

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA CIVIL DIVISION

ANDREA S. PATERSON,)	
c/o Cuneo Gilbert & LaDuca, LLP)	
4725 Wisconsin Avenue, NW, Suite 200)	
Washington, DC 20016)	
)	
Plaintiff,)	
v.)	
)	No. ____
BANK OF AMERICA, N.A.)	
100 N. Tryon Street)	
Charlotte, NC 28255,)	
)	
Defendant.)	
)	
)	

COMPLAINT FOR DAMAGES AND EQUITABLE RELIEF

INTRODUCTION

1. This case involves a bureaucratic nightmare that has victimized an entire family since August 2020. Bank of America made two mysterious mistakes with respect to benefits paid to a minor child by the Social Security Administration (“SSA”), from the child’s late father. The family’s mother has been unable to correct these mistakes due to the Bank’s insensitive bureaucracy. To date, the Bank has faced no consequences and has acted in a manner that is cynically indifferent to its customers.

2. The defendant Bank of America, N.A. (“the Bank” or “Defendant”) refused to process SSA payments to Ms. Andrea Paterson’s (“Ms. Paterson” or “Plaintiff”) minor child, sent SSA erroneous information about Ms. Paterson’s family that caused SSA to stop paying benefits to the minor child, and then repeatedly, inexplicably and consistently refused to assist Ms. Paterson in her efforts to fix the damage from its errors.

3. To date, in just over three months, the Bank's errors have caused Ms. Paterson's minor son to miss \$7000 in SSA payments. Based upon the last three months, Ms. Paterson also anticipates that her son will not receive his SSA payment in December due to the Bank's errors, bringing the total missed payments to just under \$10,000.

4. Ms. Paterson alleges breach of contract, defamation, invasion of privacy, and violations of the District of Columbia's Consumer Protection Procedures Act (the "CPPA"). Ms. Paterson seeks compensatory damages, punitive damages pursuant to the CPPA, as well as injunctive relief commanding defendant to assist in undoing the damage it has caused.

THE PARTIES

5. The Plaintiff is Ms. Andrea S. Paterson, a resident of the District of Columbia. Ms. Paterson is the mother of two children. One of these children has reached majority. But Ms. Paterson still has a minor child entitled to SSA benefits from his late father.

6. The Defendant is Bank of America, N.A. It is a very large bank with offices across the country. The Bank maintains offices in the District of Columbia. Ms. Paterson transacted business with a branch of the Bank located within the District of Columbia.

JURISDICTION OF THE COURT

7. Jurisdiction of the Court is based on D.C. Code § 11-921.

8. Ms. Paterson's damages (including any element of enhanced damages, such as trebled or punitive damages that might be awarded) are less than \$75,000.

STATEMENT OF FACTS

9. Ms. Paterson's husband died in September 2017.

10. In the fall of 2017, the SSA determined that both children were entitled to SSA benefits from their late father. While these benefits for her older son terminated in June 2018, Ms.

Paterson continued to receive those benefits in a representational capacity on behalf of her minor son.

11. The Bank boasts that it is “guided by a common purpose,” which it describes as “to help make financial lives better by connecting those [it] serve[s] with the resources they need to be successful.” The Bank further claims that its “purpose and values form the foundation of [its] culture — a culture that is rooted in accountability, disciplined risk management, and delivering together as a team to better serve [its] clients” and “strengthen [its] communities...”

12. The Bank represents that, to “make financial lives better” and deliver on its “common purpose,” it will, among other things, follow the following directives:

Deliver together

We believe in the importance of *treating each client and teammate as an individual and treating every moment as one that matters*. We strive to go the distance to deliver, *with discipline and passion*. We believe everything we do for clients, employees and the communities we serve is built on a solid foundation that delivers for shareholders.

