

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

JULIE ALBERTS, individually  
and on behalf of similarly situated persons,

Plaintiff,

v.

ASSET ACCEPTANCE, LLC, and  
DOES 1-2,

Defendants.

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**Case No.**

**JURY DEMANDED**

**COMPLAINT – CLASS ACTION**

**INTRODUCTION**

1. Plaintiff Julie Alberts, brings this action individually and on behalf of a similarly situated persons against Defendants Asset Acceptance, LLC, for violating the Fair Debt Collection Practices Act, (“FDCPA”) and mirror state law, the Michigan Regulation of Collection Practices Act, M.C.L. § 445.251, et seq., (“MRCPA”), in attempting to collect a debt using an envelope that published that Plaintiff is a “judgment debtor” in violation of 15 U.S.C. §1692f(8) that permit only the printing of the “debt collector’s address” on the envelope and violates M.C.L. § 445.252(m) as it “bring[s] to public notice that the consumer is a debtor[.]”

2. Doe 1, the alleged attorney who signed or caused to be signed the garnishment, and Doe 2, the Asset Acceptance employee, manager, or owner at the highest level who approved of the use of the subject envelope that made it possible for the phrase “judgment debtor” to be viewed, likewise violated the FDCPA and the MRCPA.

### **JURISDICTION AND VENUE**

3. This Court has jurisdiction under 28 U.S.C. § 1331 (Federal Question), 15 U.S.C. § 1692k (FDCPA), and has jurisdiction over Plaintiff's supplemental state law claim, 28 U.S.C. § 1367(a).

4. Venue and personal jurisdiction over Defendants in this District is proper because:

- a. Plaintiff is a resident of Kent County, Michigan which is located in the District;
- and
- b. Defendants' conduct at issue was directed to Plaintiff within the District.

### **PARTIES**

5. Plaintiff is a natural person who resides in Kent County, Michigan.

6. Asset Acceptance LLC is a Delaware limited liability company, with at least one office located in the State of Michigan. Its registered agent in the State of Michigan is CSC-Lawyers Incorporating Service (Company), 601 Abbot Road, East Lansing, MI 48823.

7. Doe 1 is the attorney who signed or caused to be signed the garnishment. Plaintiff does not know whether the garnishment was signed by, or signed on behalf of either Elizabeth Smith (P63010), Andres Perry (P69402), Stephanie Pettway (P64543), or Omar Najor (P58066), or any of these attorneys.

8. The State Bar of Michigan lists Ms. Smith as being with Asset Acceptance, LLC having an address of 320 E Big Beaver Rd., Ste. 300, Troy, Michigan, and the SBM also lists Mr. Perry and Ms. Pettway as having the same business address. On information and belief, Mr. Najor is no longer employed by Asset Acceptance, LLC.

9. Doe 2 is the Asset Acceptance employee, manager, or owner at the highest level who approved of the use of the subject envelope that made it possible for the phrase “judgment debtor” to be viewed.

10. None of the Defendants are a “creditor” as defined by 15 U.S.C. § 1692a(4).

11. Defendants each are a “debt collector” as defined by 15 U.S.C. § 1692a(6) in regard to Plaintiff and the putative class.

12. Asset Acceptance and Doe 2 are each a “regulated person” under M.C.L. § 445.251(g).

13. Doe 1 is a “regulated person” under M.C.L. § 445.251(g)(xi).

#### FACTS

14. Plaintiff is a “consumer” as defined in 15 U.S.C. § 1692a(3).

15. On information and belief, the subject debt is a “debt” as defined in 15 U.S.C. § 1692a(5) as Asset Acceptance is in the business of purchasing charged off consumer debt. <http://www.assetacceptance.com/about/History.html> (“On June 13, 2013, Encore Capital Group (NASDAQ:ECPG) closed its acquisition of Asset Acceptance Capital Corp. All operating subsidiaries of Asset Acceptance are now part of Encore Capital Group. Combined, Encore and Asset Acceptance have purchased over 60 million individual consumer accounts, including credit card, telecommunications, consumer loans and other related assets, with a face value of over \$130 billion.”) (last visited May 15, 2017).

16. Exhibit A, which is redacted, (the “subject envelope”) was sent by Asset Acceptance, or on Asset Acceptance’s behalf and direction.

17. Exhibit A while noting that the contents of the letter are “**PERSONAL AND CONFIDENTIAL**” also identified the recipient as a “judgment debtor”.

18. Exhibit B is the document that was inside the subject envelope, Exhibit A.

19. The subject envelope would have, on information and belief, been visible to persons other than Plaintiff and Defendant and its employees though a minimum the process of sending and delivering the subject envelope to Plaintiff.

