

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

SHARON TAYLOR, ET AL.

CIVIL ACTION NO. 2:07cv0001 (LEAD)
C/W 2:07-0013, 2:07-0014, 2:07-0017,
2:07-0018, 2:07-0410

VERSUS

JUDGE DONALD E. WALTER

ACXIOM CORPORATION, ET AL.

JUDGMENT

Before this Court is a Motion to Dismiss on Common Issues and Response to Plaintiffs' Statement of Violations filed pursuant to Federal Rule of Civil Procedure 12(b)(1) and 12(b)(6) on behalf of American Driving Records, Inc., d/b/a First Advantage, a/k/a Agency Records, Inc., Southwestern Bell Telephone, L.P. d/b/a Southwestern Bell Telephone Company, a Texas Limited Partnership, Safeway Inc., Academy, Ltd., Background Information Systems, Inc., HEB Grocery Company, LP, RealPage, Inc., FedChex, L.L.C, LML Payment Systems Corporation, D.B. Stringfellow, URAPI, The Hearst Corporation d/b/a Houston Chronicle, Texas Motor Transportation Association, EmagineNet Technologies, Inc., Texas Farm Bureau Mutual Insurance Company, Defensive Driving Online, Ltd., Household Drivers Report, Inc. d/b/a HDR, Inc., Spartan Insurance Company, Insurance Technologies Corporation, ACS State & Local Solutions, Inc., Gila Corporation d/b/a Municipal Services Bureau, Hawkeye Insurance Services, Reliant Energy, Inc., American Student List, LLC, Source Data, Inc., Driver Training Associates, Inc. d/b/a TicketSchool.com, Jon Latorella, d/b/a LocatePlus Holdings Corporation, American Electric Power Service Corporation, Tenant Tracker, Inc., JI Specialty Services, Inc., Lee Farish Computer Services, Inc., National Statistical Services Corporation, American Municipal Services, Ltd., Globe Life Accident and

Insurance Company, ADP Screening and Selection Services, Inc., Softech International, Inc., Talbot Group, Inc., Safety-USA Institute, LLC, Paradise Development, Inc. d/b/a Drivesafe Defensive Driving, Aristotle International, Inc., Defensive Driver Online, Ltd., Global 360 BGS, Inc., ABC Data, Inc. d/b/a Unicard Systems, Inc., Biometric Access Company, ContinuedEd.com d/b/a Idrivesafely.com, Zebec Data Systems, Inc., InfoNation, Inc., Allied Resident/Employee Screening Service, Inc., United Teacher Associates Insurance Company, Federated Retail Holdings, Inc., f/k/a The May Department Stores Company d/b/a Foley's, Cross-Sell, Inc., Industrial Foundation of America, PropertyInfo Corporation, Marshall Systems Technology, Inc., U.S. Interactive, Inc., Dallas Computer Information Systems, Realty Computer Solutions, Inc. d/b/a Real-Comp, Acxiom Risk Mitigation, Inc., Acxiom Corporation, TeleCheck Services, Inc., Carfax, Inc., and ISO Claims Service, Inc. d/b/a Insurance Information Exchange (hereinafter "Defendants"). For the reasons assigned herein, the Consolidated Motion to Dismiss is **GRANTED**.

I. Background

In 2007, Plaintiffs filed six separate, but virtually identical, lawsuits in the Eastern District of Texas against more than 100 defendants alleging violations of the Driver's Privacy Protection Act ("DPPA"). The Defendants, though comprised of vastly different business organizations, can be broken into two distinct categories: (1) those who obtain information directly from the State of Texas for their own use ("Non-Sellers")¹, and (2) those who obtain information from the State of Texas

¹Defendants referred to as "Non-Sellers" are: Southwestern Bell Telephone, L.P. d/b/a Southwestern Bell Telephone Company, a Texas Limited Partnership, Safeway Inc., Academy, Ltd., HEB Grocery Company, LP, D.B. Stringfellow, The Hearst Corporation d/b/a Houston Chronicle, Texas Motor Transportation Association, Texas Farm Bureau Mutual Insurance Company, Defensive Drive Online, Ltd., Spartan Insurance Company, Insurance Technologies Corporation, ACS State & Local Solutions, Inc., Gila Corporation d/b/a Municipal Services Bureau, Hawkeye Insurance Services, Reliant Energy, Inc., Driver Training Associates, Inc. d/b/a

solely for the purpose of resale to others (“Resellers”)². Plaintiffs argue that the Non-Sellers are liable because although they may have a permissible use under the DPPA for obtaining some “personal information” from the Texas Department of Public Safety database, it is impermissible for them to obtain the entire database without immediate use of the data obtained. Plaintiffs argue that the Resellers are liable because resale is not a permissible purpose for obtainment under the DPPA.

