

11.03/23/09.14:53:10.31895

STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

PAULA NEWLAND,

Plaintiff,

-vs-

ASSETS RECOVERED, L.L.C., a Texas Limited Liability Company, ADVANCED EQUITY, INC., an Indiana Corporation, JAMIE ARANDA, Individually, and d/b/a TROEUX RESEARCH INVESTIGATION, DAVID BUTLER, RANDY DAVIS, and JOAN E. BERKEY, Jointly and Severally,

Defendants.

HON.

OAKLAND COUNTY

09-099373-NZ

Case 1



JUDGE DANIEL P. O'BRIEN  
NEWLAND, PAULA v ASSETS RECOV

LIBLANG & ASSOCIATES, P.C.,  
BY: DANI K. LIBLANG (P33713)  
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**COMPLAINT AND JURY DEMAND**

There is no other civil action between these parties arising out of the same transaction or occurrence as alleged in this complaint pending in this court, nor has any such action been previously filed and dismissed or transferred after having been assigned to a judge, nor do I know of any other civil action, not between these parties arising out of the same transaction or occurrence as alleged in this complaint that is either pending or was previously filed and dismissed, transferred, or otherwise disposed of after having been assigned to a judge in this court.

Plaintiff, by her attorneys, Liblang & Associates, P.C., complains against the above named Defendants, as follows:

**INTRODUCTION**

1. This is an action for damages and declaratory relief, brought by a consumer against debt collectors in response to their violations of the federal Fair Debt Collection Practices Act ("FDCPA"), 15 USC 1692, *et seq*, the Michigan Collection Practices Act ("MCPA"), MCL 445.251, *et seq*, and the Michigan Consumer Protection Act ("CPA"), MCL 445.901, *et seq*. Plaintiff seeks

damages in excess of \$25,000 together with equitable and declaratory relief, and this cause is otherwise within the jurisdiction and venue of this Court.

**GENERAL ALLEGATIONS**

2. Plaintiff is a resident of the City of Edwardsburg, Cass County, Michigan.

3. Defendant, Assets Recovered, L.L.C. is a Texas limited liability company with its registered offices located in the City of Bingham Farms, Oakland County, Michigan, and at all times relevant hereto, was and is a “debt collector” under the FDCPA and a “creditor” or “regulated person” under the MCPA.

4. Defendant, Advanced Equity, Inc., is a corporation duly authorized to conduct business in the State of Michigan and, at all relevant times, carried on a continuous and systematic portion of its business throughout the State of Michigan, including Oakland County and was and is a “creditor” or “regulated person” under the MCPA.

5. Defendant, Jamie Aranda (“Aranda”), is an individual residing in Texas who, at all times relevant hereto, was the Vice President of Defendant, Assets Recovered, L.L.C., and also operated a business known as “Troex Research Investigation,” and at all times relevant hereto, was regularly engaged in debt collection activities throughout the State of Michigan, including Oakland County, and was and is a “debt collector” under the FDCPA, and a “creditor” or “regulated person” under the MCPA.

6. Defendant, David Butler (“Butler”), is an individual who, at all times relevant hereto, was an agent or employee of Defendant, Assets Recovered, and at all times relevant hereto, was regularly engaged in debt collection activities throughout the State of Michigan, including Oakland County, and was and is a “debt collector” under the FDCPA, and a “creditor” or “regulated person” under the MCPA.

7. Defendant, Randy Davis (“Davis”), is an individual who, at all times relevant hereto, was an agent or employee of Defendant, Assets Recovered, and at all times relevant hereto, was regularly engaged in debt collection activities throughout the State of Michigan, including Oakland

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County, and was and is a “debt collector” under the FDCPA, and a “creditor” or “regulated person” under the MCPA.

8. Defendant, Joan E. Berkey, is an individual who, at all times relevant hereto, was an agent or employee of Defendant, Advanced Equity, and at all times relevant hereto, was regularly engaged in debt collection activities throughout the State of Michigan, including Oakland County, and was and is a “debt collector” under the FDCPA, and a “creditor” or “regulated person” under the MCPA.

9. Upon information and belief, none of the Defendants named herein is licensed as a debt collector or regulated person under the MCPA.

10. On or about January 10, 2007, Plaintiff entered into a retail installment sales contract (“RISC”) for the purchase of a 2005 Chevrolet Impala automobile from Concord Cars, Inc., of Elkhart, Indiana; financing for the purchase was arranged by Concord Cars, Inc., by way of assigning the RISC to Defendant Advanced Equity; the contract was in Plaintiff’s maiden name, Paula Ransbottom.

