UNITED STATES OF AMERICA U.S. DISTRICT COURT -- EASTERN DISTRICT OF MICHIGAN

JOSEPH LEAHY and THOMAS ROSS on behalf of a class,

Plaintiffs,

-V-

MEYER NJUS TANICK, PA,

Defendant.

COMPLAINT - CLASS ACTION & JURY DEMAND

There are no related cases, except the state court lawsuits referenced herein.

Introduction

- 1. Joseph Leahy and Thomas Ross seek redress for acts prohibited by the Fair Debt Collection Practices Act, 15 U.S.C. §1692 *et seq.* ("FDCPA"), committed by Meyer Njus Tanick, PA ("MNT").
- 2. The FDCPA prohibits unfair or unconscionable collection methods, conduct which harasses or abuses any debtor, and any false, deceptive or misleading statements in connection with the collection of a debt. It also requires debt collectors to give debtors certain information. 15 U.S.C. §§1692d, 1692e, 1692f and 1692g.
- 3. In enacting the FDCPA, Congress found that: "[t]here is abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many debt collectors. Abusive debt collection practices contribute to the number of personal bankruptcies, to marital instability, to the loss of jobs, and to invasions of individual privacy." 15 U.S.C. §1692(a).
- 4. Because of this, courts have held that "the FDCPA's legislative intent emphasizes the need to construe the statute broadly, so that we may protect consumers against debt collectors' harassing conduct." and that "[t]his intent

- cannot be underestimated." *Ramirez v. Apex Financial Management LLC*, 567 F.Supp.2d 1035, 1042 (N.D.III. 2008).
- 5. The FDCPA encourages consumers to act as "private attorneys general" to enforce the public policies and protect the civil rights expressed therein. *Crabill v. Trans Union, LLC*, 259 F.3d 662, 666 (7th Cir. 2001).
- 6. Plaintiffs seek to enforce those policies and civil rights which are expressed through the FDCPA, 15 U.S.C. §1692 *et seq*.

Jurisdiction and Venue

- 7. This court has jurisdiction under 15 U.S.C. §1692k(d) and 28 U.S.C. §\$1331 and 1337.
- 8. The events described in this complaint occurred in this District.

Parties

- 9. Plaintiff Joseph Leahy resided in South Lyon, Michigan at all relevant times.
- 10. Plaintiff Thomas Ross resided in Detroit, Michigan at all relevant times.
- 11. Defendant Meyer Njus Tanick, PA ("MNT"), formerly Meyer & Njus, is a 13-attorney law firm organized as a Minnesota corporation with principal offices at 200 S. 6th Street, Minneapolis, MN 55402 and other offices at (a) 33 North Dearborn Street, Suite 1301, Chicago, Illinois 60602, (b) 5232 West Oklahoma Avenue, Suite 200, Milwaukee, Wisconsin 53219, and (c) 21415 Civic Center Drive, Suite 301, Southfield, Michigan 48076
- 12. One of the principal practice areas of MNT is "collections."
- 13. MNT has a web site where it states: "Meyer Njus Tanick combines the best elements of a collection agency heavy phone activity, skip tracing and asset locating with the power of a law firm. With more than 80 years of combined experience in collections, we understand the issues that are important to you efficient and cost-effective recovery on past-due

accounts. That means we use the tried and true methods of telephone and letter collections. The advantage of using a law firm for this method of recovery is that it makes it less likely will need to use the legal tools to enforce and collect judgments. Our experience demonstrates that debtors respond more quickly to collection efforts conducted by law firms. [¶] Under the leadership of firm co-founder and CEO, James Njus, the firm has grown to more than 45 staff members. Our presence is found throughout Minnesota, Michigan, Illinois, Iowa, Wisconsin, and Indiana and we have access to a nationwide network of attorneys who provide our clients with thorough, complete and comprehensive representation. . . . [¶] As a law firm, Meyer Njus Tanick has the unique ability to produce pre-litigation recoveries, similar to a collection agency, and we can supplement those efforts with time and effective judicial enforcement. Our experience means we know when to access the court system and when not to access the court system. We understand that every day matters when measuring how well your accounts receivable are managed. Getting rid of an extra layer speeds up the process. Over time, you can count on better metrics. . . . [¶] Our state-of-the-art collections system combined with our experience allows us greater management and control over the collection process, payment collection and remittance, client management, and reporting to you. [¶] Meyer Njus Tanick has more than 80 years of combined experience in legal collections. We maintain an experienced collections staff that is well trained and consistently monitored. [¶] With offices in Minnesota, Michigan, Illinois and Wisconsin, we offer a nationwide footprint by serving as the central source for referrals to other attorneys across the country. Our clients use our firm for nationwide collections and litigation."

