

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

ANGELA ZBOROWSKI, on behalf of herself
and all others similarly situated,

Plaintiff(s),

-against-

McCARTHY & JENNERICH, Attorneys At
Law; and JOHN DOES 1-25.

Defendant(s).

Civil Case Number: _____

CIVIL ACTION

**CLASS ACTION COMPLAINT
AND
DEMAND FOR JURY TRIAL**

Plaintiff, Angela Zborowski, on behalf of herself and all others similarly situated (hereinafter "Plaintiff") by and through her undersigned attorney, alleges against the above-named Defendants, McCarthy & Jennerich (hereinafter "M&J"); and John Does 1-25, collectively ("Defendants") their employees, agents, and successors the following:

PRELIMINARY STATEMENT

1. Plaintiff brings this action for damages and declaratory and injunctive relief arising from the Defendant's violation of 15 U.S.C. § 1692 *et seq.*, the Fair Debt Collection Practices Act (hereinafter "FDCPA"), which prohibits debt collectors from engaging in abusive, deceptive and unfair practices.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. §1331. This is an action for violations of 15 U.S.C. § 1692 *et seq.*

3. Venue is proper in this district under 28 U.S.C. §1391(b)(2) because the acts and transactions that give rise to this action occurred, in substantial part, in this district.

DEFINITIONS

4. As used in reference to the FDCPA, the terms “creditor,” “communication” “consumer,” “debt,” and “debt collector” are defined in § 803 of the FDCPA and 15 U.S.C. § 1692a.

PARTIES

5. The FDCPA, 15 U.S.C. § 1692 *et seq.*, which prohibits certain debt collection practices provides for the initiation of court proceedings to enjoin violations of the FDCPA and to secure such equitable relief as may be appropriate in each case.

6. Plaintiff is a natural person and a resident of the State of New Jersey, and is a “Consumer” as defined by 15 U.S.C. § 1692a(3).

7. McCarthy & Jennerich is a domestic law firm with its primary offices located at 47 Orient Way, Rutherford, New Jersey 07070.

8. Upon information and belief, M&J is primarily in the business of collecting debts allegedly due to another.

9. John Does 1-25, are fictitious names of individuals and businesses alleged for the purpose of substituting names of defendants whose identities will be disclosed in discovery and should be made parties to this action.

CLASS ACTION ALLEGATIONS

10. Plaintiff brings this action as a class action, pursuant to Rule 23 of the Federal Rules of Civil Procedure (hereinafter “FRCP”), on behalf of himself and all consumers and their successors in interest (the “Class”), who have received debt collection letters and/or notices from the Defendant which are in violation of the FDCPA, as described in this Complaint.

11. This Action is properly maintained as a statewide class action. The Class consists of:

- All New Jersey consumers who were sent collection letters and/or notices from the Defendant that contained at least one of the alleged violations arising from the Defendant's violation of 15 U.S.C. § 1692 *et seq.*
- The Class period begins one year to the filing of this Action.

12. The Class satisfies all the requirements of Rule 23 of the FRCP for maintaining a class action:

- Upon information and belief, the Class is so numerous that joinder of all members is impracticable because there are hundreds and/or thousands of persons who have received debt collection letters and/or notices from the Defendant that violate specific provisions of the FDCPA. Plaintiff is complaining of a standard form letter and/or notice that is sent to hundreds of persons;
- There are questions of law and fact which are common to the Class and which predominate over questions affecting any individual Class member. These common questions of law and fact include, without limitation:
 - a. Whether Defendant violated various provisions of the FDCPA;
 - b. Whether Plaintiff and the Class have been injured by Defendant's conduct;
 - c. Whether Plaintiff and the Class have sustained damages and are entitled to restitution as a result of Defendant's wrongdoing and if

so, what is the proper measure and appropriate statutory formula to be applied in determining such damages and restitution; and

d. Whether Plaintiff and the Class are entitled to declaratory and/or injunctive relief.