11. In approximately January of 2009, Plaintiff fell behind on her payments under the subject RISC, at which time Defendants began engaging in various collection activities directed at Plaintiff, her family and friends with respect to the subject account, as more particularly set forth below.

12. Plaintiff seeks damages in excess of \$25,000 and/or equitable relief, and this cause is otherwise within the jurisdiction of this Court.

**COUNT I**

**VIOLATION OF MICHIGAN COLLECTION PRACTICES ACT**  
**(MCLA 445.251, ET SEQ)**

13. Plaintiff incorporates by reference all facts and allegations set forth in this complaint.

14. Plaintiff is a “consumer” or “debtor” within the meaning of MCLA 445.251(d).

15. Defendants are "collection agencies" and a "creditors" or "principals" within the meaning of MCLA 445.251(b) and (e).

16. In attempting to collect payments on the aforesaid account, Defendants engaged in the following acts and practices:

a. Communicating information regarding Plaintiff's indebtedness to Plaintiff's friends and family, in violation of MCLA 445.252(m);

b. Posting information concerning Plaintiff's indebtedness on Plaintiff's "MySpace" page on the internet, in violation of MCLA 445.252(m);

c. Using a harassing, oppressive, or abusive method to collect a debt, including calling Plaintiff, Plaintiff's husband, Plaintiff's friends and relatives repeatedly, even after Plaintiff and the other persons called requested that Defendants stop calling, in violation of MCLA 445.252(n);

d. Using a harassing, oppressive, or abusive method to collect a debt, including causing Plaintiff's telephone to ring repeatedly, approximately 15 times, on a Saturday, even after being asked to stop calling, in violation of MCLA 445.252(n);

e. Using a harassing, oppressive, or abusive method to collect a debt, including engaging Plaintiff's husband in telephone conversation repeatedly, even after being advised by Plaintiff's husband that he needed Defendants to stop calling as he was on call for work and needed to keep the telephone line open, in violation of MCLA 445.252(n);

f. Misrepresenting to Plaintiff's relatives that Defendants were calling concerning a "family emergency" and needed to reach Plaintiff immediately concerning the family emergency, in violation of MCLA 445.252(e), (m) and (n);

g. Misrepresenting that Defendants would report the subject automobile as "stolen" and have Plaintiff arrested and jailed, in violation of MCLA 445.252(e), (f)(iii), (g) and (n);

h. Using harassing, oppressive and abusive methods to collect a debt, including but not limited to, contacting Plaintiff's land contract vendor, and communicating Plaintiff's

indebtedness and implying that Plaintiff would be unable to pay her house payments, in violation of MCLA 445.252(m) and (n);

i. Misrepresenting the legal status of the alleged debt and/or that Plaintiff would be arrested and jailed if she failed to pay the alleged debt, in violation of MCLA 445.252(f)(i) and (iii);

j. Using or threatening to use a “shame automobile” and “camp out all weekend” in front of Plaintiff’s house, in violation of MCLA 445.252(m) and (n);

k. Employing a person not licensed under MCLA 339.901 to 339.916 to attempt to collect a claim, in violation of MCLA 445.252(s);

l. Failing to implement procedures designed to prevent violations of MCLA 445.252 by its employees, in violation of MCLA 445.252(q);

m. Such other and further acts and practices as may be discovered through further investigation and discovery.

17. The foregoing acts and practices by Defendants were wilful.

18. As a result of Defendants’ actions above, Plaintiff has suffered the damages, including but not limited to, damage to her business and community reputation, extreme mental distress, aggravation, humiliation and embarrassment and, also is entitled to statutory damages, treble damages and attorney fees as provided in the Michigan Collection Practices Act, specifically, MCLA 445.257(2).

WHEREFORE, Plaintiff prays for Judgment against Defendants, jointly and severally, in whatever amount above \$25,000 she is found to be entitled, together with statutory damages, treble damages, interest, costs and reasonable attorney fees as provided by statute.

**COUNT II**

**VIOLATION OF FAIR DEBT COLLECTION PRACTICES ACT**  
**15 USC 1692, ET SEQ - DEFENDANTS ASSETS RECOVERED, BUTLER,**  
**ARANDA AND DAVIS**

19. Plaintiffs incorporate by reference all facts and allegations set forth in this Complaint.

20. This Court has jurisdiction to decide claims under the Fair Debt Collection Practices Act pursuant to 15 USC 1692k(d).