(https://meyernjus.com/collections/consumer-commercial-creditors/)

- 14. Most of the debts collected, including plaintiffs' alleged debts, are for personal, family or household purposes and not for business purposes.
- 15. MNT uses the mails and telephone system in conducting such activities.
- 16. MNT is a debt collector as defined in the FDCPA.

Facts

- 17. On or about June 23, 2017, MNT, as counsel, filed a lawsuit on behalf of Synchrony Bank against Joseph Leahy in Michigan state court. A copy of the summons and complaint (a combined document) is attached as Appendix A.
- 18. On or about December 12, 2017, MNT, as counsel, filed a lawsuit on behalf of Synchrony Bank against Thomas Ross in Michigan state court. A copy of the summons and complaint (a combined document) is attached as Appendix B.
- 19. Each suit seeks collection of an alleged debt that was incurred (if at all) for personal, family or household purposes and not for business purposes.
- 20. The summons and complaint in <u>Appendix A</u> listed as defendants (a) Joseph Leahy, with his address, and (b) his address, again. Immediately after the address are the words "jointly and severally", which according to the dictionary means that "two or more persons are fully responsible equally for the liability", indicating that both the named individual and the address are sought to be held liable.
- 21. The text of the complaint refers to "Defendant(s)," which is consistent with there being more than one defendant.
- 22. <u>Appendix A</u> implies that in addition to Mr. Leahy, personally, the property identified in the summons and complaint is a defendant and that the summons and complaint seek a judgment against the property.
- 23. The summons and complaint in Appendix B are similar.

- 24. Such statements are false.
- 25. Such statements are not required by state law or rules.
- 26. Such statements are materially misleading and intimidating to an unsophisticated consumer.
- 27. The unsophisticated consumer is not familiar with the law relating to the enforcement of claims against property, and may not understand that before property can be affected by a claim based on a credit card or similar debt, a judgment must be entered against the individual consumer and subsequent proceedings taken to enforce the judgment against property.
- 28. Some federal and state lawsuits, such as federal forfeiture actions and Michigan state tax foreclosure actions, are legitimately brought against property.
- 29. Knowing when it is proper to name property requires a degree of legal knowledge not possessed by the unsophisticated consumer.
- 30. 15 U.S.C. §§1692e, 1692e(2), and 1692e(10) prohibit false or misleading representations in the course of debt collection, including a "false representation of... the character, amount, or legal status of any debt," or "any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer."

COUNT ONE - FDCPA - CLASS CLAIM

- 31. Plaintiff incorporates paragraphs 1-30.
- 32. Because defendant made false representations in the course of debt collection lawsuits they brought against plaintiffs (as alleged in this complaint), defendant violated the FDCPA.
- 33. Plaintiffs were confused and concerned about the naming of property.

Class Allegations

34. Plaintiffs bring this action on behalf of a class under Fed.R.Civ.P. 23(a) and

(b)(3).

- 35. The class includes (a) all individuals (b) against whom MNT filed a collection lawsuit in Michigan, (c) where the address of the defendant was listed twice, as in Appendices A and B, with "jointly and severally" after the second listing, (d) where the suit was brought at any time between a date one year prior to the filing of this action and a date 21 days after the filing of this action.
- 36. Based on the number of court filings by MNT in Michigan, the members of the class are so numerous that joinder of all is not practicable. On information and belief, there are at least 40 individuals in the defined class.
- 37. There are questions of law and fact common to the class members, which predominate over any questions relating to individual class members. The predominant common question is whether the listing of the defendant's address in the manner complained of herein violates the FDCPA.
- 38. Plaintiffs' claim is typical of the claims of the class members, as it is based on the same facts and legal theories.
- 39. Plaintiffs will fairly and adequately represent the class members, and has retained counsel experienced in class actions and FDCPA litigation.
- 40. A class action is superior for the fair and efficient adjudication of this matter, because (A) individual actions are not economically feasible, (B) members of the class are likely to be unaware of their rights, and (C) Congress intended class actions to be the principal enforcement mechanism under the FDCPA.

Demand For Judgment

ACCORDINGLY, plaintiff respectfully requests that the Court:

- a. Assume jurisdiction over all claims,
- b. Award statutory damages,

- Award statutory costs and attorney fees, and c.
- Provide all other proper relief. e.