- Plaintiff's claims are typical of the Class, which all arise from the same operative facts and are based on the same legal theories.
- Plaintiff has no interest adverse or antagonistic to the interest of the other members of the Class.
- Plaintiff will fairly and adequately protect the interest of the Class and has retained experienced and competent attorneys to represent the Class.
- A Class Action is superior to other methods for the fair and efficient adjudication of the claims herein asserted. Plaintiff anticipates that no unusual difficulties are likely to be encountered in the management of this class action.
- A Class Action will permit large numbers of similarly situated persons to prosecute their common claims in a single forum simultaneously and without the duplication of effort and expense that numerous individual actions would engender. Class treatment will also permit the adjudication of relatively small claims by many Class members who could not otherwise afford to seek legal redress for the wrongs complained of herein. Absent a Class Action, class members will continue to suffer losses of statutory protected rights as well as monetary damages. If Defendant's conduct is allowed proceed without remedy they will continue to reap and retain the proceeds of their ill-gotten gains.

- Defendant has acted on grounds generally applicable to the entire Class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the Class as a whole.

FACTUAL ALLEGATIONS

13. Sometime prior to February 20, 2012, Plaintiff allegedly incurred a financial obligation to Bald Eagle Condominium Association, Inc./Papa. ("Bald Eagle")

14. The Bald Eagle obligation arose out of a transaction in which money, property, insurance or services, which are the subject of the transaction, are primarily for personal, family or household purposes.

15. M&J contends that the Bald Eagle obligation is in default.

16. The alleged Bald Eagle obligation is a "debt" as defined by 15 U.S.C. § 1692a(5).

17. Plaintiff is at all times relevant to this lawsuit, a "consumer" as that term is defined by 15 U.S.C. §1692a(3).

18. Plaintiff is informed and believes and on that basis, that sometime prior to February 20, 2012, the creditor of the Bald Eagle obligation either directly or through intermediate transactions assigned, place, transferred or sold the debt to M&J.

19. M&J collects and attempts to collect debts incurred or alleged to have been incurred for personal, family or household purposes on behalf of creditors using the United States Postal Services, telephone and Internet.

20. M&J is a "debt collector" as defined by 15 U.S.C. §1692a(6).

21. On or about February 20, 2012, M&J caused to be delivered to Plaintiff a collection letter addressed to Plaintiff. A copy of said letter is annexed hereto as Exhibit A.

22. Said letter was sent or caused to be sent by persons employed by M&J as a “debt collector” as defined by 15 U.S.C. §1692a(6).

23. Said letter was sent to Plaintiff in connection with the collection of a “debt” as defined by 15 U.S.C. §1692a(5).

24. Said letter is a “communication” as defined by 15 U.S.C. §1692a(2).

25. Upon receipt, Plaintiff read said letter.

26. On information and belief, said letter is a computer – generated form letter, that is prepared for M&J and sent to consumers from whom it is attempting to collect a debt.

27. Said letter did not state the amount of the alleged debt.

28. Said letter did not contain a statement informing Plaintiff of her right to dispute the alleged debt pursuant to 15 U.S.C. §1692g(a)(3).

29. Said letter did not contain a statement informing Plaintiff of her right to obtain verification of the alleged debt pursuant to 15 U.S.C. §1692g(a)(4).

30. Said letter did not disclose that M&J is a debt collector attempting to collect a debt and that all information obtained will be used for that purpose, pursuant to 15 U.S.C. §1692e(11).

31. On or about March 23, 2012, M&J caused to be delivered to Plaintiff a collection letter addressed to Plaintiff. A copy of said letter is annexed hereto as Exhibit B.

32. Said letter was sent or caused to be sent by persons employed by M&J as a “debt collector” as defined by 15 U.S.C. §1692a(6).

33. Said letter was sent to Plaintiff in connection with the collection of a “debt” as defined by 15 U.S.C. §1692a(5).

34. Said letter is a “communication” as defined by 15 U.S.C. §1692a(2).

35. Upon receipt, Plaintiff read said letter.

36. Said letter did not disclose that M&J is a debt collector attempting to collect a debt and that all information obtained will be used for that purpose, pursuant to 15 U.S.C. § 1692e(11).

POLICIES AND PRACTICES COMPLAINED OF

37. It is M&J's policy and practice to send initial written collection communications, in the form annexed hereto as Exhibit A and Exhibit B, which violate the FDCPA, by inter alia:

- (a) Failing to disclose the consumer's right to dispute the alleged debt;
- (b) Failing to disclose the consumer's right to obtain verification of the alleged debt;
- (c) Failing to state the amount of the alleged debt; and
- (d) Failing to disclose that M&J is a debt collector attempting to collect a debt and that all information obtained will be used for that purpose.