Act responsibly

We believe that integrity and the disciplined management of risk form the foundation of our business. We are aware that our decisions and actions affect people’s lives every day. *We strive for decisions that are clear, fair, and grounded in the principles of shared success*, responsible citizenship, and community building. (emphasis added)

13. Relying on Bank of America’s corporate image advertising as well as its assurances of responsibility, such as those passages cited above, Ms. Paterson opened a fiduciary account in 2018 at Bank of America for the purpose of receiving SSA payments for her minor son from his late father. Their household relies on these funds each month to help support the members of Ms. Paterson’s family.

14. In the fall of 2018, Ms. Paterson conducted at least one in-person meeting with the Bank representatives to establish an electronic payment account for receiving the Social Security

benefits on behalf of her minor child. Without question, the Bank was aware that Ms. Paterson's husband had passed away and that her minor son was alive and entitled to benefits.

15. The Bank's account statements include the name of the minor child and thus reflect the fiduciary role the Bank undertook with respect to Ms. Paterson and her minor child.

16. When Ms. Paterson established the account for her minor child, the Bank gave her an Automated Clearing House ("ACH") form to submit to the SSA, which included routing and account information, as well as a voided check, solely in Ms. Paterson's name.

17. From November 2018 to July 2020, SSA deposited funds into this minor child's bank account on the fourth Wednesday of every month, always indicating that they were provided to Ms. Paterson in a representational capacity for her son.

18. In August 2020, Ms. Paterson contacted the Bank for an additional set of checks. The Bank had previously provided such checks in her name, given that her husband had passed away. Nonetheless, the Bank representative expressed surprise at learning that Ms. Paterson's husband was deceased, which made no sense to Ms. Paterson, given everything set forth above.

19. In the same time frame, merchants began declining all debit card transactions from Ms. Paterson's minor child.

20. Around the same time, for reasons unknown, the Bank sent Ms. Paterson a letter asking her to provide information on the death of her minor child, including his death certificate.

21. On Monday and Tuesday, August 24 and 25, 2020, Ms. Paterson conducted multiple calls with the Bank to correct the Bank's erroneous belief that her minor child was deceased. Eventually, it became clear that the Bank would not correct this error until they spoke directly with her minor child. Ms. Paterson resisted this suggestion to protect her minor child, but the Bank representative said that it had questions only her minor child could answer. Ms. Paterson overheard her son's side of this phone conversation with the Bank, which conveyed only the most

general information, such as his date of birth and social security number, all of which the Bank already had.

22. On August 26, 2020, the Bank formally refused the SSA benefit payment to Ms. Paterson's minor child and, upon information and belief, that day notified the SSA that this child was deceased. Also on August 26, 2020, Ms. Paterson confirmed with the SSA that the payment had been refused and returned to the U.S. Treasury.

23. On the afternoon of this day, a representative of the Bank's Estates Department insisted that the Bank could provide nothing for Ms. Paterson to submit to the SSA other than a letter, sent by regular mail within seven to ten business days, stating that the Bank had "inadvertently suspended" SSA payments to Ms. Paterson's minor son. Ms. Paterson received this letter shortly thereafter, which took no responsibility for any Bank error.

24. Upon information and belief, over the next two weeks, the Bank refused repeated attempts by the SSA to repost the declined benefit payment.

25. On September 8, 2020, Ms. Paterson spent two hours at her local Bank branch in an attempt to have a Bank representative call SSA in her presence to correct the Bank's error. The bank manager, when she arrived, insisted that he had much better things to do with his time than wait on hold with her with the SSA. Ms. Paterson persisted, and called the SSA herself in the middle of the Bank lobby packed with people. When she reached the SSA, and it became clear that she would have to submit a formal appeal to that agency, this same branch manager insisted he could provide her no further documentation than the letter described in paragraph 23 above.

26. On September 14, 2020, Ms. Paterson contacted the local Washington, D.C. office of the SSA and faxed, at its request, extensive documentation that would help establish that her minor child was alive.

27. Upon information and belief, around this same time, the Bank falsely notified the SSA that Ms. Paterson's late husband was alive.

28. While Ms. Paterson's minor child received his September SSA payment to his representational bank account, the August payment was still missing and remains missing to this day.

