

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION**

Sandeep Acharya, Samar Basnet,
Brenda Long, John Long, Phi Ngo and
Sunny Thapa,

Court File No. _____

Plaintiffs,

vs.

ARA, Inc. d/b/a Paperless Staffing, Inc.,

Defendant.

COMPLAINT

Plaintiffs Sandeep Acharya (“**Acharya**”), Samar Basnet (“**Basnet**”), Brenda Long (“**B. Long**”), John Long (“**J. Long**”), Phi Ngo (“**Ngo**”) and Sunny Thapa (“**Thapa**”) (collectively referred to as “**Plaintiffs**”), as and for their Complaint against Defendant ARA, Inc. d/b/a Paperless Staffing, Inc. (“**Defendant**”), state and allege as follows:

The Parties

1. Plaintiff Acharya is a natural person residing at 3115 Joyce Court, Eagan, Minnesota 55121.
2. Plaintiff Basnet is a natural person residing at 14102 Autumnwood Way, Rosemount, Minnesota 55068.
3. Plaintiff B. Long is a natural person residing at 2220 Flora Court, Hugo, Minnesota 55038.
4. Plaintiff J. Long is a natural person residing at 2220 Flora Court, Hugo, Minnesota 55038.

5. Plaintiff Ngo is a natural person residing at 8844 Gentle Wind Drive, Corona, California 92883.

6. Plaintiff Thapa is a natural person residing at 14102 Autumnwood Way, Rosemount, Minnesota 55068.

7. Defendant is a Minnesota corporation with its principal place of business at 3140 Neil Armstrong Boulevard, Suite 205, Eagan, Minnesota 55121.

Jurisdiction and Venue

8. This Court has subject matter jurisdiction over Plaintiffs' claims arising under the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.*, pursuant to 28 U.S.C. § 1331, insofar as such claims arise under the laws of the United States.

9. This Court has supplemental subject matter jurisdiction over Plaintiffs' remaining pendant state law claim against Defendant pursuant to 28 U.S.C. § 1367, insofar as this claim is so related to the claim in the action within such original jurisdiction that it forms part of the same case or controversy under Article III of the United States Constitution.

10. Pursuant to 28 U.S.C. § 1391, venue is proper in this District because Defendant resides in this District and many of the events giving rise to the claims in this Complaint occurred in this District.

Factual Allegations

11. Plaintiffs are all former employees of TempWorks Software, Inc., a Minnesota corporation ("**TempWorks**").

12. Each of Plaintiffs' employment with TempWorks ended by September 2008.

13. Upon information and belief, Defendant and TempWorks have common ownership.

14. Defendant procured and obtained credit reports of the Plaintiffs, including:
 - a. Three credit reports of J. Long in March 2009, May 2009, and May 2010;
 - b. One credit report of Ngo in March 2009;
 - c. One credit report of B. Long in March 2009;
 - d. Two credit reports of Archarya in March 2009 and May 2010;
 - e. Two credit reports of Basnet in March 2009 and May 2010; and
 - f. One credit report of Thapa in March 2009.

(collectively, the “**Credit Reports**”).

15. Plaintiffs’ credit histories obtained from TransUnion, a credit reporting firm, reflect Defendant’s procurement of the Credit Reports.

16. In procuring the Credit Reports, Defendant stated that the purpose for procuring each of the Credit Reports was for the purpose of “employment.”

17. Plaintiffs were never employed by and did not seek employment from Defendant at any time or in any capacity.

18. Plaintiffs are currently employed by Avionté, LLC, a Minnesota limited liability company (“**Avionté**”). TempWorks and Avionté are competitors in that each markets a software product to the temporary staffing industry.

19. Upon information and belief, TempWorks shared Plaintiffs’ personal and confidential information, including social security numbers, with Defendant.

20. Upon information and belief, Defendant used the confidential information of Plaintiffs obtained from TempWorks to procure the Credit Reports.

Count I. Violation of the Fair Credit Reporting Act
15 U.S.C. §§ 1681b(b)(2)(A) and 1681b(f)

21. Plaintiffs reallege and reincorporate all of the allegations contained in the preceding paragraphs as though fully set forth herein.

22. A person shall not use or obtain a consumer report for any purpose unless the consumer report is obtained for a purpose for which the consumer report is authorized and the purpose is certified by the prospective user of the report. 15 U.S.C. § 1681b(f).

