

IN THE CIRCUIT COURT
THIRD JUDICIAL CIRCUIT
MADISON COUNTY, ILLINOIS

LAURA FINCHER individually and on behalf of
all others similarly situated,

Plaintiff,

v.

RAQQA, INC., and ABDALLA IBRAHEM

Defendant.

Case No. 11-L-

475
FILED
MAY 19 2011
CLERK OF CIRCUIT COURT #74
THIRD JUDICIAL CIRCUIT
MADISON COUNTY, ILLINOIS

COMPLAINT

COME NOW, LAURA FINCHER by and through her undersigned attorneys,
complaining of the defendant as follows:

NATURE OF ACTION

1 This case is about Raqqa Inc's and/or Abdalla Ibrahim's (collectively "Raqqa")
improper and illegal fees charged for its check cashing service on checks wherein it charges
greater than the greater of \$0.50, or 1% of the face value of the check. In particular, as alleged
herein, Raqqa routinely engages in the practice of charging in excess of the statutory maximum
allowable amount for its check cashing services for payroll and government checks.

JURISDICTION AND VENUE

2 Jurisdiction exists pursuant to the Illinois Code of Civil Procedure, 735 ILCS 5/2-
209 §§ (a) (1) as Plaintiff's claims arise from business transacted within Illinois, (a) (2) as
Plaintiff's claims arise from the commission of tortious acts within this state, and (b) (4) because
Defendant is a corporation doing business within Illinois.

3 Venue in the Circuit Court for the Third Judicial Circuit, Madison County, IL is proper under the Illinois Code of Civil Procedure, 735 ILCS 5/2-101 and 2-102, because Defendant has its registered agent and registered office located at 1001 Saddlewood, Maryville, IL 62062, in Madison County.

PARTIES

4 At all times relevant, Laura Fincher was and is a citizen and resident of Illinois. During the proposed class period, Plaintiff Fincher cashed a check at the Raqqa Food Mart store in Fairview Heights, IL, which is owned and operated by Raqqa, and was charged a fee in excess of the statutorily allowed amount.

5 Defendant Raqqa, Inc is a Illinois Corporation with its principle place of business in Illinois. Defendant Abdalla Ibrahim is a natural person residing in Madison County, Illinois.

FACTUAL ALLEGATIONS

6 That there exists in Illinois a certain statute, the Check Cashing Act, 815 ILCS 315/1 *et seq.*, which provides in pertinent part:

A merchant may offer check cashing services, in the course of such business and only as an incident thereto, and may charge fees for each check cashed provided that the check cashing services are incidental to the main business of the merchant. However, check cashing services shall not include any transaction where a customer presents a check for the exact amount of any purchase. **The fees charged shall not exceed the greater of \$.50 or 1% of the face value of the check cashed.**

815 ILCS 315/2 (emphasis added.)

7 Defendant is a merchant that offers check cashing services incidental to its primary business of selling merchandise to the general public.

8 Defendant cashes its customers' checks for a uniform, fee, or set of fees, in excess of the greater of \$0.50 or 1% of the face value of the check cashed.

9 In approximately April, 2011, Plaintiff Fincher presented her check in an amount of several hundred dollars, to cash said check, and Defendant charged as consideration a fee of approximately approximately 3% of the face value of the check to cover the check cashing fee, at the defendant's store.

10 Defendant accepted Plaintiff Fincher' consideration of 3% of the face value of the check for the check cashing fee in conjunction with Plaintiff Fincher' check, and proceeded to cash Plaintiff Fincher' check and returned to Plaintiff Fincher in cash the face value of the aforementioned check, but did not return the consideration in excess of the greater of fifty cents or one percent of the check, paid as a check cashing fee to Defendant.

CLASS ACTION ALLEGATIONS

11 This action is brought pursuant to 735 ILCS 5/2-801, and satisfies the prerequisites set forth therein.

A. Class Definition

12 Plaintiff brings this action individually and on behalf of the following class (the "Class"):

All persons in Illinois who from May 1, 2006 until final judgment
Cashed a check at any Raqqae store, including but not limited
to Raqqa's Food Mart stores in Fairview Heights and Collinsville, Illinois,
and paid a check cashing fee greater than \$0.50 or 1% of the face
value of the check cashed.

Excluded from the Class are members of the judiciary, Defendant, and any entity in which it has a controlling interest, including officers and directors and the members of its immediate corporate family and Plaintiff's counsel.¹

B. Numerosity

¹ Plaintiff reserves the right to amend the class definition based upon future investigation, discovery and the proof at trial.

