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**ORIGINAL**

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UNITED STATES DISTRICT COURT  
IN THE EASTERN DISTRICT OF MICHIGAN -- SOUTHERN DIVISION

KELSEY WHITAKER,

Plaintiff,

-vs-

Case: 2:06-cv-11688  
Assigned To : Battani, Marianne O  
Referral Judge: Scheer, Donald A  
Assign. Date : 4/7/2006 @ 2:19 P M.  
Description: CMP WHITAKER V.  
BOUDREAU & ASSOCIATES,  
(TAM)

**DEMAND FOR JURY TRIAL**

RICHARD J. BOUDREAU & ASSOCIATES, LLC,

Defendant.

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Adam G. Taub (P48703)  
Lyngklip & Taub Consumer Law Group, PLC  
Attorney For Kelsey Whitaker  
24500 Northwestern Highway, Ste. 206  
Southfield, MI 48075  
(248) 746-3790

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**COMPLAINT & JURY DEMAND**

**JURISDICTION**

1. This court has jurisdiction under the FDCPA, 15 U.S.C. §1692k(d) and 28 U.S.C. §§1331,1337.
2. This court may exercise supplemental jurisdiction over the related state law claims arising out of the same nucleus of operative facts which give rise to the Federal law claims.

**PARTIES**

3. The Plaintiff to this lawsuit is Kelsey Whitaker who resides in Waterford, MI 48328.

4. The Defendants to this lawsuit is Richard J. Boudreau & Associates, LLC (“RJB&Assoc.”) which is a corporation doing business in Michigan at 5 Industrial Way, Salem, NH 03079, and whose resident agent, Richard J. Boudreau, maintains its office at 5 Industrial Way , Salem, NH 03079.

**VENUE**

5. The transactions and occurrences which give rise to this action occurred in Oakland County.
6. Venue is proper in the Eastern District of Michigan.

**GENERAL ALLEGATIONS**

7. Some time prior to February 9, 2006, RJB&Assoc. was engaged by First Consumers National Bank or its assignee to collect a debt no longer owed by Kelsey Whitaker.
8. Defendant had actual knowledge that the Plaintiff did not owe the amount it sought to collect in its February 9, 2006 letter.
9. On or about February 12, 2006, RJB&Assoc. communicated with Kelsey Whitaker for the first time; on that date Kelsey Whitaker received a letter from Defendant dated February 9, 2006.
10. On or about March 10, 2006 Kelsey Whitaker requested that RJB&Assoc. validate the debt and specifically requested that the Defendant provide:
  - a. current account statements which you believe I have with your company;
  - b. account histories for any accounts you believe I have with your company;
  - c. copies of any contracts under which you claim those amounts;
  - d. the name and address of the original creditor;
  - e. all account statements with the original creditor;

- f. an account history from the original creditor; and
  - g. any document purporting to bear her signature.
11. Defendant failed to properly respond to Plaintiff's request for validation.
  12. Defendant continued collection activities in spite of its failure to properly respond to Plaintiff's request for validation.
  13. Defendant threatened to publish the false information to credit bureaus.

**COUNT I – Fair Debt Collection Practices Act (RJB&Assoc.)**

14. Mrs. Whitaker incorporates the preceding allegations by reference.
15. At all relevant times RJB&Assoc. – in the ordinary course of its business – regularly engaged in the practice of collecting debts on behalf of other individuals or entities.
16. RJB&Assoc. is a "debt collector" under the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §1692a(6).
17. RJB&Assoc. has engaged in violations of the FDCPA including, but not limited to the following:
  - a. RJB&Assoc. used generally false, misleading or unfair methods to collect the debt., in violation of the general prohibitions in 15 U.S.C. §1692e.
  - b. RJB&Assoc. made a false representation of the character, amount, and legal status of the debt; or (B) any services rendered or compensation which may be lawfully received by RJB&Assoc. for the collection of the debt, in violation of 15 U.S.C. §1692e(2).
  - c. RJB&Assoc. communicated or threatened to communicate credit information which is known or which should be known to be false, in violation of 15 U.S.C. §1692e(8).

- d. RJB&Assoc. used false representations or deceptive means to collect or attempt to collect the debt or to obtain information concerning Mrs. Whitaker, in violation of 15 U.S.C. §1692c(10).
  - e. RJB&Assoc. used unfair or unconscionable means to collect or attempt to collect the debt, in violation of the general prohibition in 15 U.S.C. 1692(f).
  - f. RJB&Assoc. collected an amount without express authorization under the agreement creating the debt or other statutory authority in violation of 15 U.S.C. 1692(f)(1).
18. Mrs. Whitaker has suffered damages as a result of RJB&Assoc.'s violations of the FDCPA.