Demand for Jury Trial

Plaintiff respectfully demands trial by jury.

Respectfully submitted,

ADAM G. TAUB & ASSOCIATES CONSUMER LAW GROUP, PLC

s/ Adam G. Taub Adam G. Taub (P48703) 17200 West 10 Mile Rd. Suite 200 Southfield, MI 48075 (248) 746-3790 adamgtaub@clgplc.net By:

> s/ Daniel A. Edelman Daniel A. Edelman Cathleen M. Combs
> EDELMAN, COMBS, LATTURNER
> & GOODWIN, LLC
> 20 S. Clark Street, Suite 1500
> Chicago, Illinois 60603
> (312) 739-4200
> Email: courtecl@edcombs.com

Dated: March 23, 2018

APPENDIX A

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2nd copy - Plaintiff 3rd copy - Return Tore-order this form, call (517) 337-1211 Original - Court Targetinformation Management, Inc. 1st copy - Defendant CASE NO. STATE OF MICHIGAN **SUMMONS AND COMPLAINT** JUDICIAL DISTRICT 2 Pages ⊵ of GC 52/1JUDICIAL CIRCUIT

Court address

Joseph Lephy

Court telephone no.

48150 Grand, River Ave., Novi MI 48374.

(248)305~6080

COMPLAIST

- holder ΟĨ the credit Synchrony Bank is the issuing bank and Synchrony Fin card(s)issued to Defendant(s), account(s) **********4149, pursuant credit. account open-ended to (an) agreement(s) which has/have been delivered to and is/are in the possession of Defendant(s). On June 2, 2014, GE Capital Retail Bank changed its name to Synchrony Bank.
- Defendant (3) Used Said account (3) to purchase goods and/or-services and was/were billed on a monthly basis by Plaintiff.
- Defendant(s) has/have failed, refused end/or neglected to pay the full monthly payment when due and is/are therefore in default.
- The amount due Plaintiff over and above all legal counterclaims and setoffs is \$5,243,22, all of which more fully appears in the account billing statement attached hereto as Exhibit A and by this reference made a part hereof.

FOR THESE REASONS Plaintiff requests judgment against Defendant (s. jointly and severally) for \$5,243.22, together with costs and reasonable attorney's feeq.

MEYER & NJUS, P.A.

Harma, P72957

Dur File No: 201617608

THIS COMMUNICATION IS FROM A DEET COLLECTOR

MC 01a (3/85) SUMMONS AND COMPLAINT

PI AINTIFF

2:18-cv-10968-MAG-SDD Doc # 1-1 Filed 03/23/18 Pg 4 of 8 Pg ID 11

SPORT/SYNCHRONY BANK

Cardholder Name: JOSEPH P LEAHY Account Number: 4149 Statement Closing Date: 10/16/2016

Summary of Account Activity		Payment Information				
Previous Balance	\$5,206,22	New Balance	\$0.0			
+ New Purchases	\$0.00	Total Minimum Payment Due	\$1,557,00			
Payments	\$0.00	Payment Due Dale	10/18/2016			
+/- Credits, Fees & Adjustments (net)	\$5,206.22-	PAYMENT DUE BY 5 P.M. EASTERN ON THE DUE DA				
+/- Interest Charge (net)	\$0.00					
New Balance	\$0.00	reverse side.				
Credit Limit	\$5,500.00					
Available Credit	\$0.00	Late Payment Warning: If we do not receive your Total				
Days in Billing Period	. 30	Minimum Payment Due by the Payment Due you may have to pay a late fee up to \$37.00				
Pay online for free at: mysynchrony.com For Synchrony Bank customer service o card lost or stolen, call 1-866-396-8254. Best times to call are Wednesday - Friday.						

Tran Date	Post Date	Reference Number	Description	Amount
10/16/2016	10/16/2016	F907900MJ00999990	CHARGE OFF ACCOUNT-PRINCIPAL	.S \$3,629.00 CR
10/16/2016	10/16/2018	F907900MJ00999990	CHARGE OFF ACCOUNT-INTEREST CHARGE	\$1,814.22 CR
			FEES	
10/10/2016	10/10/2016		LATE FEE	\$37.00
			TOTAL FEES FOR THIS PERIOD INTEREST CHARGED	\$37.00
10/16/2016	10/16/2016		INTEREST CHARGE ON PURCHASE	\$0.00
			TOTAL INTEREST FOR THIS PER	IOD \$0.00
		2016 Te	tals Year-to-Date]
		Total Fees Charged in 2016	\$259.00	
		Total Interest Charged in 201	6 \$1,635.22	
		Total Interest Paid in 2016	\$284.00	1