21. In the course of attempting to collect the debt allegedly owed by Plaintiff to Defendant Advanced Equity, Defendants Assets Recovered, Butler and Davis, engaged in the following conduct, the natural consequences of which is to harass, oppress or abuse Plaintiffs, in violation of 15 USC 1692d, including but not limited to:

a. Falsely representing the character, amount and legal status of the alleged debt, in violation of 15 USC 1629e(2)(A);

b. Falsely representing or implying that the subject vehicle would be reported as “stolen” and that Plaintiff would be arrested and/or jailed in the event that she failed to pay the alleged debt or surrender the vehicle, in violation of 15 USC 1629e(4) and (5);

c. Falsely representing to Plaintiff’s family that Plaintiff’s failure to pay and/or surrender the vehicle was a crime subjecting Plaintiff to arrest and/or jail in order to disgrace Plaintiff, in violation of 15 USC 1629e(7);

d. Using false representations and/or deceptive means to attempt to collect a debt and/or to obtain information concerning Plaintiff, in violation of 15 USC 1629e(10);

e. Using the name of “Troex Research Investigation” when, upon information and belief, that was not the true name of the Defendants’ business, company or organization, in violation of 15 USC 1629e(14);

f. Attempting to collect amounts over and above those expressly authorized by the subject RISC or permitted by law, in violation of 15 USC 1692f;

g. Calling Plaintiff on the telephone after being informed that the calls were inconvenient because the calls were interfering with Plaintiff's husband's work obligations, in violation of 15 USC 1692c(a)(1) and 1692d(5);

h. Communicating with third persons concerning the alleged debt, including but not limited to, Plaintiff's friends, neighbors and family members, in violation of 15 USC 1692c(b);

i. Engaging in conduct the natural consequence of which is to harass, oppress and abuse Plaintiff, including but not limited to, causing the Plaintiff's telephone to ring repeatedly on a Saturday approximately 15 or more times after being told not to call, in violation of 15 USC 1692d(5);

j. Engaging in conduct the natural consequence of which is to harass, oppress and abuse Plaintiff, including but not limited to calling Plaintiff's family and misrepresenting that the call concerned a "family emergency," in violation of 15 USC 1692d(6);

k. Communicating with third parties in a manner violating 15 USC 1692b, including but not limited to, failing to provide proper identity, informing the third parties that Plaintiff is behind on her payments, communicating with such third parties on multiple occasions;

l. Engaging in conduct the natural consequence of which is to harass, oppress and abuse Plaintiff, including but not limited to publishing information concerning the debt on Plaintiff's "MySpace" page on the internet, in violation of 15 USC 1692d and 1692b(5);

m. Failing to implement procedures designed to prevent violations of 15 USC 1692;

n. Such other and further acts and practices as may be discovered through further investigation and discovery.

22. The foregoing acts and practices by Defendants were wilful.

23. As a direct and proximate cause of Defendants' wrongful and wilful conduct, Plaintiff has suffered humiliation, embarrassment and mental anguish.

24. Defendants acted maliciously and with a wanton disregard of Plaintiff's feelings and reputation, for which Plaintiff seeks punitive damages as permitted by statute.

WHEREFORE, Plaintiff prays for judgment against Defendants, Assets Recovered, Butler, Aranda and Davis, jointly and severally, in whatever amount above \$25,000 she is found to be entitled, plus punitive damages, interest, costs and attorney fees, as set forth in 15 USC 1692k, together with such other and further relief as this Court deems just.

**COUNT III**

**INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

25. Plaintiff incorporates by reference all facts and allegations set forth in this complaint.

26. At all relevant times, Defendants were charged with knowledge of MCLA 445.251, *et seq.*, and 15 USC 1692, *et seq.*

27. Despite knowledge of the foregoing facts and law, Defendants intentionally, recklessly and/or maliciously engaged in the collection practices set forth above.

28. In the course of the foregoing collection activities, Defendants exhibited malice by posing as persons communicating a "family emergency" and threatening to report the subject vehicle as stolen and having Plaintiff arrested and/or jailed.

29. Defendants' conduct was extreme and outrageous.

30. As a result of Defendants' extreme and outrageous conduct, Plaintiff sustained severe emotional distress, as well as the damages set forth herein.

WHEREFORE, Plaintiff prays for judgment against Defendants, jointly and severally, in whatever amount above \$25,000 she is found to be entitled, together with interest, costs and reasonable attorney fees.



