

RECEIPT NUMBER
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ORIGINAL 7

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

JAMES EPPS
Plaintiff

JUDGE : Friedman, Bernard A.
DECK : S. Division Civil Deck
DATE : 03/29/2005 @ 11:12:47
CASE NUMBER : 2:05CV71213
CMP EPPS V. ASSET ACCEPTANCE
(DA)

-vs-

DEMAND FOR JURY TRIAL

ASSET ACCEPTANCE, LLC,
Defendant

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

MAGISTRATE JUDGE CAPEL,

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 James Epps who resides at 21870 Westhampton, Oak Park, MI 48237.
4. The Defendants to this lawsuit is Asset Acceptance, LLC ("Asset Acceptance") which is a corporation doing business in Michigan in Warren, Michigan, and whose resident agent, The

Corporation Company, maintains its office at 30600 Telegraph Road Suite 2345, Bingham Farms, MI 48025.

5. At all relevant times Asset Acceptance -- in the ordinary course of its business -- regularly engaged in the practice of collecting debts on behalf of other individuals or entities.
6. Asset Acceptance is a debt collector" under the FDCPA, 15 U.S.C. §1692(6).
7. Asset Acceptance is a "regulated person" under the Michigan Debt Collection Practices Act, M.C.L. § 445.251(g)(xi).

VENUE

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

GENERAL ALLEGATIONS

10. Some time prior to September 15, 2004, Asset Acceptance was engaged by Montgomery Ward to collect a debt allegedly owed by James Epps.
11. On or about September 15, 2004, Asset Acceptance communicated with James Epps for the first time.
12. On or about September 15, 2004, Asset Acceptance sent its validation notice pursuant to 15 U.S.C. 1692g to James Epps.
13. On or about September 29, 2004 James Epps requested that Asset Acceptance validate the debt.
14. On or about September 29, 2004 James Epps requested in writing that Asset Acceptance not to contact James Epps.
15. Asset Acceptance did not validate the alleged debt, and continued collection activities.

16. Asset Acceptance has reported the debt on James Epps's consumer report as being owed and placed for collection ("the trade line").
17. Asset Acceptance's trade line is false, misleading and inaccurate.
18. James Epps has requested that Asset Acceptance refrain from reporting false information on his credit report and remove its trade line from James Epps's consumer report.
19. As a result of the acts alleged above, Plaintiff suffered damages.

COUNT 1 – Fair Debt Collection Practices Act (Asset Acceptance)

20. Mr. Epps incorporates the preceding allegations by reference.
21. Asset Acceptance has engaged in violations of the FDCPA including, but not limited to the following:
 - a. Failing to cease communication after the Plaintiff notified the Defendant in writing that he refused to pay the alleged debt and that he wished the Defendant to cease further communication with him;
 - b. Using generally false, misleading or unfair methods to collect the alleged debt;
 - c. Communicating credit information which is known or which should be known to be false;
 - d. Using unfair or unconscionable means to collect or attempt to collect the alleged debt;
 - e. Failing to cease collection of the alleged debt, until the Defendant obtained verification of the debt.
22. Mr. Epps has suffered damages as a result of Asset Acceptance's violations of the FDCPA.

COUNT II – Michigan Debt Collection Practices Act (Asset Acceptance, LLC)

23. Mr. Epps incorporates the preceding allegations by reference.
24. Asset Acceptance violated the Michigan Collection Practices Act, M.C.L. §445.251 *et seq.* include, but are not limited to, the following:
 - a. Making an inaccurate, misleading, untrue, or deceptive statement or claim in a communication to collect a debt;
 - b. Using a harassing, oppressive, or abusive method to collect a debt;
 - c. Failing to implement a procedure designed to prevent a violation by an employee in violation of M.C.L. §445.252(q).
25. Mr. Epps has suffered damages as a result of Asset Acceptance's violations of the Michigan Collection Practices Act.

COUNT III – Defamation (Asset Acceptance, LLC)

26. Mr. Epps incorporates the preceding allegations by reference.
27. Asset Acceptance, LLC's conduct constitutes defamation at common law.
28. Asset Acceptance, LLC's false communications, acts and omissions resulted in defamation of Mr. Epps.
29. Asset Acceptance, LLC's false communications, acts and omissions harmed the reputation of a Mr. Epps .
30. Asset Acceptance, LLC's false communications were the type that would and/or did deter third persons from associating or dealing with Mr. Epps.

31. Asset Acceptance, LLC's communications were they type that would injure Mr. Epps 's character, or subject him to ridicule, contempt, distrust, or would degrade him in the eyes of another.
32. Mr. Epps has been damaged as a result and is entitled to his damages, costs and attorneys fees.

DEMAND FOR JURY TRIAL


33. Plaintiff demands trial by jury in this action.

DEMAND FOR JUDGMENT FOR RELIEF

34. *Accordingly, Mr. Epps requests that the Court grant:*
 - a. *Actual damages.*
 - b. *Statutory damages.*
 - c. *Treble damages.*
 - d. *Statutory costs and attorney fees.*

Respectfully Submitted,

LYNGKAP & TAUB
CONSUMER LAW GROUP, PLC

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

Dated: March 29, 2005

ORIGINAL

05-71213

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

James Epps

DEFENDANTS

Asset Acceptance, LLC

(b) County of Residence of First Listed Oakland

County of Residence of First Listed _____

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

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

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

BERNARD A. FRIEDMAN
Attorneys (If Known)

MAGISTRATE JUDGE CAPEL

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. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- (For Diversity Cases Only)
- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PLA | DEF | | PLA | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 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"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <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	PERSONAL INJURY <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 PERSONAL PROPERTY <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"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <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"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 H IA (1 395(f)) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <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"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Com mod ities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 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"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input checked="" type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 990 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS			
<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"/> 290 All Other Real Property	<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	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

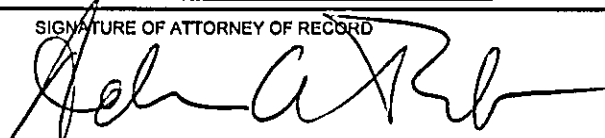
- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multi district Litigation
- 7 Appeal to District Judge from Magistrate

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 Fair Debt Collection Practices Act 15 U.S.C. §1692k(d) 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) INSTRUCTIONS: IF ANY _____ JUDGE _____ DOCKET NUMBER _____

DATE 3/29/05 SIGNATURE OF ATTORNEY OF RECORD 

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 :