13 Given that Raqqae , are believed to number in at least the hundreds, if not the thousands, and are so numerous that joinder of them in a single action is impracticable. 735 ILCS 5/2-801(1).

C. Common Questions of Law and Fact

14 There are questions of law and fact that are common to all class members, including inter alia:

- (a) Whether Raqqa's check cashing fee is in violation of the Illinois Check Cashing Act, 815 ILCS 315/1 *et seq.*;
- (b) Whether there exists a private cause of action under the Illinois Check Cashing Act, 815 ILCS 315/1 *et seq.*;
- (c) Whether a violation of the Illinois Check Cashing Act, 815 ILCS 315/1 *et seq.*, constitutes a violation of the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/1 *et seq.*
- (d) Whether a violation of the Illinois Check Cashing Act, 815 ILCS 315/1 *et seq.*, constitutes an unjust enrichment.
- (e) Whether Raqqa's charges a uniform fees for check cashing;
- (f) Whether Raqqa's practice of charging a fee in excess of that allowed by the Illinois Check Cashing Act constitutes an unfair practice;
- (g) Whether Raqqa's's practice of charging a fee in excess of that allowed by the Illinois Check Cashing Act constitutes an unjust enrichment;
- (h) Whether Plaintiff and the Class are entitled to damages and if so, what is the proper measure of damages?

D. Adequacy of Representation

15 Plaintiff can and will fairly and adequately represent and protect the interests of the Class, 735 ILCS 5/2-801, for the reasons enumerated herein.

16 The claims of Plaintiff are substantially similar, if not identical to, those of absent Class members.

17 There are questions of law or fact that are common to the Class and that overwhelmingly predominate over any individual issues, such that by prevailing on their own claims, Plaintiff will necessarily establish Defendant's liability as to all Class members.

18 Without the Class representation provided by Plaintiff, virtually no Class members will receive legal representation or redress for their injuries.

19 Plaintiff and her counsel have the necessary financial resources to adequately and vigorously litigate this class action.

20 Plaintiff and Class counsel are aware of their fiduciary responsibilities to Class members and are determined diligently to discharge those duties by vigorously seeking the maximum possible recovery for the Class.

E. Appropriateness

21 A class action is the appropriate method to resolve this matter compared to any other available method for the fair and efficient adjudication of this controversy, given that:

- (a) Common questions of law and fact overwhelmingly predominate over any individual questions that may arise, such that there would be enormous economies to the Court and the parties in litigating the common issues on a classwide instead of a repetitive individual basis;
- (b) The size of each Class member's relatively small claim is too insignificant to make individual litigation an economically viable alternative, such that as a practical matter there is no "alternative" means of adjudication to a class action;

- (c) Few Class members have any interest in individually controlling the prosecution of separate actions (any that do may opt out);
- (d) Class treatment is required for optimal deterrence and compensation and for limiting the court-awarded reasonable legal expenses incurred by Class members;
- (e) Despite the relatively small size of individual Class members' claims, their aggregate volume, coupled with the economies of scale inherent in litigating similar claims on a common basis, will enable this class action to be litigated on a cost-effective basis, especially when compared with repetitive individual litigations; and
- (f) No unusual difficulties are likely to be encountered in the management of this class action insofar as Defendant's liability turns on substantial questions of law or fact that are common to the Class and that predominate over any individual questions.

CAUSES OF ACTION

COUNT I

(Consumer Fraud – Unfair Practice)

22 Plaintiff repeats and re-alleges the allegations set forth in paragraphs 1 to 21, as if fully set forth herein.

23 At all times relevant hereto, there was in full force and effect the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/1 *et seq.* ("Consumer Fraud Act").

24 Section 2 of Illinois' Consumer Fraud Act provides, in relevant part:

... [U]nfair... acts or practices ... in the conduct of any trade or commerce are hereby declared unlawful whether any person has in fact been misled, deceived or damaged thereby. In construing this section consideration shall be given to the interpretations of the Federal Trade Commission and the federal courts relating to Section 5(a) of the Federal Trade Commission Act.

815 ILCS 505/2.

25 Plaintiff and the Class, as purchasers of services sold by Defendant, are consumers within the meaning of the Illinois Consumer Fraud Act given that Defendant's practices were addressed to the market generally and/or otherwise implicate consumer protection concerns.

26 Defendant has committed unfair acts by engaging in the practices alleged herein including, but not limited to, charging check cashing fees in excess of those fees permitted by 815 ILCS 315/2.

27 The nature of Defendant's check cashing scheme violates public policy because consumers, such as Plaintiff and Class members herein, have no other choice but to submit to Defendant's practices. The customer has no meaningful choice for the payment of the illegal fee.