29. On September 26, 2020, Ms. Paterson received a letter from SSA formally terminating all of her minor child's benefits on the grounds that his father was alive.

30. On October 9, 2020, Ms. Paterson was diagnosed with leukemia, putting her in one of the highest-risk categories for COVID-19. Ms. Paterson needed to deal with her serious medical condition and did not have the time to immediately appeal the decision of the SSA to terminate her minor child's SSA benefits.

31. On October 28, 2020, her minor child's SSA payment was not posted to his representational bank account. Ms. Paterson immediately notified the same Bank manager with whom she had met in September, forwarded him a copy of the benefits termination letter, and requested his help. She stressed that she had just received a devastating medical diagnosis and simply wanted to solve the SSA problem.

32. At the Bank's insistence, Ms. Paterson agreed to come on November 2, 2020 to meet with a Bank representative at her local branch to straighten out the mistake with the SSA by calling the SSA together with the Bank's representative. When Ms. Paterson went to the bank on November 2, 2020 for the meeting, the Bank representative was not there. Ms. Paterson put her health at risk by going to the Bank in person during the pandemic. While at the Bank, the Bank manager told Ms. Paterson that the Bank did not know that her husband had died. At that point, Ms. Paterson gave the manager her husband's death certificate.

33. By the afternoon of November 2, once again, the Bank knew that Ms. Paterson's minor son was alive and it had a certified copy of Ms. Paterson's husband's death certificate, although, as noted earlier, all of Ms. Paterson's prior dealings with the Bank, regarding her minor son's representational account, were premised on these facts.

34. On November 3, 2020, Ms. Paterson requested the Bank write a letter explaining its errors that Ms. Paterson could file with her SSA appeal. Ms. Paterson also requested a short-term loan from the bank to cover the two missed SSA payments. Without a loan, there would be insufficient funds for a number of automatic payments that process from Ms. Paterson's checking account at the beginning of the month, including her mortgage payment.

35. Late on November 6, the Bank formally denied Ms. Paterson's requests for a letter or a short-term loan.

36. On November 25, Ms. Paterson's minor child did not receive his SSA payment to his representational bank account, making it the third missing payment due to the misinformation the Bank gave to SSA.

37. On November 30, the Bank's resolution specialist provided Ms. Paterson with a non-functioning email address to which she should forward any further correspondence. Ms. Paterson was able ultimately to determine the correct email address and forwarded a letter to this Bank employee, demanding repayment of the missed SSA benefits and requesting that any further communications from the Bank be in writing.

38. On December 10, Ms. Paterson was required, by the SSA, to come in person, with her minor child, to the local DC office. While there, she had to sign an affidavit concerning the Bank's erroneous communications with the SSA, the wrongful termination of her son's benefits, and the fact that her minor child was alive. She also had to provide, once again, documentation that would attest to the fact that her minor son was alive, even though he was sitting right there.

The SSA representative informed Ms. Paterson that it could take up to 30 days for that agency to take any corrective action.

39. On December 15, the Bank's claims resolution specialist requested that Ms. Paterson, along with her minor child, go to a physical Bank location to fill out a form. Given the risks to her own personal health, as well as the cumulative psychic harm to her minor child, from going to a physical Bank location, Ms. Paterson asked for this Bank form to be emailed to her. She has never heard back from the Bank.

40. On December 21, in an email communication to Ms. Paterson, the Bank's claims resolution specialist admitted that the erroneous information communicated to the SSA was a "bank caused error." Nonetheless, the Bank instructed Ms. Paterson to have her minor son legally certify to the fact that he was alive by completing and having notarized a Bank form attached to the email. The form stated that Bank of America was to be held harmless for any harm resulting from the "erroneous reporting." After frontally admitting fault in writing, the Bank tried to coerce a release from Ms. Paterson without consideration. This offer is not acceptable to Ms. Paterson and is violative of public policy.

41. Ms. Paterson's minor child did not receive his rightful SSA benefit payment on December 23, bringing the total of his missed payments to nearly \$10,000.