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**COUNT IV**

**VIOLATION OF MICHIGAN CONSUMER PROTECTION ACT**

31. Plaintiff incorporates by reference all facts and allegations set forth in this complaint.

32. Plaintiff is a "person" as defined in the Michigan Consumer Protection Act, MCLA 445.902(c).

33. The transactions complained of herein constitute "trade or commerce" as defined in the Michigan Consumer Protection Act, MCLA 445.902(d).

34. In the course of the transactions which are the subject of this lawsuit, Defendants engaged in following unfair and deceptive acts, methods or practices

- a. Caused the probability of confusion or of misunderstanding as to the legal rights, obligations or remedies of a party to a transaction;
- b. Failing to provide promised benefits, including benefits arising by operation of law;
- c. Such other and further violations as may be determined upon further investigation and discovery.

35. The above described conduct violated the Michigan Consumer Protection Act, specifically but not limited to MCLA 445.903 and the sub-paragraphs contained therein.

36. The aforesaid violations were not due to a bona fide error, inasmuch as Defendants failed to have any procedures in place designed to prevent the aforesaid violations and, further, upon information and belief, Defendants have engaged in the same or similar acts and practices in connection with transactions with other consumers.

37. As a result of the Defendants' actions above Plaintiff has suffered a loss within the meaning of the Act and is also entitled to statutory damages and attorney fees as provided in the Act, specifically, MCLA 445.911.

WHEREFORE, Plaintiffs pray for judgment against Defendants, jointly and severally, as follows:

- a. Money damages in whatever amount above \$25,000, Plaintiff is found to be entitled, plus interest, costs and reasonable attorney fees;
- b. Declaratory judgment that the above described methods, acts and/or practices are unlawful under MCLA 445.903;
- c. Permanently enjoining Defendants from engaging in the above described methods, acts and/or practices;
- d. Such other and further relief as this Court deems just.

**COUNT V**

**INTRUSION UPON SECLUSION**  
**DEFENDANTS ASSETS RECOVERED, BUTLER, ARANDA AND DAVIS**

38. Plaintiff incorporates by reference all facts and allegations set forth in this Complaint.

39. Plaintiff's financial affairs were personal and private to her.

40. Plaintiff had a right to keep her financial affairs private.

41. In the course of attempting to collect the alleged debt, Defendants disclosed private facts regarding Plaintiff to Plaintiff's family, friends and neighbors, published private facts on Plaintiff's "MySpace" internet page, and threatened Plaintiff's family that Defendants intended to "camp out" in front of Plaintiff's home "all weekend."

42. Defendants' actions in intruding on Plaintiff's right to privacy were highly offensive to Plaintiff and would be highly offensive to a reasonable person.

43. Defendants' invasion of Plaintiff's privacy caused Plaintiff to suffer extreme emotional distress and humiliation.

WHEREFORE, Plaintiff prays for judgment against Defendants Assets Recovered, Butler, Aranda and Davis, Jointly and Severally, in whatever amount above \$25,000 she is found to be entitled, plus interest, costs and reasonable attorney fees.

**COUNT VI**

**DISCLOSURE OF EMBARRASSING PRIVATE FACTS**  
**DEFENDANTS ASSETS RECOVERED, BUTLER, ARANDA AND DAVIS**

44. Plaintiff incorporates by reference all facts and allegations set forth in this Complaint.

45. In the course of attempting to collect the alleged debt, Defendants disclosed private facts regarding Plaintiff to Plaintiff's family, friends and neighbors, published private facts on Plaintiff's "MySpace" internet page, and threatened Plaintiff's family that Defendants intended to "camp out" in front of Plaintiff's home "all weekend."

46. The information about Plaintiff's financial affairs was private to her and of no concern to others.

47. The information that Defendants disclosed was extremely embarrassing to Plaintiff and caused her to suffer humiliation and extreme emotional distress.

48. Defendants' disclosure of Plaintiff's financial affairs was highly offensive to Plaintiff and would be highly offensive to a reasonable person.

WHEREFORE, Plaintiff prays for judgment against Defendants Assets Recovered, Butler, Aranda and Davis, Jointly and Severally, in whatever amount above \$25,000 she is found to be entitled, plus interest, costs and reasonable attorney fees.

**DEMAND FOR JURY TRIAL**

Plaintiff demands a jury trial in the above entitled cause.

Respectfully submitted,

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DATED: March 23, 2009