**COUNT II – Michigan Debt Collection Practices Act (RJB&Assoc.)**

19. Mrs. Whitaker incorporates the preceding allegations by reference.
20. RJB&Assoc. is a "regulated person" under the Michigan Debt Collection Practices Act ("MDCPA"), M.C.L. § 445.251(g)(xi).
21. RJB&Assoc. violated the Michigan Collection Practices Act, M.C.L. § 445.251 *et seq.* include, but are not limited to, the following:
- a. Communicating with a debtor in a misleading or deceptive manner, in violation of M.C.L. §445.252(a).
  - b. Making an inaccurate, misleading, untrue, or deceptive statement or claim in a communication to collect a debt in violation of M.C.L. §445.252(c).
  - c. Failing to implement a procedure designed to prevent a violation by an employee in violation of M.C.L. §445.252(q).
22. Mrs. Whitaker has suffered damages as a result of RJB&Assoc.'s violations of the Michigan Collection Practices Act.

**DEMAND FOR JURY TRIAL**

23. Plaintiff demands trial by jury in this action.

**DEMAND FOR JUDGMENT FOR RELIEF**

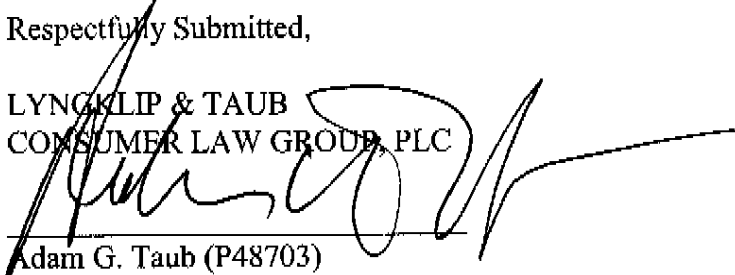
24. *Accordingly, Mrs. Whitaker requests that the Court grant:*

- a. *Equitable relief under statute and common law, in the form of a declaration that the amount sought by Defendant is not actually owed and an injunction prohibiting further collection of those amounts.*
- b. *Actual damages.*
- c. *Statutory damages.*
- d. *Statutory costs and attorney fees.*

Respectfully Submitted,

LYNCKLIP & TAUB  
CONSUMER LAW GROUP, PLC

By:



Adam G. Taub (P48703)  
Attorney For Kelsey Whitaker  
24500 Northwestern Highway, Ste. 206  
Southfield, MI 48075  
(248) 746-3790  
AdamLaw@Pop.Net

Dated: April 7, 2006

**ORIGINAL**

JS 44 11/99

**CIVIL COVER SHEET** COUNTY IN WHICH THIS ACTION AROSE: Oakland

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

**I. (a) PLAINTIFFS**

**KELSEY WHITAKER**

**DEFENDANTS**

**RICHARD J. BOUDREAU & ASSOCIATES, LLC**

(b) County of Residence of First Listed

Oakland

26/25

County of Residence of First Listed

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

**Lyngklip & Taub Consumer Law Group, PLC**  
24500 Northwestern Hwy., Ste. 206, Southfield, MI 48075  
(248) 746-3790

Attorneys (If Known)

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**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item 111)

**III. CITIZENSI**  
(For Diversity)

Citizen of Th

Citizen of Another

Citizen or Subject of a Foreign Country

2  2 Incorporated and principal place of Business In Another State

3  3 Foreign Nation  6  6

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment and Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 180 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault Libel And Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury-Med. Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth In Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21: 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 660 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395m) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DMC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC <input type="checkbox"/> 480 Deportation <input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 LISC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 800 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 980 Other Statutory Actions
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 280 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General Habeas Corpus: <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 890 Other Statutory Actions	

**V. ORIGIN**

(PLACE AN "X" IN ONE BOX ONLY)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multi district Litigation
- 7 Judge from District Magistrate

**VI. CAUSE OF ACTION** (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Plaintiff brings this cause of action for violations of the FDCPA U.S.C. 15 § 1692 and 28 U.S.C. §§1331, 1337

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 \$ DEMAND

CHECK YES only if demanded in complaint:  
JURY DEMAND:  Yes  No

**VIII. RELATED CASE(S) IF ANY** (See Instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

4/7/05

*[Handwritten Signature]*

**PURSUANT TO LOCAL RULE 83.11**

1. Is this a case that has been previously dismissed?

- Yes
- No

If yes, give the following information:

Court: \_\_\_\_\_

Case No.: \_\_\_\_\_

Judge: \_\_\_\_\_

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

- Yes
- No

If yes, give the following information:

Court: \_\_\_\_\_

Case No.: \_\_\_\_\_

Judge: \_\_\_\_\_

Notes :

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