CAUSES OF ACTION
FIRST CAUSE OF ACTION -- BREACH OF CONTRACT

42. Plaintiff incorporates by reference Paragraphs 1 through 41 of the Complaint.

43. Plaintiff entered into a contract with the Defendant to process -- receive and distribute -- Social Security payments for her minor son. She entered into a written contractual relationship.

44. The Defendant breached its contractual obligations and caused her damages.

SECOND CAUSE OF ACTION – BREACH OF THE IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING

45. Plaintiff incorporates by reference Paragraphs 1 through 41 of the Complaint.

46. The Defendant frustrated the purposes of the contract and the deposit relationship by refusing to process Social Security benefits on behalf of Plaintiff’s minor son.

47. The Defendant therefore breached the implied covenant of good faith and fair dealing

THIRD CAUSE OF ACTION – DEFAMATION

48. Plaintiff incorporates by reference Paragraphs 1 through 41 of the Complaint.

49. By informing the Social Security Administration that Plaintiff’s husband was alive and their child was dead, the Defendant defamed her character by suggesting that she was engaging in fraud on the Social Security Administration.

50. The Defendant’s conduct is a *malum in se*.

FOURTH CAUSE OF ACTION - INVASION OF PRIVACY

51. Plaintiff incorporates by reference Paragraphs 1 through 41 of the Complaint.

52. The Defendant breached the privacy of the Plaintiff’s home and family life by insisting that the Defendant be able to communicate directly with her minor son to confirm that he was alive, invaded the privacy of the Plaintiff’s household and caused her damage.

FIFTH CAUSE OF ACTION – BREACH OF FIDUCIARY DUTY

53. Plaintiff incorporates by reference Paragraphs 1 through 41 of the Complaint.

54. By opening an account for the benefit of the minor child to process Social Security benefits, the Defendant undertook a fiduciary relationship with the Plaintiff

55. The Defendant violated its duty of care with respect to the Plaintiff.

SIXTH CAUSE OF ACTION – VIOLATION OF DISTRICT OF COLUMBIA CONSUMER PROTECTION PROCEDURES ACT, D.C. CODE §§ 28-3901, et seq.

56. Plaintiff incorporates by reference Paragraphs 1 through 41 of the Complaint.

57. Defendant violated the CPPA by (a) representing that its services have characteristics and/or benefits that they do not have; and (b) making misrepresentations as to material facts that have a tendency to mislead. Defendant misrepresented, among other things, that it was accountable and disciplined, and that it “*treat[s] each client as an individual and treat[s] every moment as one that matters,*” when, in fact, it has little interest in providing *any* customer service to smaller clients and routinely brushes them off.

58. As a result of Defendants’ violations of the CPPA, Plaintiff has been damaged.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that the Court enter judgment on her behalf by adjudging and decreeing that:

1. Plaintiff recover damages as provided by law as determined to have been sustained by her in an amount to be trebled in accordance with the CPPA and that judgment be entered against the Defendant on behalf of the Plaintiff.
2. Plaintiff recover her cost of suit, including reasonable attorneys’ fees, costs and expenses of the law suit as provided by law.
3. The Defendant be permanently enjoined and restrained from continuing and maintaining its tortious conduct.
4. Plaintiff be awarded prejudgment and post judgment interest and that interest be awarded the highest legal rate.
5. Plaintiff is entitled to equitable relief appropriate to remedy Defendant’s past and ongoing misdeeds including an injunction; and
6. For all other and further relief as is just under the circumstances.

DEMAND FOR JURY TRIAL

Plaintiff demands a jury trial pursuant to Super. Ct. R. 38(b). Plaintiff demands a jury trial of all claims asserted in this Complaint triable by a jury.

Dated: December 23, 2020



Jonathan W. Cuneo, D.C. Bar No. 939389
Monica Miller, D.C. Bar No. 442857
CUNEO GILBERT & LaDUCA, LLP
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Washington, DC 20016
202-789-3960

Attorneys for Plaintiff

Superior Court of the District of Columbia

CIVIL DIVISION- CIVIL ACTIONS BRANCH INFORMATION SHEET

ANDREA S. PATERSON _____

Case Number: _____

vs

Date: December 23, 2020

BANK OF AMERICA, N.A.

