

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION FOUR

THOMAS E. HOWARD, JR.,)	No. ED101669
JANICE K. HOWARD and)	
HOWARD INVESTMENTS, LLC,)	
)	
Appellants,)	Appeal from the Circuit Court
)	of St. Louis County
vs.)	13SL-CC03317
)	
THE FROST NATIONAL BANK and)	Honorable Tommy W. DePriest, Jr.
TD AMERITRADE, INC.,)	
)	
Respondents.)	Filed: March 24, 2015

Thomas E. Howard, Jr., Janice K. Howard, and Howard Investments, LLC (collectively “Appellants”) appeal the trial court’s grant of a motion to dismiss Appellants’ amended petition for failure to state a claim in favor of TD Ameritrade, Inc. (“Respondent”). Appellants’ amended petition alleged claims for negligence, wrongful garnishment, and wrongful disclosure arising out of Respondent’s disclosure of Appellants’ account information and freezing of Appellants’ accounts.

AFFIRMED IN PART AND REVERSED AND REMANDED IN PART.

Division Four holds:

- (1) The amended petition stated a claim for negligence because it pleaded all the essential elements of the cause of action. The duty, breach, and causation elements of the cause of action are uncontested. Further, the amended petition adequately pleaded that Appellants were damaged by the account freezing and disclosure of Appellants’ account information, and the extent of the damages may be ascertained in discovery.
- (2) The amended petition did not state a claim for wrongful garnishment because Respondent did not file a garnishment against Appellants.
- (3) The amended petition did not state a claim for wrongful disclosure. The Gramm-Leach-Bliley Act, 15 U.S.C. section 6801 (2010), et seq. does not contain a private cause of action for consumers. Appellants also assert the amended petition stated a claim for intrusion on seclusion or public disclosure of embarrassing private facts. However, Respondent did not acquire Appellants’ private information through unreasonable means, and Respondent did not disclose

information that would bring shame or humiliation to a person of ordinary sensibilities.

Opinion by: Robert M. Clayton III, J.
Patricia L. Cohen, P.J. and Roy L. Richter, J., concur.

Attorney for Appellant: Paul N. Rechenberg, Elizabeth A. Rechenberg

Attorneys for Respondent: Eric Martin, William Scharf

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