

IN THE CIRCUIT COURT, FIFTH
JUDICIAL CIRCUIT, IN AND FOR
MARION COUNTY, FLORIDA

CASE NO. 85-254-CA-A

VIVIAN M. MERCHANT and
TOMMIE V. MERCHANT,

Plaintiffs,

vs.

NATIONWIDE COLLECTION SERVICE, INC.,
and STEPHEN L. BERGER,
a/k/a JACK ARMSTRONG,

Defendants.

FINAL JUDGMENT

1. Pursuant to the verdict rendered in this action, It is Adjudged that:

a. Plaintiff VIVIAN M. MERCHANT recover from Defendant NATIONWIDE COLLECTION SERVICE, INC. the sum of \$2,500.00 as actual damages, \$1,000.00 as statutory damages, and \$15,000.00 as punitive damages for a total of \$18,500.00, and from Defendant STEPHEN L. BERGER, a/k/a JACK ARMSTRONG the sum of \$2,500.00 as actual damages and \$15,000.00 as punitive damages for a total of \$17,500.00.

b. Plaintiff TOMMIE V. MERCHANT recover from Defendant NATIONWIDE COLLECTION SERVICE, INC. the sum of \$2,500.00 as actual damages, \$1,000.00 as statutory damages, and \$15,000.00 as punitive damages for a total of \$18,500.00, and from Defendant STEPHEN L. BERGER, a/k/a JACK ARMSTRONG the sum of \$2,500.00 as actual damages and \$15,000.00 as punitive damages for a total of \$17,500.00

2. In regard to actual damages, the two defendants shall be jointly and severally liable for a total of \$2,500.00 to each Plaintiff, in regard to all other awards, the Defendants shall be severally liable to each Plaintiff for the sums awarded.

3. The aforesaid amounts shall bear interest at the legal rate for which let execution issue.

4. The Court reserves jurisdiction to award costs, attorney's fees, and grant injunctive relief.

DONE AND ORDERED in Chambers at Ocala, Marion County, Florida
on this 27 day of April, 1988.

Vito J. Musick

Circuit Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by hand/mail to: John S. Lynch, Attorney for Defendants, P.O. Box 696, Ocala, Florida 32678; Nationwide Collection Service, Inc., P.O. Box 5332, Ft. Lauderdale, Florida 33310; Stephen L. Berger, a/k/a Jack Armstrong, c/o Nationwide Collection Service, Inc., 7608 S. W. 8th Court, North Lauderdale, Florida 33310, on this 27 day of April, 1988.

Jane C. Shady

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TOMMIE V. MERCHANT,

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NATIONWIDE COLLECTION SERVICE, INC.,
A FLORIDA CORPORATION,
HOWARD W. COOPER, and JACK ARMSTRONG,

Defendants.

COMPLAINT
COUNT I

Plaintiffs, VIVIAN M. MERCHANT and TOMMIE V. MERCHANT sue the Defendant's ,NATIONWIDE COLLECTION SERVICE, INC., HOWARD W. COOPER, and JACK ARMSTRONG, and allege:

1. This is an action for damages pursuant to Florida Statute 559.77.

2. On or about February 23, 1984, Plaintiffs, VIVIAN M. MERCHANT and TOMMIE V. MERCHANT, were extended credit by the NATIONAL EDUCATION SOCIETY, INC. in regard to the purchase of a \$1,000.00 set of encyclopedias, cookbooks, dictionary, children's books and other books.

3. The purchase of the above books was primarily for personal family, or household purposes.

4. Subsequent to February 23, 1984, the Plaintiffs made payments on the set of books but got behind in their payments.

5. At all times material hereto, Defendant, NATIONWIDE COLLECTION SERVICE, INC. was a collection agency operating out of Broward County, Florida.

6. At all times material hereto, Defendant HOWARD W. COOPER was an employee or agent of Defendant NATIONWIDE COLLECTION SERVICE, INC. acting within the scope and course of his employment or agency.

7. At all times material hereto, Defendant, JACK ARMSTRONG, was an employee or agent of Defendant, NATIONWIDE COLLECTION SERVICE, INC. acting within the scope and course of his

employment or agency.

8. At a date unknown to the Plaintiffs, the collection of their account was placed in the hands of Defendant, NATIONWIDE COLLECTION SERVICE, INC.

9. On or about January 2, 1985, Defendant HOWARD W. COOPER, telephoned the Plaintiffs at night at their place of residence.

10. Defendant, HOWARD W. COOPER, threatened each of the Plaintiffs that he would have them arrested, tried, and incarcerated on criminal fraud charges in Broward County, Florida due to the Plaintiffs failure to pay for the set of books.

11. Defendant, HOWARD W. COOPER, told the Plaintiffs that they would be extradited to Broward County, Florida to answer the charges.

12. Defendant, HOWARD W. COOPER, told the Plaintiffs that Plaintiff, TOMMIE V. MERCHANT, would be picked up at his place of employment the following day.