One of the defendants is being sued
in their official capacity.

Name: <i>(Please Print)</i> Jonathan W. Cuneo	Relationship to Lawsuit
Firm Name: Cuneo Gilbert & LaDuca, LLP	<input checked="" type="checkbox"/> Attorney for Plaintiff
Telephone No.: 202-789-3960	<input type="checkbox"/> Self (Pro Se)
Six digit Unified Bar No.: 939389	<input type="checkbox"/> Other: _____

TYPE OF CASE: Non-Jury 6 Person Jury 12 Person Jury
Demand: \$ To be determined Other: _____

PENDING CASE(S) RELATED TO THE ACTION BEING FILED

Case No.: _____ Judge: _____ Calendar #: _____

Case No.: _____ Judge: _____ Calendar#: _____

NATURE OF SUIT: *(Check One Box Only)*

A. CONTRACTS

COLLECTION CASES

- | | | |
|---|--|---|
| <input checked="" type="checkbox"/> 01 Breach of Contract | <input type="checkbox"/> 14 Under \$25,000 Pltf. Grants Consent | <input type="checkbox"/> 16 Under \$25,000 Consent Denied |
| <input type="checkbox"/> 02 Breach of Warranty | <input type="checkbox"/> 17 OVER \$25,000 Pltf. Grants Consent | <input type="checkbox"/> 18 OVER \$25,000 Consent Denied |
| <input type="checkbox"/> 06 Negotiable Instrument | <input type="checkbox"/> 27 Insurance/Subrogation | <input type="checkbox"/> 26 Insurance/Subrogation |
| <input type="checkbox"/> 07 Personal Property | Over \$25,000 Pltf. Grants Consent | Over \$25,000 Consent Denied |
| <input type="checkbox"/> 13 Employment Discrimination | <input type="checkbox"/> 07 Insurance/Subrogation | <input type="checkbox"/> 34 Insurance/Subrogation |
| <input type="checkbox"/> 15 Special Education Fees | Under \$25,000 Pltf. Grants Consent | Under \$25,000 Consent Denied |
| | <input type="checkbox"/> 28 Motion to Confirm Arbitration
Award (Collection Cases Only) | |

B. PROPERTY TORTS

- | | | |
|---|---|--------------------------------------|
| <input type="checkbox"/> 01 Automobile | <input type="checkbox"/> 03 Destruction of Private Property | <input type="checkbox"/> 05 Trespass |
| <input type="checkbox"/> 02 Conversion | <input type="checkbox"/> 04 Property Damage | |
| <input type="checkbox"/> 07 Shoplifting, D.C. Code § 27-102 (a) | | |

C. PERSONAL TORTS

- | | | |
|---|--|---|
| <input type="checkbox"/> 01 Abuse of Process | <input type="checkbox"/> 10 Invasion of Privacy | <input type="checkbox"/> 17 Personal Injury- (Not Automobile,
Not Malpractice) |
| <input type="checkbox"/> 02 Alienation of Affection | <input type="checkbox"/> 11 Libel and Slander | <input type="checkbox"/> 18 Wrongful Death (Not Malpractice) |
| <input type="checkbox"/> 03 Assault and Battery | <input type="checkbox"/> 12 Malicious Interference | <input type="checkbox"/> 19 Wrongful Eviction |
| <input type="checkbox"/> 04 Automobile- Personal Injury | <input type="checkbox"/> 13 Malicious Prosecution | <input type="checkbox"/> 20 Friendly Suit |
| <input type="checkbox"/> 05 Deceit (Misrepresentation) | <input type="checkbox"/> 14 Malpractice Legal | <input type="checkbox"/> 21 Asbestos |
| <input type="checkbox"/> 06 False Accusation | <input type="checkbox"/> 15 Malpractice Medical (Including Wrongful Death) | <input type="checkbox"/> 22 Toxic/Mass Torts |
| <input type="checkbox"/> 07 False Arrest | <input type="checkbox"/> 16 Negligence- (Not Automobile,
Not Malpractice) | <input type="checkbox"/> 23 Tobacco |
| <input type="checkbox"/> 08 Fraud | | <input type="checkbox"/> 24 Lead Paint |

