

**IN THE CIRCUIT COURT OF THE 9th JUDICIAL CIRCUIT
IN AND FOR ORANGE COUNTY, FLORIDA**

LINDA STEPHENS,)	
)	
Plaintiff,)	
)	Case No.:
v.)	
MIDFLORIDA CREDIT UNION,)	
)	
Defendant.)	

COMPLAINT AND JURY DEMAND

NOW COMES Plaintiff, Linda Stephens, by and through her undersigned attorneys, and for the reasons stated below, sues Defendant MidFlorida Credit Union, and in support thereof, respectfully alleges as follows:

JURISDICTION AND PARTIES

1. This is an action by Plaintiff Linda Stephens (hereinafter “Ms. Stephens”) against Defendant MidFlorida Credit Union (hereinafter “MidFlorida”) for violations of Fla. Stat. §760.08, negligence, intentional infliction of emotional distress, conversion, and fraud.

2. Ms. Stephens is a resident of the State of Florida.

3. MidFlorida is a Credit Union headquartered in and doing business across the state of Florida and may be served by its President and CEO: Steven Moseley, 129 S. Kentucky Avenue, Suite 500, Lakeland, FL 33801.

4. At all material times, MidFlorida’s mailing address was and is 129 S. Kentucky Avenue, Suite 500, Lakeland, FL 33801.

5. At all material times, MidFlorida, including its employees, contractors, and agents, had substantial, and not isolated, contacts with the State of Florida where it owned, operated, managed, maintained, controlled, conducted and/or engaged in or carried on business including

but not limited to operating and managing nearly 65 credit unions offering banking, financial, credit and mortgage services to clients throughout the state of Florida.

6. This Court has both general and specific jurisdiction over MidFlorida because inter alia, the entity conducted substantial business activity within this state, maintained offices, employees, and agents within this state and caused a tortious act within this state,

7. This Court has both general and specific jurisdiction over MidFlorida because

8. MidFlorida has offices for transaction of its customary business across dozens of counties in Florida, including Orange County.

9. Pursuant to Fla. Stat. §47.011, venue is proper against MidFlorida in any county where such corporation has, or usually keeps an office for transaction of its customary business.

10. Venue is proper in Orange County as MidFlorida has or usually keeps an office for transaction of its customary business in this county.

ALLEGATIONS TO ALL COUNTS

11. Plaintiff repeats and realleges the allegations set forth in the foregoing Paragraphs.

12. Ms. Stephens is a 70-year-old African American woman who has been a loyal customer of MidFlorida Credit Union for nearly 50 years. She is a retired educator of Polk County Schools with 30 years' experience as a teacher, assistant principal, and health coordinator. She is a motivational speaker and president of the Polk County Florida Retired Educators Group.

13. Upon information and belief, MidFlorida is a Florida banking institution and a member of the NCUA, which promises equitable treatment of creditors. Within the past few years, MidFlorida has claimed over \$6.05 billion in assets, and currently has more than 1100 employees and 60 branches.¹

14. Upon information and belief, MidFlorida prides itself on its humble beginnings as **Polk County Teachers Credit Union in 1954**. 67 years later, Ms. Stephens, a retired educator of 30 years who served Polk County Schools, was unlawfully denied and deprived of the same equal banking, credit, and/or commercial opportunities as Ms. Stephens' white counterparts, and treated with conscious indifference towards her rights.

15. Around 1:00 am on April 13, 2021, Ms. Stephens drove to a MidFlorida ATM machine located at 105 E Van Fleet Dr. in Bartow, Florida to deposit \$600 in cash. She deposited the funds, and the ATM dispensed a receipt reflecting her \$600 deposit.

16. Ms. Stephens did not see the funds pending or posted on her online account the next morning, so she returned to the branch for help. The teller she spoke to that morning, did not see the deposit pending or posted on her account. He informed Ms. Stephens that the ATM was currently being worked on by a technician as there were ongoing mechanical issues. He informed Ms. Stephens to wait a few hours, return to the MidFlorida location, and fill out a dispute form to move forward in resolving the discrepancy with her money. As instructed, Ms. Stephens returned to the MidFlorida location a few hours later. While there, another employee confirmed that the cash deposit had not been posted to Ms. Stephens' account and instructed her to fill out a dispute form. Ms. Stephens was reassured that within two to three hours the funds would post to her account.