20. Notably, Plaintiff is a relative of a Kent County postal worker.

### COUNT I

21. Plaintiff incorporates paragraphs 1-20 above herein.

22. Congress in enacting the FDCPA sought to protect consumers from among other acts, the prohibitions of a debtors' personal affairs to third persons, and therefore the Act was not merely procedural, but substantive and of great importance.

23. The harm alleged here is precisely the type of misconduct that the Act was intended to protect and therefore an injury-in-fact exists here.

24. 15 U.S.C. § 1692f(8) provides:

(8) Using **any language** or symbol, other than the debt collector's address, on any envelope when communicating with a consumer by use of the mails or by telegram, except that a debt collector may use his business name if such name does not indicate that he is in the debt collection business.

25. Making visible the phrase "Judgment Debtor" is the use of any language on any envelope "other than the debt collector's address".

26. "The purpose of this specific provision [1692f(8)] is apparently to prevent embarrassment resulting from a conspicuous name on the envelope, indicating that the contents pertain to debt collection." *Rutyna v. Collection Accounts Terminal, Inc.*, 478 F. Supp. 980, 982 (N.D. Ill. 1979); see generally S. Rep. No. 95-382 (1977), reprinted in 1977 U.S.C.C.A.N. 1695, 1698-99.

27. Plaintiff has the legal substantive right to not having disclosed on an envelope that she is a debtor.

28. Plaintiff has the legal substantive right to privacy interests.

29. Plaintiff's right to privacy and seclusion have been violated.

30. Defendants' conduct violated 15 U.S.C § 1692f(8), which provides:

Using any language or symbol, other than the debt collector's address, on any envelope when communicating with a consumer by use of the mails or by telegram, except that a debt collector may use his business name if such name does not indicate that he is in the debt collection business.

31. Defendants' conduct violated M.C.L. § 445.252(m) as it "bring[s] to public notice that the consumer is a debtor[.]"

#### **CLASS ACTION**

32. A complaint need not define the class rather, "the obligation to define the class falls on the judge's shoulders" who may ask the parties' assistance. *Chapman v. First Index, Inc.*, 796 F.3d 783, 785 (7th Cir. 2015) (*citing* Fed. R. Civ. P. 8(a); Fed. R. Civ. P. 23(c)(1); *Kasalo v. Harris & Harris, Ltd.*, 656 F.3d 557, 563 (7th Cir. 20011)).

33. Pursuant to Rule 23 class definitions may be modified by the Court or by Plaintiff prior to the entry of a judgment in this matter.

34. On information and belief there are more than 40 persons similarly situated to Plaintiff from whom within one year of the filing of this Complaint received a subject envelope indicating the recipient was a "judgment debtor" like the one received by Plaintiff.

35. There are questions of law and fact common to each class that predominate over any questions affecting only individual class members.

36. The predominate questions are whether an envelope displaying that the recipient is a "judgment debtor" violates the FDCPA and the MRCPA.

37. Plaintiff will fairly and adequately protect the interests of a class.

38. Plaintiff has retained Curtis C. Warner, who is counsel experienced in handling class actions and claims involving unlawful business practices.

39. A class action is an appropriate method for the fair and efficient adjudication of this controversy.

WHEREFORE, Plaintiff requests that the Court to enter an order that this matter may proceed as a class action, appoint Plaintiff as the class representative and enter any incentive award deemed reasonable by the Court for Plaintiff's services as the class representative, find Defendants each to have violated the FDCPA and MRCPA enter a judgment in favor of Plaintiff and a certified class for statutory damages, actual damages and attorney's fees and costs of suit as allowed by the FDCPA and the MRCPA, along with injunctive relief under the MRCPA.

Respectfully submitted,

s/ Curtis C. Warner  
Curtis C. Warner

Curtis C. Warner (P59915)  
WARNER LAW FIRM, LLC  
350 S. Northwest HWY., Ste. 300  
Park Ridge, IL 60068  
(847) 701-5290  
[cwarner@warner.legal](mailto:cwarner@warner.legal)

B. Thomas Golden (P70822)  
GOLDEN LAW OFFICES, P.C.  
2186 West Main Street, P.O. Box 9  
Lowell, Michigan 49331  
(616) 897-2900  
[btg@bthomasgolden.com](mailto:btg@bthomasgolden.com)

#### **JURY DEMAND**

Plaintiff demands a trial by jury.

Respectfully submitted,

s/ Curtis C. Warner  
Curtis C. Warner

Curtis C. Warner (P59915)  
WARNER LAW FIRM, LLC  
350 S. Northwest HWY., Ste. 300  
Park Ridge, IL 60068  
(847) 701-5290  
[cwarner@warner.legal](mailto:cwarner@warner.legal)

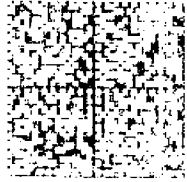
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# EXHIBIT A



PO BOX 2003  
WARREN, MI 48090-2003  
Address Service Requested

Present  
First Class Mail  
Compare Price



U.S. POSTAGE DEFINITIVE  
Postage  
\$000.38  
05/17  
00019-0001

**PERSONAL AND CONFIDENTIAL**

• Defendant's name and address (judgment debtor)

JULIE ALBERTS

v

10 KJGM 3B 45331

\* Redacted

# EXHIBIT B

Approved, SCAO

STATE OF MICHIGAN  
JUDICIAL DISTRICT  
JUDICIAL CIRCUIT

REQUEST AND WRIT FOR GARNISHMENT  
(INCOME TAX REFUND/CREDIT)

CASE NO.