38. On information and belief, M&J sent a written communication, in the form annexed hereto as Exhibit A and/or Exhibit B, to at least 50 natural persons in the State of New Jersey.

COUNT I

**VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT
15 U.S.C. § 1692 et seq.**

39. Plaintiff repeats the allegations contained in paragraphs 1 through 38 as if the same were set forth at length.

47. M&J violated the FDCPA. M&J's violations with respect to its written communications in the forms annexed hereto as Exhibit A and Exhibit B, include, but are not limited to, the following:

- (a) Failing to state the amount of the alleged debt, pursuant to 15 U.S.C. §1692g(a)(1);
- (b) Failing to disclose the consumer's right to dispute the alleged debt, pursuant to 15 U.S.C. §1692g(a)(3);
- (c) Failing to disclose the consumer's right to obtain verification of the alleged debt, pursuant to 15 U.S.C. §1692g(a)(4); and
- (d) Failing to disclose that M&J is a debt collector attempting to collect a debt and that all information obtained will be used for that purpose, pursuant to 15 U.S.C. §1692e(11)

WHEREFORE, Plaintiff demands judgment against Defendant as follows:

- (a) Declaring that this action is properly maintainable as a Class Action and certifying Plaintiff as Class representative and, Joseph K. Jones, Esq., and Laura S. Mann, Esq. as Class Counsel;
- (b) Issuing a preliminary and/or permanent injunction restraining Defendant, their employees, agents and successors from, *inter alia*, engaging in conduct and practices that are in violation of the FDCPA;
- (c) Issuing a declaratory Order requiring Defendant to make corrective disclosures;
- (d) Awarding Plaintiff and the Class statutory damages;
- (e) Awarding Plaintiff and the Class actual damages
- (f) Awarding Plaintiff costs of this Action, including reasonable attorneys' fees and expenses; and

(g) Awarding Plaintiff and the Class such other and further relief as this Court may deem just and proper.

Dated: Fairfield, New Jersey
June 15, 2012

s/ Joseph K. Jones
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DEMAND FOR TRIAL BY JURY

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff hereby requests a trial by jury on all issues so triable.

/s/ Joseph K. Jones
Joseph K. Jones, Esq.

CERTIFICATION PURSUANT TO LOCAL RULE 11.2

I, Joseph K. Jones, the undersigned attorney of record for Plaintiff, do hereby certify to my own knowledge and based upon information available to me at my office, the matter in controversy is not the subject of any other action now pending in any court or in any arbitration or administrative proceeding.

Dated: June 15, 2012

/s/ Joseph K. Jones
Joseph K. Jones, Esq.

Exhibit

A

MCCARTHY & JENNERICH

ATTORNEYS AT LAW

Robert W. Jennerich †
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February 20, 2012

Angela Zborowski



Re: Bald Eagle Village Condominium Association, Inc./Papa

Dear Ms. Zborowski:

We represent Bald Eagle Village Condominium Association, Inc in the above referenced matter. I am in receipt of your letter requesting a payment plan. Please provide a payment plan for the balance due on this unit. The Board may agree to waive some late fees, but it cannot waive maintenance fees or attorney's fees. The best way to respond is by email so I can forward it to the Board for their approval.

Thank you for your time and attention to this matter.

Very truly yours,
MCCARTHY & JENNERICH


Robert W. Jennerich

RWJ/sp
Enclosure

Exhibit

B

MCCARTHY & JENNERICH

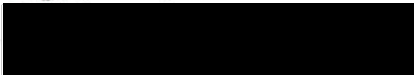
ATTORNEYS AT LAW

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March 23, 2012

Angela Zborowski


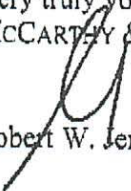
Re: Bald Eagle Village Condominium Association, Inc./Papa

Dear Ms. Zborowski:

We represent Bald Eagle Village Condominium Association, Inc in the above referenced matter. I have not received a response to my letter. We are filing a complaint for the unpaid maintenance fees.

Thank you for your time and attention to this matter.

Very truly yours,
MCCARTHY & JENNERICH


Robert W. Jennerich

RWJ/sp
Enclosure