17. Ms. Stephens waited the rest of that day and the next morning, anxiously checking her account, yet her \$600 deposit did not post as promised. In response, Ms. Stephens returned to the MidFlorida location before noon on April 14, 2021. Upon her arrival, the tellers were unable to help Ms. Stephens or inform her of the status of her \$600, so she was shown to an office by a female employee. While in the office, Ms. Stephens explained that she was told by a MidFlorida

employee the prior day that her funds would post within 2-3 hours, yet over 30 hours had passed, and her funds were not even pending on her account.

18. A MidFlorida employee then decide to call and speak to the ATM maintenance man who worked on the machine the day before. The maintenance man confirmed that he indeed found Ms. Stephens' \$600 in the machine. By this time, Ms. Stephens was very distraught and vocally concerned about the status of her \$600 as she was relying on that money to pay her mortgage. The branch manager then came into the office and demanded that Ms. Stephens calm down. Ms. Stephens again pleaded with MidFlorida employees, requesting access to the money she deposited. Instead of assisting her with the transaction, **the branch manager called the police on Ms. Stephens.**

19. Within minutes, a Bartow Police officer arrived on the scene and stood silently behind Ms. Stephens. **After a few moments, another Bartow Police officer rushed into the office with his hand on his gun, stating that he thought somebody on the phone said somebody had a gun. At this point, Ms. Stephens was afraid for her life.** Ms. Stephens told the officers that she just wanted access to her funds which she deposited into the ATM two days prior. Ms. Stephens also explained that she did not have a gun, never owned a gun, and had never even fired a gun. A few moments later, the police officer placed Ms. Stephens under arrest and led her out to his car. She was kept in the hot police car in 90-degree heat for 20 minutes while the officers met outside. While all of this was going on, none of the MidFlorida employees said a word in Ms. Stephens' defense or tried to explain the situation to the police officers.

20. Ms. Stephens was driven to the Bartow Police department. This was the first time she had ever been arrested or been in any trouble whatsoever in her 69 years of life. She was in

fear for her life. Ms. Stephens was dragged out of the police car, thrown onto the pavement, and placed into a 4 x 6-foot holding room.

21. Later that day Ms. Stephens was transported to the Sheriff's department where she was handcuffed again, picked up by four male officers, dragged across the floor, and thrown face-first into a police car as if she was a rag doll. **Ms. Stephens' nose was fractured during this process.** While at the Sheriff's department, Ms. Stephens was stripped naked and transported to the jail annex. What followed was 24 hours of a living hell in which Ms. Stephens spent a night completely nude on a cement floor of a jail annex cell. Humiliated, dehumanized, and exhausted, she was released the next day.

22. On April 16, 2021, a MidFlorida regional manager by the name of Valerie contacted Ms. Stephens to set up a meeting at her residence. Valerie arrived and apologized to Ms. Stephens for the incident that took place on April 14th. She told her that if "they [MidFlorida] had followed through and cleared her funds the day before as they had promised," she never would have been placed under arrest and forced to undergo such severe trauma. Valerie told her that MidFlorida handled the situation incorrectly and gave her a voucher for a mortgage payment for \$300.

23. It has been over a year since Ms. Stephens' heinous treatment by MidFlorida leadership and employees leading to her arrest. During this year she has been diagnosed with PTSD and has been undergoing constant psychiatric and therapy treatment due to the emotional distress and trauma she was forced to undergo.

24. The blatantly discriminatory and negligent practices of MidFlorida, wherein its agents, employees, and/or representatives deliberately denied Plaintiff a fair and race-neutral banking transaction, treated her with flagrant indifference and called the police on her is nothing short of outrageous.

25. The open atmosphere of hostility towards people of color established by MidFlorida created an environment permeated with discriminatory intimidation, ridicule, and insult that was so severe and pervasive that it altered the conditions of Ms. Stephens' personal life.

