

Receipt Number

589587

ORIGINAL

8

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

ALMA NISSAN,

Plaintiff,

-vs-

Case: 2:06-cv-11018
Assign To: Zatkoff, Lawrence P
Referral Judge: Scheer, Donald A
Assign. Date: 03-09-2006 At 11:05 AM
Description: CMP NISSON V. HECKER (TAM)

DEMAND FOR JURY TRIAL

LAURENCE A. HECKER,

Defendant.

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

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 Alma Nissan who resides in Sterling Heights, MI 48310.

4. The Defendant to this lawsuit is Laurence A. Hecker ("Law Offices of Laurence A. Hecker") which is a corporation doing business in Michigan at 650 College Rd East Ste 1800, Princeton, NJ 08540.

VENUE

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

GENERAL ALLEGATIONS

7. Some time prior to February 20, 2006, Law Offices of Laurence A. Hecker was engaged by Unknown Creditor to collect a debt allegedly owed by Alma Nissan.
8. On or about February 20, 2006, Law Offices of Laurence A. Hecker communicated with Alma Nissan for the first time by phone.
9. On or about February 26, 2006, at approximately 8:30 AM, Defendant, through his agent, Larry Drew, called the Plaintiff and demanded that Plaintiff make a payment on the alleged debt.
10. Plaintiff explained that she did not owe the debt.
11. Defendant, through his agent, told Plaintiff she had to appear in Court that day if she did not pay the debt.
12. When Plaintiff asked the Defendant to verify and validate the debt, the Defendant's agent told Plaintiff that she owed the money, no matter what and that he was going to get paid either way, by means of a lawsuit or by Plaintiff sending a check.
13. Plaintiff again explained that the debt was not hers and that she had been a victim of identity theft; the Defendant's agent told her she needed to appear in, "Macomb County Court" that

day.

14. When Plaintiff asked how she could possibly have to appear in Court on a Sunday, the Defendant's agent said, "Don't get smart with me."
15. Defendant sent no written correspondence to Plaintiff.

COUNT 1 – Fair Debt Collection Practices Act (Law Offices of Laurence A. Hecker)

16. Mrs. Nissan incorporates the preceding allegations by reference.
17. At all relevant times Law Offices of Laurence A. Hecker – in the ordinary course of its business – regularly engaged in the practice of collecting debts on behalf of other individuals or entities.
18. Law Offices of Laurence A. Hecker is a "debt collector" under the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §1692a(6).
19. Law Offices of Laurence A. Hecker has engaged in violations of the FDCPA including, but not limited to the following:
 - a. Law Offices of Laurence A. Hecker communicated with Mrs. Nissan in connection with the collection of a debt at unusual or inconvenient, times or places in violation of 15 U.S.C. §1692c(a)(1).
 - b. Law Offices of Laurence A. Hecker used generally false, misleading or unfair methods to collect the debt., in violation of the general prohibitions in 15 U.S.C. §1692e.
 - c. Law Offices of Laurence A. Hecker made a false representation of the character, and legal status of the debt , in violation of 15 U.S.C. §1692e(2).

- d. Law Offices of Laurence A. Hecker threatened to take any action that cannot legally be taken or that is not intended to be taken, in violation of 15 U.S.C. §1692e(5).
 - e. Law Offices of Laurence A. Hecker used false representations or deceptive means to collect or attempt to collect the debt or to obtain information concerning Mrs. Nissan, in violation of 15 U.S.C. §1692e(10).
 - f. Law Offices of Laurence A. Hecker 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).
 - g. Law Offices of Laurence A. Hecker failed to send any validation notice relating to the debt in violation of 15 U.S.C. §1692g(A).
20. Mrs. Nissan has suffered damages as a result of Law Offices of Laurence A. Hecker's violations of the FDCPA.

