at \*1 (Fla.Cir.Ct. Feb. 22, 2022); *Saleh*, 353 So. 3d at 1255.

“Given the above principles. . . allegations of a statutory violation [] alone [do not] establish [] standing to bring suit.” *Id.* In other words, “a purely illegal action in the

absence of resulting harm does not confer standing on an individual.” *Southam*, 343 So. 3d at 110.

Here, plaintiff attempts to allege pure technical statutory violations, but no resulting injury whatsoever. Plaintiff alleges when EOS sent its August 17, 2022 letter to the plaintiff, EOS utilized a third-party letter vendor and did not provide a proper validation deadline. Plaintiff, however, does not allege she was injured in any way by the alleged conduct – nor could she.

The closest plaintiff gets to hinting at any injury is her allegation she “justifiably fears” she may have a future injury if the court doesn’t intervene. (*emphasis added*) However, like in *Southam*, there is no material future risk of harm – much less harm at the hands of EOS – since the August 17, 2022 letter was already received and read by plaintiff and plaintiff alleges no other collection attempts by EOS or that she suffered any actual injury whatsoever from EOS’s conduct. Plaintiff’s failure to plead any “concrete, particularized, and actual or imminent” injury is grounds for dismissal of plaintiff’s complaint for lack of standing under Florida law. *Southam*, 343 So. 3d at 109.

**B. State Law Negligence and Negligence Per Se**

Plaintiff’s allegations of negligence, negligence per se and negligent misrepresentation also fail as a matter of law for additional reasons. Negligence requires duty, breach, proximate cause and actual loss or damage. *Tank Tech, Inc. v. Valley Tank Testing, L.L.C.*, 244 So. 3d 383, 393 (Fla. Dist. Ct. App. 2018). Plaintiff fails to alleged any facts to support a duty owed by EOS to plaintiff, and, as stated above, plaintiff fails to plead facts to show she suffered an **actual** loss or damage.

THEREFORE, it is hereby ORDERED AND ADJUDGED that:

1. EOS' Motion to Dismiss Plaintiff's Complaint is GRANTED, and all claims against EOS are DISMISSED without prejudice.

2. Plaintiff has 10 days from the date of this Order to file an amended complaint.

DONE AND ORDERED in Chambers at Gainesville, Alachua County, Florida on Monday, February 26, 2024.

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Kristine Van Vorst, County Court Judge  
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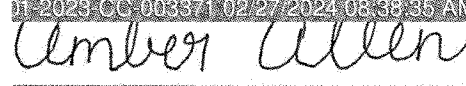
**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that copies have been furnished by U.S. Mail or via filing with the Florida Courts E-Filing Portal on Tuesday, February 27, 2024.

JASON TENENBAUM, ESQ  
jason@tenenbaumlawgroup.com  
efiling@tenenbaumlawgroup.com

DAYLE M VAN HOOSE, ESQ  
dvanhoose@sessions-law.biz  
evap@sessions.legal

Rachel Megan Fleishman  
rfleishman@sessions.legal  
evap@sessions.legal

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Amber Allen, Judicial Assistant  
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