II. Driver’s Privacy Protection Act

In the late 1980s, Rebecca Schaeffer starred on the television show *My Sister Sam*. In 1989, Robert Bardo, an obsessed “fan,” hired a private investigator to follow her. The investigator copied down her license plate number and obtained her home address from the State’s Department of Motor Vehicles (“DMV”). When Bardo received her home address, he went to Schaeffer’s home and murdered her. *See* 139 Cong. Rec. S15,765 (1993). Around the same time, another woman was

TicketSchool.com, American Electric Power Service Corporation, Tenant Tracker, Inc., JI Specialty Services, Inc., Lee Farish Computer Services, Inc., American Municipal Services, Ltd., Globe Life Accident and Insurance Company, Softech International, Inc., Safety-USA Institute, LLC, Paradise Development, Inc. d/b/a Drivesafe Defensive Driving, Defensive Driver Online, Ltd., Global 360 BGS, Inc., ABC Data, Inc. d/b/a Unicard Systems, Inc., ContinuedEd.com D/B/A Idrivesafely.com, United Teacher Associates Insurance Company, Federated Retail Holdings, Inc., f/k/a The May Department Stores Company d/b/a Foley's, Cross-Sell, Inc., Industrial Foundation of America, Marshall Systems Technology, Inc., U.S. Interactive, Inc., Carfax, Inc., and ISO Claims Service, Inc. d/b/a Insurance Information Exchange.

²Defendants referred to as “Resellers” are: American Driving Records, Inc., d/b/a First Advantage, a/k/a Agency Records, Inc., Background Information Systems, Inc., RealPage, Inc., FedChex, L.L.C, LML Payment Systems Corporation, URAPI, EmagineNet Technologies, Inc., Household Drivers Report, Inc. d/b/a HDR, Inc., American Student List, LLC, Source Data, Inc., Jon Latorella, d/b/a LocatePlus Holdings Corporation, National Statistical Services Corporation, ADP Screening and Selection Services, Inc., Talbot Group, Inc., Aristotle International, Inc., Biometric Access Company, Zebec Data Systems, Inc., InfoNation, Inc., Allied Resident/Employee Screening Service, Inc., PropertyInfo Corporation, Dallas Computer Information Systems, Realty Computer Solutions, Inc. d/b/a Real-Comp, Acxiom Risk Mitigation, Inc., Acxiom Corporation, and TeleCheck Services, Inc.

murdered in Tempe, Arizona, five women in California were sent threatening letters from a 31-year-old man, and several owners of expensive cars in Iowa were robbed by a gang of teenagers. Like Bardo, all of the other criminals obtained their victim's addresses from the State's Department of Motor Vehicles. *See* 139 Cong. Rec. S15,745–01 (1993). Following these incidents, public concern grew over the availability of personal information maintained by state motor vehicle departments.

Additionally, Congress was concerned with the practice by many states of selling personal information maintained by the DMV to businesses and marketers. Citizens were being flooded with junk mail and unwanted solicitations. *Reno v. Condon*, 520 U.S. 141, 143-144, 120 S.Ct. 666, 668 (2000); 183 ALR Fed. 37 § 2.

To address these concerns, Congress enacted the Driver's Privacy Protection Act of 1994 ("DPPA"), 18 U.S.C. §§ 2721–2725.³ The DPPA generally makes it unlawful for the State DMV, and "any officer, employee, or contractor thereof" to "knowingly disclose or otherwise make available to any person or entity personal information...about any individual obtained by the department in connection with a motor vehicle record." 18 U.S.C. § 2721(a)(1). The Act also prohibits a private actor from "knowingly obtain[ing], disclos[ing], or us[ing] personal information,

³*See Margan v. Niles*, 250 F. Supp. 2d 63, 68-69 (N.D.NY, 2003); 139 Cong. Rec. S15,754-01, S15,764-66 (1993) (statements of Sens. Robb, Biden, and Harken stating "[t]his amendment closes a loophole in the law that permits stalkers to obtain—on demand—private, person information about their potential victims" and discussing the following incidents where (1) anti-abortion activists obtained the personal information of an ob/gyn patient from DMV records and sent her threatening letters; and (2) a "fan" of a fashion model who obtained her address from the DMV, then went to her home and assaulted her); *see also* 139 Cong. Rec. S15,745–01 (1993) (statement of Senator Boxer discussing situations where (1) a 31-one-year old man copied the license plate number of five women in their early twenties, obtained their personal information from the DMV and sent them threatening letters; and (2) a gang of teenagers in Iowa copied the license plate numbers of expensive cars, obtained the home addresses of the owner's of those cars, and then robbed them).