D105262GC

63

Court address

63RD DISTRICT COURT 1950 E. BELTLINE NE GRAND RAPIDS MI 49525

Zip code

Court telephone no.

(616) 632-7776

This Portion to be completed by the court only TO THE GARNISHEE: Make the amount intercepted pursuant to this writ and payable to and mailed to:  the plaintiff.  the plaintiff's attorney.  the court.

Plaintiff's name and address (judgment creditor)  
ASSET ACCEPTANCE, LLC  
320 E. BIG BEAVER, SUITE 300  
TROY, MI 48083

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Plaintiff's attorney, address  
Elizabeth Smith P63010/Andrew Perry P69402  
Stephanie Pettway P64543/Omar Najor P58066  
ATTORNEYS FOR PLAINTIFF  
ASSET ACCEPTANCE, LLC  
P. O. BOX 2003  
WARREN, MI 48090-2003

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Plaintiff attorney FE no. 26-2723351	Plaintiff attorney telephone no. • (877) 692-6184
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Defendant's name and address (judgment debtor)  
JULIE ALBERTS  
v [REDACTED] \* Redacted

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Garnishee Third Party Withholding Unit  
Michigan Department of Treasury  
P. O. Box 30785  
Lansing, MI 48909

**REQUEST** NOTE for item 2: If a civil judgment includes judgment interest in the "total judgment" field (as in the forms in use before the 5/07 revisions), the interest amount reported in item 2 should not include any postfiling interest already included in the judgment.

- On February 02, 2011, the plaintiff received judgment against the defendant for: \$2,517.04
  - The total amount of judgment interest accrued to date is: \$1,406.78  
The total amount of postjudgment costs accrued to date is: \$20.51  
The total amount of postjudgment payments made and credits to date is: \$1,517.20  
The amount of the unsatisfied judgment now due (including interest and costs) is: \$2,427.13
  - Plaintiff knows or with good reason believes that the garnishee is indebted to or possesses or controls property belonging to defendant.
  - Plaintiff requests a writ of garnishment to intercept income tax and that it be paid to  plaintiff's attorney.  plaintiff.
- I declare that the statements above are true to the best of my information, knowledge, and belief.

10/06/2016  
Date

Plaintiff/Agent/Attorney signature  
ELIZABETH SMITH P63010 / ANDREW PERRY P69402 / STEPHANIE PETTWAY P64543 / OMAR NAJOR P58066

**WRIT OF GARNISHMENT** To be completed by the court.

- TO THE PLAINTIFF:**
- The social security number field is blacked out for security reasons on all parts except the garnishee copy.
  - You must serve this writ on the state treasurer along with a \$6.00 fee and any discovery request for information related to this garnishment.
  - You must serve a copy of this writ on the defendant within 7 days after serving the writ on the state treasurer.
  - You are responsible for paying to the state treasurer any reasonable costs incurred by the state treasurer in providing information in response to your discovery request.
  - If a state tax refund or credit is not intercepted before October 31 of the year during which this writ of garnishment is to be processed, you will not receive a disclosure unless you file a written request with the state treasurer between November 1 and December 31 of the tax year following the tax year for which this writ was filed.

- TO THE DEFENDANT:**
- If a state tax refund or credit is intercepted pursuant to this writ, the state treasurer will notify you on a disclosure form.
  - You have **14 days** after being notified of an intercept to file objections to the writ of garnishment with the court. If you do not object within this time, the intercepted tax refund or credit held under this writ will be applied to the judgment **28 days** after the disclosure was filed with the court.

- TO THE GARNISHEE:**
- Upon intercepting a state tax refund or credit, calculate the amount available to satisfy all or part of the garnishment.
  - Within 90 days after establishing any other liability for which the state tax refund or credit may be applied under MCL 205.30a, file with the court a verified disclosure identifying the intercepted amount, less any setoff, counterclaim, or other demand of the state against the defendant.
  - Unless notified by the court that objections to the writ of garnishment have been filed, payment of the intercepted amount must be made not less than 28 days after filing the disclosure.
  - You are ordered to pay the amount intercepted under this writ as stated at the top of this form.**

Date of issue

Deputy court clerk

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Class Action Alleges Asset Acceptance Violated Debt Collection Laws](#)

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