SEE REVERSE SIDE AND CHECK HERE IF USED

Information Sheet, Continued

C. OTHERS

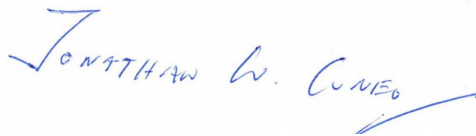
- | | |
|---|---|
| <input type="checkbox"/> 01 Accounting | <input type="checkbox"/> 17 Merit Personnel Act (OEA) |
| <input type="checkbox"/> 02 Att. Before Judgment | (D.C. Code Title 1, Chapter 6) |
| <input type="checkbox"/> 05 Ejectment | <input type="checkbox"/> 18 Product Liability |
| <input type="checkbox"/> 09 Special Writ/Warrants
(DC Code § 11-941) | <input type="checkbox"/> 24 Application to Confirm, Modify,
Vacate Arbitration Award (DC Code § 16-4401) |
| <input type="checkbox"/> 10 Traffic Adjudication | <input type="checkbox"/> 29 Merit Personnel Act (OHR) |
| <input type="checkbox"/> 11 Writ of Replevin | <input type="checkbox"/> 31 Housing Code Regulations |
| <input type="checkbox"/> 12 Enforce Mechanics Lien | <input type="checkbox"/> 32 Qui Tam |
| <input type="checkbox"/> 16 Declaratory Judgment | <input type="checkbox"/> 33 Whistleblower |

II.

- | | | |
|--|---|--|
| <input type="checkbox"/> 03 Change of Name | <input type="checkbox"/> 15 Libel of Information | <input type="checkbox"/> 21 Petition for Subpoena
[Rule 28-I (b)] |
| <input type="checkbox"/> 06 Foreign Judgment/Domestic | <input type="checkbox"/> 19 Enter Administrative Order as
Judgment [D.C. Code § | <input type="checkbox"/> 22 Release Mechanics Lien |
| <input type="checkbox"/> 08 Foreign Judgment/International | 2-1802.03 (h) or 32-151 9 (a)] | <input type="checkbox"/> 23 Rule 27(a)(1)
(Perpetuate Testimony) |
| <input type="checkbox"/> 13 Correction of Birth Certificate | <input type="checkbox"/> 20 Master Meter (D.C. Code § | <input type="checkbox"/> 24 Petition for Structured Settlement |
| <input type="checkbox"/> 14 Correction of Marriage
Certificate | 42-3301, et seq.) | <input type="checkbox"/> 25 Petition for Liquidation |
| <input type="checkbox"/> 26 Petition for Civil Asset Forfeiture (Vehicle) | | |
| <input type="checkbox"/> 27 Petition for Civil Asset Forfeiture (Currency) | | |
| <input type="checkbox"/> 28 Petition for Civil Asset Forfeiture (Other) | | |

D. REAL PROPERTY

- | | |
|--|--|
| <input type="checkbox"/> 09 Real Property-Real Estate | <input type="checkbox"/> 08 Quiet Title |
| <input type="checkbox"/> 12 Specific Performance | <input type="checkbox"/> 25 Liens: Tax / Water Consent Granted |
| <input type="checkbox"/> 04 Condemnation (Eminent Domain) | <input type="checkbox"/> 30 Liens: Tax / Water Consent Denied |
| <input type="checkbox"/> 10 Mortgage Foreclosure/Judicial Sale | <input type="checkbox"/> 31 Tax Lien Bid Off Certificate Consent Granted |
| <input type="checkbox"/> 11 Petition for Civil Asset Forfeiture (RP) | |



Attorney's Signature

December 23, 2020

Date