from a motor vehicle record, for a purpose not permitted under [section 2721(b) of this title].” 18 U.S.C. § 2724(a). “Personal information” is defined as “information that identifies an individual, including an individual’s photograph, social security number, driver identification number, name, address (but not the 5-digit zip code), telephone number, and medical or disability information, but does not include information on vehicular accidents, driving violations, and driver’s status.” 18 U.S.C. § 2725(3).

While the DPPA generally prohibits a state from disclosing personal information, the statute sets out a number of “permissible uses” for which personal information may be disclosed:

Permissible uses.—Personal information referred to in subsection (a) shall be disclosed for use in connection with matters of motor vehicle or driver safety and theft, motor vehicle emissions, motor vehicle product alterations, recalls, or advisories, performance monitoring of motor vehicles and dealers by motor vehicle manufacturers, and removal of non-owner records from the original owner records of motor vehicle manufacturers to carry out the purposes of titles I and IV of the Anti Car Theft Act of 1992, the Automobile Information Disclosure Act (15 U.S.C. 1231 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), and chapters 301, 305, and 321-331 of title 49, and, subject to subsection (a)(2), may be disclosed as follows:

(1) For use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a Federal, State, or local agency in carrying out its functions.

(2) For use in connection with matters of motor vehicle or driver safety and theft; motor vehicle emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of motor vehicles, motor vehicle parts and dealers; motor vehicle market research activities, including survey research; and removal of non-owner records from the original owner records of motor vehicle manufacturers.

(3) For use in the normal course of business by a legitimate business or its agents, employees, or contractors, but only--

(A) to verify the accuracy of personal information submitted by the individual to the business or its agents, employees, or contractors; and

(B) if such information as so submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against, the individual.

(4) For use in connection with any civil, criminal, administrative, or arbitral proceeding in any Federal, State, or local court or agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or

enforcement of judgments and orders, or pursuant to an order of a Federal, State, or local court.

(5) For use in research activities, and for use in producing statistical reports, so long as the personal information is not published, redisclosed, or used to contact individuals.

(6) For use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, antifraud activities, rating or underwriting.

(7) For use in providing notice to the owners of towed or impounded vehicles.

(8) For use by any licensed private investigative agency or licensed security service for any purpose permitted under this subsection.

(9) For use by an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under chapter 313 of title 49.

(10) For use in connection with the operation of private toll transportation facilities.

(11) For any other use in response to requests for individual motor vehicle records if the State has obtained the express consent of the person to whom such personal information pertains.

(12) For bulk distribution for surveys, marketing or solicitations if the State has obtained the express consent of the person to whom such personal information pertains.

(13) For use by any requester, if the requester demonstrates it has obtained the written consent of the individual to whom the information pertains.

(14) For any other use specifically authorized under the law of the State that holds the record, if such use is related to the operation of a motor vehicle or public safety.

18 U.S.C. § 2721(b).

The DPPA also provides for resale or redisclosure of personal information obtained by “authorized recipients:”

Resale or redisclosure.--An authorized recipient of personal information (except a recipient under subsection (b)(11) or (12)) may resell or redisclose the information only for a use permitted under subsection (b) (but not for uses under subsection (b) (11) or (12)). An authorized recipient under subsection (b)(11) may resell or redisclose personal information for any purpose. An authorized recipient under subsection (b)(12) may resell or redisclose personal information pursuant to subsection (b)(12). Any authorized recipient (except a recipient under subsection (b) (11)) that resells or rediscloses personal information covered by this chapter must keep for a period of 5 years records identifying each person or entity that receives information and the permitted purpose for which the information will be used and must make such records available to the motor vehicle department upon request.

18 U.S.C. § 2721(c).

Persons who violate the DPPA may be subject to a criminal fine as well as civil liability for (1) actual damages, (2) punitive damages, (3) reasonable attorneys' fees and other litigation costs, and (4) preliminary and equitable relief. 18 U.S.C. §§ 2723(a), 2724(b).

