

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO.: 3:10-cv-28**

SHAWN SMITH,

)
)
) **Plaintiff,**)
)

v.)

) **DEFENDANTS'**
) **NOTICE OF REMOVAL**
)

**WAVERLY PARTNERS, LLC, and
VANELLA, INC. d/b/a VANELLA
BACKGROUND INVESTIATIONS,**

)
)
)
)
) **Defendants.**)

Defendants WAVERLY PARTNERS, LLC and ALLIEDBARTON SECURITY SERVICES LLC d/b/a HRPLUS (incorrectly identified in Plaintiff's Complaint and Plaintiff's Amended Complaint as "VanElla, Inc. d/b/a VanElla Background Investigations"), by their attorneys and pursuant to 28 U.S.C. §§ 1441 and 1446, file this Notice of Removal of case No. 09-CVS-29323, which was filed in the General Court of Justice, Superior Court Division, Mecklenburg County, North Carolina. In support of their Notice of Removal, Defendants state as follows:

1. On or about December 23, 2009, Plaintiff filed her Complaint in the General Court of Justice, Superior Court Division, Mecklenburg County, North Carolina, titled Shawn Smith v. Waverly Partners, LLC, and VanElla, Inc. d/b/a VanElla Background Investigations, case No. 09-CVS-29323. Plaintiff alleges that Defendants violated the Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq. ("FCRA"). (Compl. ¶¶ 48-53.) Plaintiff also asserts claims for invasion of privacy and detrimental reliance under North Carolina law. (Compl. ¶¶ 38-47, 54-59.) On or about January 6, 2010, Plaintiff filed her First Amended Complaint ("Amended Complaint").

2. Defendant AlliedBarton Security Services LLC d/b/a HRPlus was served with Summons and a copy of Plaintiff's Complaint on or about December 24, 2009. Defendant Waverly Partners, LLC was served with Summons and a copy of Plaintiff's Complaint on December 29, 2009. Defendant AlliedBarton Security Services LLC d/b/a HRPlus was served with a copy of Plaintiff's Amended Complaint on January 8, 2010. Defendant Waverly Partners, LLC was served with a copy of Plaintiff's Amended Complaint on January 7, 2010. Copies of the Summons, Plaintiff's Complaint, Amended Complaint, and all other process, pleadings and orders served on Defendants are attached hereto as Exhibit A.

3. This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1331 because Plaintiff's FCRA claims arise under the Constitution, laws or treaties of the United States. Accordingly, this action is removable to this Court pursuant to 28 U.S.C. § 1441(b).

4. This Court also may exercise supplemental jurisdiction over Plaintiff's state law claims pursuant to 28 U.S.C. § 1367 because those claims arise out of the same set of facts as Plaintiff's FCRA claims.

5. Because this action is pending in the General Court of Justice, Superior Court Division, Mecklenburg County, North Carolina, venue for purposes of removal is proper in this Court pursuant to 28 U.S.C. § 1441(a).

6. This Notice of Removal is timely pursuant to 28 U.S.C. § 1446(b) as it is being filed within thirty (30) days after the first receipt of the Complaint by any defendant.

7. Prompt written notice of this Notice of Removal is being sent to Plaintiff through her counsel, and to the Clerk of Court for the General Court of Justice, Superior Court Division, Mecklenburg County, North Carolina, as required by 28 U.S.C. § 1446(d). A copy of the Notice is attached hereto as Exhibit B.

8. The undersigned has read this Notice of Removal, and to the best of the undersigned's knowledge, information, and belief, formed after reasonable inquiry, certify that

Defendants' factual allegations have evidentiary support and their legal contentions are warranted by existing law. The undersigned also certify that this Notice of Removal is not interposed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.

s/ David L. Levy
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CERTIFICATE OF SERVICE

I certify that on January 25, 2010, I served a true and correct copy of DEFENDANTS'

NOTICE OF REMOVAL by the United States Postal System to the following counsel of record:

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