26. MidFlorida made no secret of its hostility and disdain towards Ms. Stephens, causing her mental anguish and pain, humiliation, embarrassment, outrage, and significant interference with her ability to enjoy the same quality of life and equal treatment under the law as her white counterparts.

COUNT I
Racial Discrimination in Violation of Fla. Stat. §760.08

27. Plaintiff repeats and realleges the allegations set forth in the foregoing Paragraphs.

28. Fla. Stat. §760.08 prohibits discrimination against persons based on race, color, national origin, sex, handicap, familial status from the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation.

29. MidFlorida's treatment of Ms. Stephens as described above is in violation of the rights afforded to her under the Fla. Stat. §760.08.

30. Ms. Stephens is a member of a protected class; in that she is African American and cannot be discriminated against on the basis of her race.

31. By denying her service and calling the police on her, MidFlorida intentionally deprived Ms. Stephens of the same rights as are enjoyed by white citizens to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation, namely the MidFlorida Credit Union branch.

32. Upon information and belief, MidFlorida employees and agents have never called the police on a similarly situated female Caucasian client asking for her funds to be returned after an ATM malfunction.

33. Upon information and belief, MidFlorida employees and agents have never made false promises to, and refused to return a similarly situated female Caucasian client's funds after an ATM malfunction.

34. The actions of MidFlorida, by its agents, employees and representatives, were willful, intentional, in deliberate disregard of, and with reckless indifference to the rights and sensibilities of Ms. Stephens.

35. As a direct and proximate result of those actions, the terms, conditions, and privileges of Ms. Stephens were adversely affected, and she was unlawfully harassed and disrespected solely because of the color of her skin.

36. As a direct and proximate result of MidFlorida's wrongful acts, Ms. Stephens sustained injuries and damages including, but not limited to, pain, suffering, outrage and humiliation, mental anguish, anxiety about her future, physical and emotional distress, loss of professional reputation, and loss of the ordinary pleasures of everyday life.

COUNT II

Intentional Infliction of Emotional Distress

37. Plaintiff repeats, realleges, and incorporates all other paragraphs of this complaint as if fully set forth herein.

38. MidFlorida's employees and agents intentionally inflicted emotional distress upon Ms. Stephens when engaging in the above-described actions and inactions, and knew that there was a high probability that such conduct would result in such distress.

39. MidFlorida is vicariously liable for the negligence and otherwise tortious conduct of MidFlorida's agents, servants, employees, apparent agents and/or contractors occurring in the scope of their employment or relationship.

40. MidFlorida's employees and agents outrageous conduct, namely denying Ms. Stephens her property and placing her life in danger by calling the police on her, caused Ms. Stephens to suffer severe emotional distress that no reasonable person could be expected to endure.

41. The aforementioned acts by MidFlorida were the direct, proximate, and legal cause of Ms. Stephens injuries herein alleged. Ms. Stephens' injuries include, but are not limited to, pain, suffering, outrage and humiliation, mental anguish, anxiety about her future, physical and emotional distress, diagnosis of post-traumatic stress disorder, loss of professional reputation, and loss of the ordinary pleasures of everyday life.

COUNT III
Negligence

42. Plaintiff repeats, realleges, and incorporates all other paragraphs of this complaint as if fully set forth herein.

43. Ms. Stephens, as an existing customer inside the MidFlorida branch, was owed a duty of care by MidFlorida employees to act as reasonable similarly situated bank employees would act under the same circumstances.

44. MidFlorida is vicariously liable for the negligence and otherwise tortious conduct of MidFlorida's agents, servants, employees, apparent agents and/or contractors occurring in the scope of their employment or relationship.