III. Analysis

Defendants' Consolidated Motion to Dismiss presents a two-pronged argument for dismissal: (1) failure to state a claim upon which relief may be granted pursuant to Rule 12(b)(6), and (2) lack of standing pursuant to Rule 12(b)(1). Ordinarily, a Rule 12(b)(1) motion must be considered first when filed in conjunction with other Rule 12(b) motions. *Ramming v. U.S.*, 281 F.3d 158, 161 (5th Cir. 2001). This requirement prevents a court without subject matter jurisdiction from prematurely dismissing a case with prejudice. *Id.* However, in the instant matter, this Court will discuss Defendants' Rule 12(b)(6) argument before addressing standing because the Court's interpretation of the DPPA will determine the scope, if any, of plaintiffs' injuries-in-fact.

A. *Rule 12(b)(6)*

Rule 12(b)(6) authorizes the dismissal of a complaint for "failure to state a claim upon which relief may be granted." Civ. P. 12(b)(6). While a complaint does not need detailed factual allegations, a formulaic recitation of the elements of a cause of action will not suffice. *Bell Atlantic Corp. v. Twombly*, 127 S.Ct. 1955, 1964-65 (2007). Federal Rule of Civil Procedure 8(a)(2) requires a "showing," not merely a blanket assertion, of entitlement to relief. *Id.* at n.3. The factual allegations in the complaint "must be enough to raise a right to relief above the speculative level, on the assumption that all the allegations in the complaint are true (even if doubtful in fact)." *Id.* at 1965 (internal citations omitted).

Non-Sellers. Section 2724(a) of the DPPA sets forth three elements giving rise to liability:

(1) the defendant knowingly obtained, disclosed, or used personal information, (2) from a motor vehicle record, (3) for a purpose not permitted. With regard to the third element, Plaintiffs' bear the burden to prove that the personal information was not obtained, disclosed, or used for a purpose specifically enumerated in Section 2721(b). *See Thomas v. George, Hartz, Lundeen, Fulmer, Johnstone, King, and Stevens, P.A.*, 525 F.3d 1107, 1111-14 (11th Cir. 2008).

Plaintiffs allege that the Non-Sellers obtained their "personal information" for an impermissible purpose—"to save [themselves] time and/or money by not having to go back to the State of Texas each time [they] need additional information" and "to avoid the inconvenience of having to go to the State each time [they] need an additional customers' information." [Statement of Violations, No. 07-0001, Doc. 62]. Plaintiffs claim that any purpose Defendants had for obtaining their "'personal information' other than an immediately contemplated use of the information for one of the DPPA's authorized uses" constitutes a violation of the DPPA. *Id.* Defendants' choice to obtain the entire database, containing the personal information of over twenty million individuals, is the basis for Plaintiffs' improper obtainment claims. Plaintiffs' also allege that the continued use of the information obtained by Defendants' "is not an enumerated use and is contrary to [the DPPA's] provisions." *Id.* In other words, Plaintiffs do not allege that Defendants' have obtained or used their personal information for an impermissible purpose; rather, they argue only that obtainment of the entire database was impermissible as Defendants' did not immediately use the data.

This Court agrees with Defendants' that Plaintiffs factual allegations do not give rise to a plausible right to relief under the DPPA. *See Bell Atl. Corp. v. Twombly*, 127 S.Ct. 1955, 1964-65 (2007). The statute expressly provides that a private actor may be liable for civil damages only if

that person “knowingly obtains, discloses, or uses personal information, from a motor vehicle record, *for a purpose not permitted under this chapter.*” 18 U.S.C. § 2724(a) (emphasis supplied). Plaintiffs have failed to plead any facts alleging that Defendants obtained or used their information *for a purpose not permitted* under the Act. Plaintiffs’ assertion that, because Defendants did not immediately use the data obtained, does not constitute an allegation of obtainment or use of “personal information” for an impermissible *purpose*.

Moreover, the plain language of the DPPA does not require that a person “immediately use” the data, nor has the statute been interpreted to imply such a requirement.⁴ *See* 18 U.S.C. §§ 2721-2725. As such, this Court refuses to interpret the DPPA to impose such an illogical restriction on the use of data obtained for a permissible purpose.