COUNT II – Michigan Debt Collection Practices Act (Law Offices of Laurence A. Hecker)

21. Mrs. Nissan incorporates the preceding allegations by reference.
22. Law Offices of Laurence A. Hecker is a "regulated person" under the Michigan Debt Collection Practices Act ("MDCPA"), M.C.L. § 445.251(g)(xi).
23. Law Offices of Laurence A. Hecker 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 in violation of M.C.L. §445.252(e).

- c. Misrepresenting in a communication with a debtor 1 or more of the following in violation of M.C.L. §445.252(f):
 - i. The legal status of a legal action being taken or threatened.
 - ii. The legal rights of the creditor or debtor.
 - iii. That the nonpayment of a debt will result in the debtor's arrest or imprisonment, or the seizure, garnishment, attachment, or sale of the debtor's property.
 - iv. That accounts have been turned over to innocent purchasers for value.
 - d. Using a harassing, oppressive, or abusive method to collect a debt in violation of M.C.L. §445.252(n).
 - e. Failing to implement a procedure designed to prevent a violation by an employee in violation of M.C.L. §445.252(q).
24. Mrs. Nissan has suffered damages as a result of Law Offices of Laurence A. Hecker's violations of the Michigan Collection Practices Act.

COUNT III – Intentional Infliction of Emotional Distress

(Law Offices of Laurence A. Hecker)

- 25. Mrs. Nissan incorporates the preceding allegations by reference.
- 26. Law Offices of Laurence A. Hecker intentionally inflicted emotional distress on Mrs. Nissan.
- 27. Such infliction was caused by extreme and outrageous conduct, which was intentional or reckless, and which caused severe emotional distress.

28. Mrs. Nissan has been harmed by this intentional infliction of emotional distress in an amount to be determined at trial.

DEMAND FOR JURY TRIAL

29. Plaintiff demands trial by jury in this action.

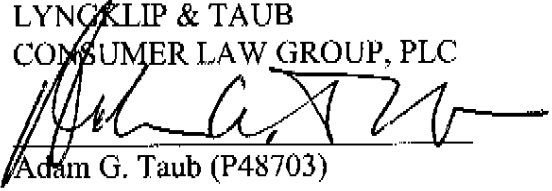
DEMAND FOR JUDGMENT FOR RELIEF

30. *Accordingly, Mrs. Nissan 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. *Treble damages.*
 - e. *Statutory costs and attorney fees.*

Respectfully Submitted,

LYNCKLIP & TAUB
CONSUMER LAW GROUP, PLC

By:


Adam G. Taub (P48703)
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Dated: March 6, 2006

ORIGINAL

JS 44 11/99

CIVIL COVER SHEET COUNTY IN WHICH THIS ACTION AROSE: Macomb

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

ALMA NISSAN

DEFENDANTS

LAURENCE A. HECKER

(b) County of Residence of First Listed

Macomb

County of Residence of First Listed

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

Lyngklip & Taub Consumer Law Group, PLC
24500 Northwestern Hwy., Ste. 206, Southfield, MI 48075
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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. CITIZENSHIP OF PLAINTIFF AND DEFENDANT (For Diversity Cases Only)

PLA		DEF		and One Box for Defendant	
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"/> 180 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	<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	<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	<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/Comm mod files/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 881 Agricultural Acts <input type="checkbox"/> 882 Economic Stabilization Act <input type="checkbox"/> 883 Environmental Matters <input type="checkbox"/> 884 Energy Allocation Act <input type="checkbox"/> 885 Freedom of Information Act <input type="checkbox"/> 890 Appeal of Fee Determination Under Equal Access to Justice
REAL PROPERTY <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	CIVIL RIGHTS <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	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 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	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	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1385ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 OWC/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

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 (specify)
- 6 Multi district Litigation
- 7 Judge from District Appeal to 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 15 U.S.C. § 1691 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: 3-7-06 SIGNATURE OF ATTORNEY OF RECORD: *[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 :

03/09/06