28 Charging an illegal fee offends public policy, is unethical, immoral, oppressive and causes injury in the amount of the illegal fee.

29 Defendant intended that Plaintiff and the Class rely on its unfair practices alleged herein.

30 Defendant's unfair practices as alleged herein, were willful and wanton and constitute intentional violations of the Illinois Consumer Fraud Act.

31 Defendant's unlawful and/or unfair practices alleged herein are continuing in nature and are widespread practices.

32 Plaintiff and the Class have been damaged as a proximate result of Defendant's course of conduct and violations of the Illinois Consumer Fraud Act, in that Plaintiff (and the Class) paid more for the check cashing services than required by law.

WHEREFORE, for the foregoing reasons, Plaintiff Laura Fincher , individually and on behalf of all others similarly situated, humbly requests that this Honorable Court (1) certify the foregoing Plaintiff Class, (2) appoint Plaintiff as Class representative and Plaintiff's counsel as Class counsel, (3) award Plaintiff, and the foregoing Plaintiff Class actual and other appropriate damages in an amount in excess of \$50,000.00, (4) award Plaintiff's counsel an appropriate attorneys' fee, and (5) such other, further, and different relief as is appropriate under the circumstances, and as allowed by law.

COUNT II
(Unjust Enrichment)

33 Plaintiff repeats and re-alleges the allegations set forth in paragraphs 1 to 21, as if fully set forth herein.

34 Plaintiff and other members of the Class conferred a benefit upon Defendant by paying in excess of the greater of \$0.50 or 1% of the face value of a check cashed for checks cashed that are less than \$300.00.

35 Defendant provided no consideration to Plaintiff or other members of the Class for the retention of the increased (and illegal) fees resulting from the excess payment.

36 Defendant has reaped the benefit of substantial monetary profits by improperly converting to its use the excess and illegal fees it retained.

37 Such improper conduct constitutes unjust enrichment for Defendant and it would violate the fundamental principles of justice, equity, and good conscience for it to retain the benefits received from Plaintiff and other members of the Class without returning in full the excess and illegal fees retained by Defendant.

WHEREFORE, for the foregoing reasons, Plaintiff Laura Fincher , individually and on behalf of all others similarly situated, humbly requests that this Honorable Court (1) certify the

foregoing Plaintiff Class, (2) appoint Plaintiff as Class representative and Plaintiff's counsel as Class counsel, (3) award Plaintiff, and the foregoing Plaintiff Class actual and other appropriate damages in an amount in excess of \$50,000.00, (4) award Plaintiff's counsel an appropriate attorneys' fee, and (5) such other, further, and different relief as is appropriate under the circumstances, and as allowed by law.

COUNT III

(Violation of the Illinois Check Cashing Act, 815 ILCS 315/1 *et seq.*)

38 Plaintiff repeats and re-alleges the allegations set forth in paragraphs 1 to 21, as if fully set forth herein.

39 At all times relevant hereto, there was in full force and effect the Check Cashing Act, 815 ILCS 315/1 *et seq.*, which provides in pertinent part:

A merchant may offer check cashing services, in the course of such business and only as an incident thereto, and may charge fees for each check cashed provided that the check cashing services are incidental to the main business of the merchant. However, check cashing services shall not include any transaction where a customer presents a check for the exact amount of any purchase. **The fees charged shall not exceed the greater of \$.50 or 1% of the face value of the check cashed.**

815 ILCS 315/2 (emphasis added.)

40 Defendant is a merchant that offers check cashing services, in the course of its business and only as an incident thereto.

41 Defendant charges a uniform, maximum fee of \$3.00 for each check cashed regardless of the face value of the check cashed.

42 For checks cashed that are less than \$300.00, this fee is in excess of the greater of \$0.50 or 1% of the face value of the check cashed and is a violation of the Illinois Check Cashing Act.

WHEREFORE, for the foregoing reasons, Plaintiff Laura Fincher , individually and on behalf of all others similarly situated, humbly requests that this Honorable Court (1) certify the foregoing Plaintiff Class, (2) appoint Plaintiff as Class representative and Plaintiff's counsel as Class counsel, (3) award Plaintiff, and the foregoing Plaintiff Class actual and other appropriate damages in an amount in excess of \$50,000.00, (4) award Plaintiff's counsel an appropriate attorneys' fee, and (5) such other, further, and different relief as is appropriate under the circumstances, and as allowed by law.

COUNT IV
(Injunctive Relief)

43 Plaintiff repeats and re-alleges the allegations set forth in paragraphs 1 to 21, as if fully set forth herein.

44 Defendant's actions, as alleged herein, are a continuing violation of Illinois law, specifically the Check Cashing Act, 815 ILCS 315/1 *et seq.* as their actions continue to affect members of Plaintiff's proposed class with imminent, permanent and irreparable harm by collecting from them improper and illegal fees.