Resellers. Plaintiffs allege that Resellers are in violation of the DPPA because they obtained plaintiffs’ personal information solely for the purpose of resale and were not themselves “users” of the information. Yet, the statute clearly and unambiguously permits “[a]n authorized recipient of personal information...[to] resell or redisclose the information.” 18 U.S.C. § 2721(c). The only limitation placed on “authorized recipients” is that the information may be resold or redisclosed “only for a use permitted under subsection (b).” *Id.* The DPPA does not require an “authorized recipient” to also be an “authorized user.”⁵

⁴As Defendants’ point out in their Consolidated Motion, the DPPA does not prohibit the nonuse of data obtained for a permissible purpose, immediate or otherwise. When a company obtains data for a permissible purpose, neither the DPPA nor the cases that interpret it impose a requirement that the data be put to use at any point in the future.

⁵*See Russell v. Choicepoint Serv., Inc.*, 300 F. Supp. 2d 450 (E.D.La, 2004) (“*Russell I*”); *Russell v. Choicepoint Serv., Inc.*, 302 F. Supp. 2d 654 (E.D.La, 2004) (“*Russell II*”).

Plaintiffs reliance on *Locate.Plus.Com*⁶ is misplaced. In *Locate.Plus.Com*, the Iowa Supreme Court concluded that “[t]he statute does not permit disclosure to a nonuser, who only seeks information to redisclose it for use under a permitted purpose.” *Id.* at 617. Yet the court reached this conclusion without providing a meaningful analysis of the DPPA’s statutory language or its corresponding congressional intent.⁷ In fact, the rationale of *Locate.Plus.Com* was expressly rejected in *Russell I* and *Russell II* after that court embarked on a thorough analysis of Section 2721(c) of the DPPA.⁸

By using the term “authorized recipients” instead of “authorized users” or “permissible” users,” Congress anticipated that entities like defendant Resellers would obtain drivers’ personal information from DMV’s solely for the purpose of redistributing the information to persons with permissible uses. *See Russell I*, 300 F. Supp. 2d at 455-56; *Russell II*, 302 F. Supp. 2d at 654. As the district court in the *Russell* cases stated:

Congress could have limited resale and redisclosure to “permissible users,” keeping in line with 18 U.S.C. § 2721(b)’s theme of permissible use, but instead Congress employed the term “authorized recipient” in § 2721(c). This deliberate word choice reveals congressional intent to allow states and their DMVs to authorize persons and entities to receive drivers’ information for resale. In enacting the DPPA, Congress intended to strike “a critical balance between legitimate governmental and business needs for this information, and the fundamental right of our people to privacy and safety.” 139 Cong. Rec. S15,763 (1993). Congress was well aware of the economic value of DMV records and of the common state practice of selling drivers’ personal

⁶*Locate.Plus.Com, Inc. v. Iowa Dept. Of Transp.*, 650 N.W.2d 609 (Iowa, 2002).

⁷In *Locate.Plus.Com*, the Court stated: “Redisclosure of the information is allowed only for a permitted purpose and can only occur if the information was initially disclosed by the state to an ‘authorized recipient.’” The Court then concluded that “Worldwide must itself be an authorized user.” However, the Court reached this conclusion without discussing the meaning of the term “authorized recipient” or Congress’ intention in enacting Section 2721(c).

⁸*See Russell I*, 300 F. Supp. 2d 450; *Russell II*, 302 F. Supp. 2d 654.

information to private resellers. The inclusion of the term “authorized recipient” and the exclusion of any reference to “users” in DPPA § 2721(c) indicates an intent on behalf of Congress to delegate authorization to the states and thereby permit personal information resellers like [defendant] who are authorized by the state or its DMV to obtain drivers’ personal information for the purpose of redistribution to persons with “permissible uses.”

Russell I at 456-47; *Russell II* at 665.

The *Russell* court’s interpretation of the term “authorized recipient” is further evidenced by the DPPA’s requirement that any authorized recipient who resells or rediscloses personal information keep “records identifying each person or entity that receives information and the permitted use for which the information will be used and must make such records available to the motor vehicle department upon request.” 18 U.S.C. § 2721(c).

Because the DPPA allows “authorized recipients” to obtain “personal information” solely for purposes of resale to third parties with permissible uses, Plaintiffs’ may not maintain a DPPA claim against Resellers for improper obtainment under 18 U.S.C. § 2724(a) without alleging an accompanying impermissible use. *See Russell v. Choicepoint Serv., Inc.*, 300 F. Supp. 2d 450 (E.D.La, 2004) (hereinafter “*Russell I*”); *Russell v. Choicepoint Serv., Inc.*, 302 F. Supp. 2d 654 (E.D.La, 2004) (hereinafter “*Russell II*”); *see also Mechler v. Hodges*, 2005 WL 1406102, *7 (S.D.Ohio, 2005). The basis of Plaintiffs’ claims against Resellers is improper obtainment alone. They have failed to allege any facts indicating an impermissible use of the “personal information” obtained by Resellers. As such, Plaintiff’s factual allegations do not give rise to plausible right to relief under the DPPA. *See Bell Atl. Corp. v. Twombly*, 127 S.Ct. 1955, 1964-65 (2007).