45. MidFlorida, by and through their employees, agents, and apparent agents, breached its duty to Ms. Stephens by engaging in the following acts or omissions:

- a. Failing to maintain ATM machines in a functional manner for its customers, including Ms. Stephens, even though they knew or should have known that said machines had been malfunctioning for an unreasonable amount of time;
- b. Calling the police on a 70-year-old woman, Ms. Stephens, when she posed no threat to anybody and was sitting in a chair in a closed office having a conversation with a MidFlorida employee;
- c. Failing to have policies in place to swiftly rectify situations involving malfunctioning ATM machines;
- d. Failing to follow policies in place to swiftly rectify situations involving malfunctioning ATM machines;
- e. Failing to train its employees and agents to cordially work with clients instead of calling the police on them;
- f. Failing to train its employees and agents not to have racially discriminatory biases and to be comfortable working with clients of all races;
- g. Making false promises to Ms. Stephens that her cash deposit would post to her account in “2-3” hours on April 13;
- h. Failing to either credit Ms. Stephens’ account or simply give her the \$600 cash which she deposited into their machine when she asked for it.

The aforementioned acts and omissions by MidFlorida were the direct, proximate, and legal cause of Ms. Stephens injuries herein alleged. Ms. Stephens’ injuries include, but are not limited to, pain, suffering, outrage and humiliation, mental anguish, anxiety about her future, physical and emotional distress, loss of professional reputation, and loss of the ordinary pleasures of everyday life.

COUNT IV
Conversion

46. Plaintiff repeats, realleges, and incorporates all other paragraphs of this complaint as if fully set forth herein.

47. Ms. Stephens had an immediate possessory right to the \$600 which she attempted to deposit into her bank account.

48. Ms. Stephens was deprived of that \$600 when the amount didn't post to her account, and she requested that it be returned to her.

49. MidFlorida is vicariously liable for the negligence and otherwise tortious conduct of MidFlorida's agents, servants, employees, apparent agents and/or contractors occurring in the scope of their employment or relationship.

50. MidFlorida employees and agents refused to return the \$600 to Ms. Stephens, going as far as calling the police on her to be escorted off the premises.

51. The aforementioned acts by MidFlorida were the direct, proximate, and legal cause of Ms. Stephens' injuries herein alleged. Ms. Stephens' injuries include, but are not limited to, pain, suffering, outrage and humiliation, mental anguish, anxiety about her future, physical and emotional distress, loss of professional reputation, and loss of the ordinary pleasures of everyday life.

COUNT V
Fraud

52. Plaintiff repeats, realleges, and incorporates all other paragraphs of this complaint as if fully set forth herein.

53. MidFlorida is vicariously liable for the negligence and otherwise tortious conduct of MidFlorida's agents, servants, employees, apparent agents and/or contractors occurring in the scope of their employment or relationship.

54. As described above, MidFlorida employees or agents made various false statements and promises to Ms. Stephens regarding returning her money.

55. MidFlorida's employees or agents knew or should have known that their statements were in fact false.

56. MidFlorida's employees or agents intended that their false statements would induce Ms. Stephens to act on them and that she would leave the premises.

57. The aforementioned acts by MidFlorida were the direct, proximate, and legal cause of Ms. Stephens injuries herein alleged. Ms. Stephens' injuries include, but are not limited to, pain, suffering, outrage and humiliation, mental anguish, anxiety about her future, physical and emotional distress, loss of professional reputation, and loss of the ordinary pleasures of everyday life.

WHEREFORE, Plaintiff, Linda Stephens, prays for judgment against Defendant, MidFlorida Credit Union, as follows:

- a. Judgement against MidFlorida Credit Union for compensatory, economic, and noneconomic damages in whatever amount Plaintiff is found to be entitled;
- b. Exemplary damages, based on oppression and malice, according to Defendant's net worth;
- c. An award of interest, costs, attorney's fees, and expert witness fees; and
- d. For such other and further relief as the court deems just and proper.

JURY DEMAND

Plaintiff hereby demands a trial by jury of all the issues in this cause.

Dated this 1st day February 2023.

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² The Hilliard Martinez Gonzales LLP law firm is not a Florida law firm and its attorneys Robert C. Hilliard, Rudy Gonzales, John Martinez, and Jakub Banaszak are not members of the Florida bar licensed to practice law in Florida. Upon filing the complaint in this case Mr. Hilliard, Mr. Gonzales, Mr. Martinez, and Mr. Banaszak will seek admittance to practice law in Florida through the appropriate pro hac vice procedures.