

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
TENNESSEE

Darrell Robertson v. Dennis Lanni, et al.

No. 3:24-cv-00919 (M.D. Tenn. 2026) · No. 3:24-cv-00919 · Decided March 4, 2026

SUMMARY

The court denies Defendants J. Phillip Jones and Jessica Binkley’s motion to dismiss the Fair Debt Collection Practices Act claim asserted against them in Darrell Robertson’s Second Amended Complaint. The opinion addresses whether Tennessee Code Annotated § 35-5-116(f) provides a defense at the motion-to-dismiss stage and whether the complaint plausibly alleges that the defendants qualify as debt collectors under the FDCPA. The action concerns attempted collection and threatened nonjudicial foreclosure involving residential real property in Nashville, Tennessee.

CASE DETAILS

COURT	United States District Court for the Middle District of Tennessee
WRITING FOR THE COURT	Eli J. Richardson
JURISDICTION	United States District Court for the Middle District of Tennessee
DECIDED	March 4, 2026
DOCKET	3:24-cv-00919
DISPOSITION	other
PROCEDURAL POSTURE	Defendants J. Phillip Jones and Jessica Binkley, doing business as The Law Office of J. Phillip Jones, moved under Federal Rule of Civil Procedure 12(b)(6) to dismiss the Fair Debt Collection Practices Act claim asserted against them in Plaintiff's Second Amended Complaint.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court accepts well-pleaded factual allegations as true, disregards conclusory legal assertions, and determines whether the complaint states a plausible claim for relief. Dismissal based on an affirmative defense is proper only when the defense is apparent on the face of the complaint and the allegations affirmatively trigger it.
PRECEDENTIAL VALUE	unpublished district court memorandum opinion; persuasive authority only

TOPICS

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QUESTIONS PRESENTED

1. Whether Tennessee Code Annotated section 35-5-116(f) required dismissal of Robertson's FDCPA claim against the Trustees based on an asserted good-faith-reliance protection.
2. Whether Robertson plausibly alleged that the Trustees were debt collectors under the FDCPA's provision applicable to persons whose business principally concerns enforcement of security interests.
3. Whether the court needed to decide whether the FDCPA preempted Tennessee Code Annotated section 35-5-116(f).

HOLDINGS

1. Section 35-5-116(f) did not warrant dismissal because the Second Amended Complaint did not affirmatively trigger the statute's potential good-faith-reliance defense, and a plaintiff generally need not anticipate or negate an affirmative defense in the complaint.
2. The Second Amended Complaint plausibly alleged that the Trustees were debt collectors under 15 U.S.C. § 1692a(6) because they allegedly used the mails or the internet in a business whose principal purpose was enforcement of security interests through nonjudicial foreclosure.
3. The court declined to decide whether the FDCPA preempts Tennessee Code Annotated section 35-5-116(f) because the preemption issue was unnecessary to resolve the motion to dismiss.

KEY QUOTATIONS

“a “plaintiff typically does not have to anticipate or negate an affirmative defense to survive a motion to dismiss.””

“Plaintiff thereby has set forth factual allegations plausibly alleging that the Trustees were “debt collectors” under the FDCPA, and so the SAC will not be dismissed as to the Trustees based on the argument that Plaintiff has failed to do so.”

FACTUAL BACKGROUND

Robertson obtained a second mortgage loan secured by a deed of trust on his Nashville property and later received a Chapter 7 discharge after falling behind on payments. In 2023, entities claiming interests in the loan and deed of trust sent him payment demands, loan-modification proposals, and notices threatening foreclosure. The Trustees, Tennessee attorneys associated with The Law Office of J. Phillip Jones, sent a debt-collection and acceleration notice, later acted as substitute trustees, and scheduled a nonjudicial foreclosure sale. Robertson alleged that the Trustees violated the FDCPA by threatening nonjudicial dispossession despite lacking a present right to possession through an enforceable security interest.