B. Rule 12(b)(1)

A motion to dismiss filed pursuant to Federal Rule of Civil Procedure 12(b)(1) challenges

the subject matter jurisdiction of the court. Fed. R. Civ. P. 12(b)(1). In evaluating a Rule 12(b)(1) motion, the district court may consider: “(1) the complaint alone; (2) the complaint supplemented by undisputed facts evidenced in the record; or (3) the complaint supplemented by undisputed facts plus the court’s resolution of undisputed facts.” *Ramming v. U.S.*, 281 F.3d 158, 161 (5th Cir. 2001). In the absence of subject matter jurisdiction, federal courts lack the power to adjudicate claims. *See Stockman v. Federal Election Comm’n*, 138 F.3d 144, 151 (5th Cir. 1998). Plaintiffs, as the parties asserting jurisdiction in this matter, bear the burden to prove that jurisdiction does in fact exist. *Ramming*, 281 F.3d at 161.

In determining whether a federal district court has subject matter jurisdiction, the court must also consider whether the plaintiffs have standing. *See Center for Individual Freedom v. Carmouche*, 449 F.3d 655, 659 (5th Cir. 2006). The Supreme Court has set out three elements that must be met to constitute the irreducible constitutional minimum of “standing.” *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61, 112 S.Ct. 2130, 2136 (1992). First, the plaintiff must have suffered an “injury-in-fact”—an invasion of a legally protected interest which is (a) concrete and particularized and (b) actual or imminent, not conjectural or hypothetical. Second, there must be a causal connection between the injury and the conduct complained of. In other words, the injury has to be fairly traceable to the challenged action of the defendant and not the result of the independent action of some third party not before the court. Third, it must be likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision. *Id.* (internal quotations and citations omitted). Failure to establish any one of these three elements deprives the federal court of jurisdiction to hear the case. *Rivera v. Wyeth Ayerst Labs*, 283 F.3d 315, 319 (5th Cir. 2002).

Plaintiffs have failed to allege or plead any facts showing that Defendants, neither Non-

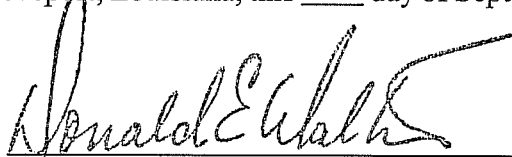
Sellers or Resellers, impermissibly obtained and/or used Plaintiffs' "personal information." Thus, Plaintiffs have not shown that they have suffered an "injury-in-fact." Further, they have not plead a causal connection between the alleged violations and the alleged harm, nor can they demonstrate redressability.

Conclusion

The DPPA does not require "immediate use" of personal information obtained from a State's Department of Motor Vehicles and Plaintiffs' have failed to allege an impermissible *purpose* for which the information was obtained by Non-Sellers. Plaintiffs have also failed to plausibly plead facts alleging that Resellers impermissibly used the data. Consequently, Plaintiffs have failed to state a claim upon which relief may be granted and, because they have not suffered an "injury-in-fact," lack standing to adjudicate their claim before this court.

For the reasons stated above, the Court will **GRANT** Defendants' Motion to Dismiss **WITH PREJUDICE** Pursuant to Rule 12(b)(6) and Rule 12(b)(1) and *sua sponte* **DISMISS WITH PREJUDICE** Plaintiffs' claims against all remaining Defendants in Nos. 07-0001, 07-0013, 07-0014, 07-0017, 07-0018, and 07-410.⁹

THUS DONE AND SIGNED in Shreveport, Louisiana, this 8th day of September, 2008.



DONALD E. WALTER
UNITED STATES DISTRICT JUDGE

⁹"It is well-established that the district court may dismiss a complaint a 12(b)(6) grounds *sua sponte*." *Bell v. Valdez*, 207 F.3d 657, n.1 (5th Cir. 2000); *First Gibraltar Bank v. Smith*, 62 F.3d 133, 135 (5th Cir. 1995); *Guthrie v. Tifco Industries*, 941 F.2d 374, 379 (5th Cir. 1991).