

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

LORI BROWN, individually  
and on behalf of similarly situated persons,

Plaintiff,

**Case No. 17-cv-795**

v.

ASSET ACCEPTANCE, LLC,

Defendant.

**JURY DEMANDED**

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**COMPLAINT – CLASS ACTION**

**INTRODUCTION**

1. Plaintiff Lori Brown brings this action individually and on behalf of a similarly situated persons against Defendant 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 only permits 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[.]”

**JURISDICTION AND VENUE**

2. 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).

3. Venue and personal jurisdiction over Defendant in this District is proper because:

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

### **PARTIES**

4. Plaintiff is a natural person who resides in Ionia County, Michigan.
5. Plaintiff is a "consumer" as defined in 15 U.S.C. § 1692a(3).
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. Defendants are a "creditor" as defined by 15 U.S.C. § 1692a(4).
8. Defendant is a "debt collector" as defined by 15 U.S.C. § 1692a(6) in regard to Plaintiff and the putative class.
9. Asset Acceptance is a "regulated person" under M.C.L. § 445.251(g).

### **FACTS**

10. 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 August 29, 2017).

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

12. Exhibit A while noting that the contents of the letter are “**PERSONAL AND CONFIDENTIAL**” also identified through the envelope’s glassine window that the recipient is a “judgment debtor”.

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

14. The subject envelope would have, on information and belief, been visible to persons other than Plaintiff and Defendant, its employees or third party vendors though at a minimum the process of sending and delivering the subject envelope to Plaintiff via the US Mail.

#### COUNT I

15. Plaintiff incorporates paragraphs 1-14 above herein.

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

17. 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.

18. 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.

19. Making visible the phrase “Judgment Debtor” is the use of any language on any envelope “other than the debt collector’s address”.

20. “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.

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

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

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

24. Defendant's 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.

25. 15 U.S.C. § 1692f(8) is violated when the language alleged to violate the subsection is visible through a glassine window of the envelope. *E.g. Douglass v. Convergent Outsourcing*, 765 F.3d 299 (3d Cir. 2014).

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

### CLASS ACTION

27. 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)).

28. 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.

29. 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, and persons whose statute of limitations on their claims has been tolled, received a subject envelope indicating the recipient was a “judgment debtor” like the one received by Plaintiff.

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

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

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

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

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

35. Such class actions brought under 15 U.S.C. § 1692f(8) can be certified. *E.g. Ebner v. Merchs. & Med. Credit Corp.*, 2017 U.S. Dist. LEXIS 41575, 2017 WL 1079966 (E.D. Pa. Mar. 22, 2017).

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, and for treble damages under the MRCPA if Defendant’s conduct was willful.

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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(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

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# **EXHIBIT A**

PO BOX 2003

WARREN, MI 48090-2003

Address Service Requested

**PERSONAL AND CONFIDENTIAL**

Presort  
First Class Mail  
ComBasPrice



U.S. POSTAGE  PITNEY BOWES  
ZIP 48083 \$000.39<sup>9</sup>  
02 1W  
0001376332 NOV 03 2016

V

Defendant's name and address (Judgment debtor)  
 LORI BROWN  
 [REDACTED]  
 MI [REDACTED]

165 1364136 [Barcode]

# **EXHIBIT B**

Approved, SCAO

Original - State Treasurer (Part 1)  
1st copy - Court (Part 2)  
2nd copy - Defendant (Part 2)

3rd copy - Return (proof of service) (Part 2)  
4th copy - Plaintiff/Attorney (proof) (Part 2)

• STATE OF MICHIGAN JUDICIAL DISTRICT JUDICIAL CIRCUIT 64ADC	REQUEST AND WRIT FOR GARNISHMENT (INCOME TAX REFUND/CREDIT)	• CASE NO. 07-3114-GC
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Court address 64A DISTRICT COURT 101 W. MAIN ST IONIA MI 48846 Zip code Court telephone no. (616) 527-5346

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

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

Plaintiff attorney FE no. 26-2723351 Plaintiff attorney telephone no. (877) 692-6184

Defendant's name and address (judgment debtor)  
 LORI BROWN  
 [REDACTED]  
 [REDACTED] MI 4 [REDACTED]

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 06, 2008, the plaintiff received judgment against the defendant for: \$1,997.94
  - The total amount of judgment interest accrued to date is: \$552.16  
 The total amount of postjudgment costs accrued to date is: \$102.76  
 The total amount of postjudgment payments made and credits to date is: \$1,332.47  
 • The amount of the unsatisfied judgment now due (including interest and costs) is: \$1,320.39
  - 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.

08/04/2016 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.

9-16-16 Date of issue *Alva Jewless* Deputy court clerk

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

Case No. 07-3114-GC

**PROOF OF SERVICE**

**TO PROCESS SERVER:** You must serve the garnishee with this request and writ of garnishment, the \$6.00 fee, and any attachments, and file proof of service with the court clerk as directed by the plaintiff. If you are unable to complete service, you must return this original and all copies to the court clerk.

**CERTIFICATE / AFFIDAVIT OF SERVICE / NONSERVICE**

**OFFICER CERTIFICATE**

I certify that I am a sheriff, deputy sheriff, bailiff, appointed court officer, or attorney for party [MCR2.104(A)(2)], and that: (notarization not required)

OR

**AFFIDAVIT OF PROCESS SERVER**

Being first duly sworn, I state that I am a legally competent adult who is not a party or an officer of a corporate party, and that: (notarization required)

- I served the request and writ of garnishment, the \$6.00 fee, and any attachments by:  
 personal service     registered or certified mail (copy of return receipt attached) on:

Garnishee name Michigan Department of Treasury Third Party Withholding Unit	Complete address of service P. O. Box 30785 Lansing, MI 48909	Day, date, time
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- I served a copy of the request and writ of garnishment by  
 personal service     first class mail on:

Defendant name	Complete address of service	Day, date, time
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- I have personally attempted to serve the request and writ of garnishment on the defendant and have been unable to complete service.

Defendant name	Complete address(es) of service	Day, date, time
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I declare that the statements above are true to the best of my information, knowledge, and belief.

Service Fee	Miles traveled	Fee	
\$		\$	
Incorrect address fee	Miles traveled	Fee	TOTAL FEE
\$		\$	\$

Signature \_\_\_\_\_

Name (type or print) \_\_\_\_\_

Title \_\_\_\_\_

Subscribed and sworn to before me on \_\_\_\_\_, \_\_\_\_\_ County, Michigan.  
 Date

My commission expires: \_\_\_\_\_ Date      Signature: \_\_\_\_\_  
 Deputy court clerk/Notary public

Notary public, State of Michigan, County of \_\_\_\_\_

**ACKNOWLEDGMENT OF SERVICE**

I acknowledge that I have received the request and writ of garnishment (and the \$6.00 fee and attachments if applicable) on

\_\_\_\_\_  
 Day, date, time

Signature \_\_\_\_\_ on behalf of \_\_\_\_\_

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit: Asset Acceptance Displays Private Debtor Information on Envelopes](#)

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