PROCEDURAL HISTORY

Robertson filed this federal action concerning a disputed second mortgage and threatened nonjudicial foreclosure. The state court had previously granted him a temporary restraining order and temporary injunction concerning the foreclosure. The Trustees moved to dismiss Count VII of the Second Amended Complaint, and the court denied the motion in its entirety.

DISPOSITION

other

CASES CITED

- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Fritz v. Charter Twp. of Comstock, 592 F.3d 718, 722 (6th Cir. 2010)
- Abriq v. Hall, 295 F. Supp. 3d 874, 877 (M.D. Tenn. 2018)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544 (2007)
- Total Benefits Plan. Agency, Inc. v. Anthem Blue Cross and Blue Shield, 552 F.3d 430, 433-34 (6th Cir. 2008)
- Willman v. Att’y Gen. of United States, 972 F.3d 819, 822 (6th Cir. 2020)
- Coley v. Lucas Cnty., 799 F.3d 530, 537 (6th Cir. 2015)
- Morrow v. TransUnion LLC, 730 F. Supp. 3d 671, 675 (E.D. Mich. 2024)
- Wallace v. Washington Mut. Bank, F.A., 683 F.3d 323, 326 (6th Cir. 2012)
- Carpenter v. Monroe Fin. Recovery Grp., LLC, 119 F. Supp. 3d 623, 629 (E.D. Mich. 2015)
- Malone v. Cavalry Portfolio Servs., LLC, No. 3:14-CV-00428-CRS, 2015 WL 7571881, at *3 (W.D. Ky. Nov. 24, 2015)
- Ford Motor Co. v. Transport Indem. Co., 795 F.2d 538, 546 (6th Cir. 1986)
- Hannan v. Alltel Publishing Co., 270 S.W.3d 1, 6 (Tenn. 2008)
- Pugh v. Norman, No. 3:16-CV-02075, 2017 WL 712751, at *6 (M.D. Tenn. Feb. 23, 2017)
- Craddock v. Hennessee, No. 1:09-CV-14, 2010 WL 1138300, at *1 (E.D. Tenn. Mar. 18, 2010)
- Memphis, Tenn. Area Loc., Am. Postal Workers Union, AFL-CIO v. City of Memphis, 361 F.3d 898, 902 (6th Cir. 2004)
- Riverview Health Inst. LLC v. Med. Mut. of Ohio, 601 F.3d 505, 512 (6th Cir. 2010)
- Tennessee State Conf. of NAACP v. Lee, 746 F. Supp. 3d 473, 507 (M.D. Tenn. 2024)
- Torres v. Precision Indus., Inc., 938 F.3d 752, 755 (6th Cir. 2019)
- Obduskey v. McCarthy & Holthus LLP, 586 U.S. 466, 477 (2019)
- Bates v. Green Farms Condo. Ass’n, 958 F.3d 470, 481 (6th Cir. 2020)
- Thomas v. U.S. Bank Nat’l Ass’n, 675 F. App’x 892, 898 (11th Cir. 2017)
- Deplae v. Reg’l Acceptance Corp., No. 3:09-cv-227, 2010 WL 2270785, at *3 (E.D. Tenn. June 3, 2010)
- Ford Motor Co. v. Heritage Mgmt. Grp., Inc., 911 F. Supp. 2d 616, 622 (E.D. Tenn. 2020)

- United States v. Clark, 24 F.4th 565, 573 (6th Cir. 2022)
- Verified Nutrition, LLC v. Sclar, No. 2:17-CV-07499-ODW-RAO, 2017 WL 4785948, at *3 (C.D. Cal. Oct. 23, 2017)
- TraffixSchool.com, Inc. v. Edriver Inc., 653 F.3d 820, 829 n.3 (9th Cir. 2011)
- Warner v. Univ. of Toledo, 27 F.4th 461, 466 (6th Cir. 2022)
- Directv, Inc. v. Treesh, 487 F.3d 471, 476 (6th Cir. 2007)

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