23. Plaintiffs are individuals and are “consumers” as contemplated by 15 U.S.C. § 1681a(c).

24. Defendant is a corporation and a “person” as contemplated by 15 U.S.C. § 1681a(b).

25. A permissible purpose to obtain a consumer report is for employment purposes. 15 U.S.C. § 1681b(a)(3)(B).

26. A person may not procure a consumer report, or cause a consumer report to be procured, for employment purposes with respect to any consumer, unless a clear and conspicuous disclosure has been made in writing to the consumer at any time before the report is procured or caused to be procured, in a document that consists solely of the disclosure, that a consumer report may be obtained for employment purposes and the consumer has authorized in writing the procurement of the report by that person. 15 U.S.C. § 1681b(b)(2)(A).

27. Defendant caused one or more consumer reports to be generated and obtained one or more consumer reports for each of the Plaintiffs, by procuring the Credit Reports.

28. Plaintiffs were never employed by Defendant, and Defendant did not have an employment purpose for procuring the Credit Reports, as required by 15 U.S.C. § 1681b(a)(3)(B).

29. Defendant did not provide Plaintiffs with a clear and conspicuous disclosure in writing at any time before the Credit Reports were procured or caused to be procured, in a document that consisted solely of the disclosure, that a consumer report may be obtained for employment purposes, as required by 15 U.S.C. § 1681b(b)(2)(A)(i).

30. Plaintiffs did not authorize Defendant in writing to procure the Credit Reports, as required by 15 U.S.C. § 1681b(b)(2)(A)(ii).

31. Plaintiffs did not have a permissible purpose for procuring the Credit Reports pursuant to 15 U.S.C. § 1681b(a).

32. Defendant willfully procured the Credit Reports without a permissible purpose as required by 15 U.S.C. § 1681b(a) and (f). Alternatively, Defendant negligently procured the Credit Reports without a permissible purpose as required by 15 U.S.C. § 1681b(a) and (f).

33. As a result of the aforesaid conduct, Plaintiffs have suffered damages in an amount to be proven with specificity at trial.

34. Plaintiffs are entitled to recover actual damages or liquidated damages, punitive damages, and Plaintiffs' expenses, including reasonable attorneys' fees and costs if Plaintiffs prevail pursuant to 15 U.S.C. §§ 1681n(a) and 1681o(a).

35. The aforesaid conduct, for which there is no complete adequate remedy at law, is irreparable, continuing in nature, and will continue unless properly enjoined.

Count II. Invasion of Privacy and Intrusion Upon Seclusion

36. Plaintiffs reallege and reincorporate all of the allegations contained in the preceding paragraphs as though fully set forth herein.

37. Intrusion upon seclusion occurs when one intrudes physically or otherwise upon the solitude or seclusion of another or his private affairs or concerns if the intrusion would be

highly offensive to a reasonable person. *Lake v. Wal-Mart Stores, Inc.*, 582 N.W.2d 231 (Minn. 1998).

38. Defendant's actions in wrongfully and improperly obtaining the Credit Reports constituted an intrusion upon the seclusion of Plaintiffs that would be highly offensive to a reasonable person.

39. The Credit Reports were the private affairs of Plaintiffs because they contained highly sensitive and private information pertaining to Plaintiffs' credit, debts, and finances.

40. As a result of the aforesaid conduct, Plaintiffs have each suffered damages in an amount in to be proven with specificity at trial.

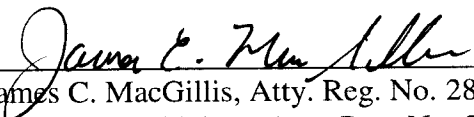
41. The aforesaid conduct, for which there is no complete adequate remedy at law, is irreparable, continuing in nature, and will continue unless properly enjoined.

WHEREFORE, Plaintiffs respectfully request that the Court:

- A. Enter judgment in favor of Plaintiffs and against Defendant in an amount to be proven with specificity at trial;
- B. Award Plaintiffs their costs and disbursements herein, including reasonable attorney's fees, court costs, witness fees, and expenses;
- C. Enjoin Defendant from procuring any future credit reports of Plaintiffs except in compliance with the Fair Credit Reporting Act; and
- D. Award such other and further relief as the Court deems just and equitable.

Dated: February 14, 2011.

TREPANIER & MACGILLIS P.A.

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