

IN THE CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE
AT NASHVILLE

235311

FILED
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RICHARD R. ROOPER, CLERK
D.C.

MICHAEL FOSTER ABBOTT and
MARGARET JANE ABBOTT

Plaintiffs,

v.

THE METROPOLITAN GOVERNMENT OF
NASHVILLE AND DAVIDSON COUNTY,
TENNESSEE,

Defendant.

No.

19C2034

JURY DEMAND

COMPLAINT

Come the Plaintiffs, Michael Foster Abbott and Margaret Jane Abbott, and file this lawsuit under the Tennessee Identity Theft Deterrence Act of 1999 (TITDA), Tenn. Code Ann. §47-18-2101, Tennessee Consumer Protection Act, §47-18-101 *et. seq.*, under the Tennessee Governmental Tort Liability Act, §29-20-101, *et. seq.* for negligence and gross negligence, and for breach of implied contract to maintain the confidentiality of Plaintiffs' social security numbers and would state unto this Honorable Court as follows:

1. The Plaintiffs, Michael Foster Abbott and Margaret Jane Abbott, are citizens and residents of Sumner County, Tennessee, residing in Gallatin, Tennessee and are married.
2. The Defendant, the Metropolitan Government of Nashville and Davidson County, Tennessee, is a governmental entity operating in Nashville, Davidson County, Tennessee.
3. The cause of action alleged in this Complaint arose in Davidson County, Tennessee.

4. Plaintiff, Michael Foster Abbott, was an employee of the Metropolitan Government of Nashville and Davidson County and worked for 35 years as a police officer before retiring in 2011 as a Police Officer III.

5. Plaintiff, Margaret Jane Abbott, worked for the Metropolitan Government of Nashville and Davidson County Clerk's office for 16 years and then went to work for the Metropolitan Government of Nashville and Davidson County Metropolitan Trustee from 2006 through 2011, as a Deputy Trustee.

6. Defendant had confidential information of both Plaintiffs, including their social security numbers.

7. From 2005, Defendant has used a Human Resources Training Manual containing screenshots of Plaintiffs' names and social security numbers.

8. This training manual was created in 2005 and has been in use since that time. It was provided in print to the employees who were receiving training from Human Resources.

9. This manual containing Plaintiffs' names and social security numbers was posted online on Defendant's intranet site in 2005 and was posted on Defendant's public facing website in December 2012.

10. By two separate letters, dated August 22, 2016, Plaintiffs were notified of the disclosure of their social security numbers. (Attached Hereto as Ex. 1).

11. Defendant was under a duty to make reasonable effort to protect Plaintiffs' social security numbers from disclosure to the public. Defendant's public posting of Plaintiffs social security numbers in the handbook and on-line is a violation of Tenn. Code Ann. §47-18-2101 and §47-18-2110.

12. Tenn. Code Ann. §47-18-2106, provides that any violation of the Tennessee Identity Theft Deterrence Act of 1999, is a violation of the Tennessee Consumer Protection Act, §47-18-101 *et. seq.* Defendant's actions in violating these laws was willful and knowing.

13. Defendant owed a legal duty to Plaintiffs to safely maintain Plaintiffs' personal information. Defendant's actions fell below that standard of care. Plaintiffs were harmed as a result of this breach of care. Defendant's actions are the cause in fact and legal cause of Plaintiffs' injuries.

14. Defendant owed an implied contractual duty to Plaintiffs to safely maintain Plaintiffs' personal confidential information. Defendant's actions breached that contract.

15. Defendant's actions in posting Plaintiffs' names and social security numbers in the handbook and on-line constitutes negligence.

16. Defendant's actions in having the Plaintiffs' names and social security numbers in the handbook and on-line for years constitutes both negligence and gross negligence in violation of §29-20-205.

17. As a direct result of the Defendants' actions, Plaintiffs have been harmed in that their social security numbers were stolen.

18. Defendant has negligently inflicted emotional distress on both Plaintiffs due to fear their personal information has been compromised.

WHEREFORE, PLAINTIFFS PRAY:

1. That Plaintiffs be granted a judgment against the Defendant for \$100,000.00 each for compensatory and other damages suffered by them.
2. All civil penalties and interest allowed under the law.
3. Plaintiffs pray for attorney's fees and costs.

4. Plaintiffs pray for a jury of six to try this cause.
5. Plaintiffs pray for such other further relief as may be necessary or appropriate.

Respectfully Submitted,



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