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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.

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

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 Kelscy 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

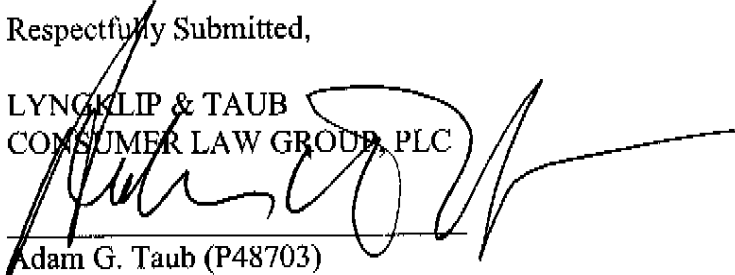
24. Accordingly, Mrs. Whitaker requests that the Court grant:

- 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

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 :