Type of Balance	Expiration Date	Annual Percentage Rate (APR)	Balance Subject to Interest Rate	Interest Charge
Purchases	NA NA	29.99%	\$0.00	\$0.0
Cardholder News & Information	and a second of the second	Ly or	* *****	1 (m) 30 (t V

5302	CXII	3	3	15 161016	BD PAGE 1 D	1 :	9079 2600 GNJ2 C	01095302
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				Total Minimum Payment Due	Past Dua - Amount	Payment Due Date	New Balance	Account Number
				\$1,557.00	\$0.00	10/18/2016	\$0.00	4149
				Payment Enc	losed: 🌣 [╝╸	
Chec	address or e- k the box at i changes on i	eft and	Paym	,	Ψ [ease pay the past	due amount PROMPT	TLY.

APPENDIX B

Pg ID 13 2:18-cv-10968-MAG-SDD Doc # 1-1 Filed 03/23/18 Pg 6 of 8 Original - Court 2nd copy - Plaintiff 3rd copy - Return ist copy - Defendant era variato ra ulteri travi CASE NO. JUDICIAL DISTRICT 17131156SUMMONS AND COMPLAINT JDG P JEFFERSON JUDICIAL CIRCUIT COUNTY PROBAT Court telephone no the parameter was 965-6098 Defendant's name(s), address(es), and telephone no(s). Homes Ross 7452 Stolle St Deductor, Nic. 48228-4650 数 春. 200 South Sixth Streat, Suite 1100 Minneappd 15, MM 35402 Detroit/M1 46226-4684 (JGLD:1/ and Severally) SUMMONS ANOTICE TO THE DEFENDANT in the name of the people of the State of Michigan you are notified LY Vare being sum YOU HAVE A DAYS aller receiving this summons to file a written answer with the court and serve a conviou the other party or take other lawful action with the court (28 days if you were served by mail or you were served outside this state) f votode riprensiver obtake other action within the time allowed; judgment may be entered against you for the relief demanded in the complaint beusal This summons expires: Coun clork ISSUED TO SELECT ENGINEERS SEE ACTUAL PROPERTY STATE femilive) veter can as Orie following is information required to us caption of a vary complaint since is to be complainted by life plainting.)

In the case involves a migan who is under the community of a soliction of another windings a court. The name of the court, file. number and delails are on page and or the attached complaint E. There is no other pending or resolved action within the pursuiction of the family division of circuit court involving the family or family members of the parties An action within the jurisdiction of the family division of the circuit court involving the family or family members of the parties as been previously file in The action of the light is in a longer and pending the docket number and the judge assigned to the action are: Booking to 8 Bar no Civil Cases (Trestollowing is information required in the caption of every complaint and is to be completed by the plaintiff, Jans is a business case in which all or part of the action includes a business or commercial dispute under MCL 600 8035 An here is no other pending or reselved civil action arising out of the same transaction of occurrence as alleged in the complaint A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint THE PER GEVICES IN Count The action and tremements and association longer, bending a negocket number and the judge application of the action are Purchase to the state of the st VENUE Plainting readence thouse on township or viece BECOM TO COMPANY OF THE PROPERTY OF THE PROPER Part of the CHEER BOY CONTINUES BUT THE STATE OF If you require spould accommodations to use the court because of a disability or if you require a foreign language interpreter to

help you fully puricipate in count proceedings, please contact the court immediately to make againgments.

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SUMMONS AND COMPLAINT Page 201 2 Pages ÇASE NO.

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- Prefendant (a) Sused said account (a) to purchase goods and or services and presented by the purchase goods and or services and
- 3 Defendanties has/have failed called end/or neglected to pay the full monthly/payment when due and salars therefore in default.
- a embergment due Plaintiff over and above all legal counterclaims and settitude Le 52 083 167 win of which more full appears in the account billing statement appears made a pack hazers to be and by this reference made a pack hazers to be

FOR WHIZE REASONS FIREITE requests sudgment against Defendart No. CIPT :

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Walmart* THOMAS V ROSS Credit Card Account Number: 2749 Payment Information
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New address or email? Print changes on back.

THOMAS V ROSS 7431 STOUT ST DETROIT MI 4825 4534

Make Payment To: WALMART/SYNCHRONY BANK P.O. BOX 530927 ATLANTA, GA \$1353-0927

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: Meyer Njus Tanick Sued Over 'Misleading and Intimidating' Debt Collection Practices