45 Because of Defendant's conduct as described herein and the threat of future violation of Illinois law, Plaintiff's rights need the protection of this Court. The harm to Defendant in granting the injunctive relief sought herein is far outweighed by the harm to Plaintiff should that relief not be granted.

46 Plaintiff has no adequate remedy at law that will prevent Defendant from continuing to charge and collect improper and illegal check cashing fees.

47 There is a substantial likelihood that Plaintiff will be successful in proving this matter on the merits.

48 Plaintiff seeks an order enjoining Defendant from further charging check cashing fees in excess of those fees permitted by 815 ILCS 315/2.

WHEREFORE, for the foregoing reasons, Plaintiff Laura Fincher , individually and on behalf of all others similarly situated, humbly requests that this Honorable Court (1) certify the foregoing Plaintiff Class, (2) appoint Plaintiff as Class representative and Plaintiff's counsel as Class counsel, (3) enjoin Defendant from charging a check cashing fee in the State of Illinois in excess of the greater of \$0.50 or 1% of the face value of the check being tendered to be cashed; (4) award Plaintiff's counsel an appropriate attorneys' fee, and (5) such other, further, and different relief as is appropriate under the circumstances, and as allowed by law.

COUNT V

(Consumer Fraud – Unlawful Practice in the Course of a Credit Transaction)

49 Plaintiff repeats and re-alleges the allegations set forth in paragraphs 1 to 21, as if fully set forth herein.

50 At all times relevant hereto, there was in full force and effect the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/1 *et seq.* ("Consumer Fraud Act").

51 Section 2F of the Illinois' Consumer Fraud Act provides in relevant part:

Any person who is held in any civil ... proceeding to have willfully and materially violated any Illinois statutory provision regulating the extension of credit to borrowers or designed to protect the consumer purchasing merchandise in a credit, as contrasted from a cash, transaction is guilty of an unlawful practice within the meaning of this Act.

815 ILCS 505/2F.

52 When Plaintiff and Class Members endorse their checks to Defendant to be cashed, including but not limited to at the point of sale along with the purchase of merchandise,

Plaintiff and Class members are still liable after the transaction under their endorser warranty in the event that check is declined by the issuing bank. Put simply, in this situation, Defendant is extending credit of the value of the check (i.e., a provisional payment), with the opportunity to sue the endorser if funds are not available to pay the check.

53 Plaintiff and the Class, as purchasers of services sold by Defendant, are consumers within the meaning of the Illinois Consumer Fraud Act given that Defendant's practices were addressed to the market generally and/or otherwise implicate consumer protection concerns.

54 Defendant has committed unlawful practices as alleged herein by engaging in the charging of illegal check cashing fees in excess of those fees permitted by 815 ILCS 315/2 during the course of a credit transaction.

55 Defendant intended that Plaintiff and the Class rely on its unlawful practices as alleged herein.

56 Defendant's unfair practices as alleged herein, were willful and wanton and constitute intentional violations of the Illinois Consumer Fraud Act.

57 Defendant's unlawful practices alleged herein are continuing in nature and are widespread practices.

58 Plaintiff and the Class have been damaged as a proximate result of Defendant's course of conduct and violations of the Illinois Consumer Fraud Act, in that Plaintiff (and the Class) paid more for the check cashing services than required by law during the course of a credit transaction.

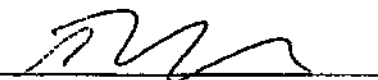
WHEREFORE, for the foregoing reasons, Plaintiff Laura Fincher , individually and on behalf of all others similarly situated, humbly requests that this Honorable Court (1) certify the

foregoing Plaintiff Class, (2) appoint Plaintiff as Class representatives and Plaintiff's counsel as Class counsel, (3) award Plaintiff, and the foregoing Plaintiff Class actual and other appropriate damages in an amount in excess of \$50,000.00, (4) award Plaintiff's counsel an appropriate attorneys' fee, and (5) such other, further, and different relief as is appropriate under the circumstances, and as allowed by law.

DATED: May 18, 2011

Respectfully submitted,

**Laura Fincher,
Class Plaintiff,**

By: 
One of His Attorneys

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**Attorneys for Plaintiff and Proposed
Class**

AFFIDAVIT OF CASE VALUE

The undersigned hereby certifies, pursuant to Section 1-109 of the Code of Civil Procedure, that the foregoing case has a value in excess of fifty thousand dollars.