13. Later in the conversation, Defendant, HOWARD W. COOPER, agreed to extend the time of arrest until the following Wednesday.

14. On or about January 15, 1985, Defendant, JACK ARMSTRONG, who had previously repeated or ratified the Defendant HOWARD W. COOPER's threats, telephoned the Plaintiff, VIVIAN M. MERCHANT, at home and repeated the arrest threats.

15. Defendant, JACK ARMSTRONG, threatened to have Plaintiff, TOMMIE V. MERCHANT, arrested in the immediate future.

16. Defendant, JACK ARMSTRONG, threatened to communicate with Plaintiff, TOMMIE V. MERCHANT'S, employer in regard to the matter and MERCHANT'S imminent arrest.

17. Defendant, JACK ARMSTRONG, stated that bond had been set at \$10,000.00.

18. That same day, Defendant, COOPER, Defendant, ARMSTRONG, or another employee or agent of Defendant, NATIONWIDE COLLECTION SERVICE, INC. acting within the scope and course of his employment or agency contacted Plaintiff, TOMMIE V. MERCHANT'S, employer in regard to a possible warrant for Plaintiff, TOMMIE V. MERCHANT'S, arrest.

19. The Defendants' threatened contact and contact with TOMMIE V. MERCHANT'S, employer was in violation of Florida Statute 559.72 (4).

20. The Defendants' representation that Plaintiffs would be arrested was in violation of Florida Statute 559.72 (9) in that Defendants knew they did not have the right or probable cause to have the Plaintiffs arrested for the mere breach of contract involved.

21. The Defendant's representations that Plaintiffs would be arrested and extradited to Broward County, Florida was in violation of Florida Statute 559.72 (9) in that Defendants knew that the bringing of criminal charges was not within their power but rather subject to the discretion of law enforcement and prosecuting authorities, and further, in that Defendants knew that venue for any such purported criminal charge would lie in Marion County and not Broward County, Florida.

22. Defendant, JACK ARMSTRONG'S, statement as to a \$10,000.00 bond having been set was in violation of Florida Statute 559.72 (9) in that Defendant knew that neither he nor the other Defendants had the present right to have either or both of the Plaintiffs incarcerated under a \$10,000.00 bond.

23. The above conduct was in violation of Florida Statute 559.72 (7) in that it constituted wilfully engaging in conduct which could reasonable be expected to abuse or harrass the Plaintiffs.

24. As a direct and proximate result of the above actions of the Defendants, the Plaintiffs have been foreseeably damaged in their reputations and suffered emotional distress.

25. Plaintiffs have had to employ the undersigned attorney in this matter and have obligated themselves to pay said attorney a reasonable fee.

WHEREFORE, Plaintiffs demand judgment against Defendants, NATIONWIDE COLLECTION SERVICE, INC, HOWARD W. COOPER, and JACK ARMSTRONG, for actual damages or statutory damages, court costs, and attorney's fees, and further demand trial by jury.

COUNT II

26. Plaintiffs adopt, reallege, and incorporate by reference the allegations of Paragraphs 1 through 25.

27. At all times material hereto, Defendant, NATIONWIDE COLLECTION SERVICE, INC. negligently hired, trained, or supervised the employees or agents involved.

28. At all times material hereto, Defendant, HOWARD W. COOPER, acted in a wilful, wanton, and malicious disregard of the Plaintiffs' rights.

29. At all times material hereto, Defendant, JACK ARMSTRONG, acted in a wilful, wanton, and malicious disregard of the Plaintiffs' rights.

30. At all times material hereto, Defendant, NATIONWIDE COLLECTION SERVICE, INC. acted in a wilful, wanton, and malicious disregard of the Plaintiffs' rights.

WHEREFORE, Plaintiffs demand judgment against the Defendants for actual damages or statutory damages, punitive damages, court costs and attorney's fees, and further demand trial by jury.

COUNT III

31. Plaintiffs adopt, reallege, and incorporate by reference the allegations of Paragraphs 1 through 30.

32. Plaintiffs and other consumers will suffer irreparable harm if the Defendants commit similar or other violations of Florida Statute 559.72.

WHEREFORE, Plaintiffs demand that the Court enjoin the Defendants against future violations of Florida Statute 559.72 and award court costs and attorney's fees.

COUNT IV

33. Plaintiffs adopt, reallege, and incorporate by reference the allegations of Paragraphs 1 through 32.

34. This is an action against Defendant, NATIONWIDE COLLECTION SERVICE, INC. pursuant to 15 U.S.C. 1692k of the Federal Debt Collection Practices Act.

35. Defendant, NATIONWIDE COLLECTION SERVICE, INC. is a

"debt collector" within the meaning and intent of 15 U.S.C. 1692 a(6).

36. The above alleged contact with Plaintiff, TOMMIE V. MERCHANT'S employer was in violation of 15 U.S.C. 1692c (b).

37. The Defendant's above alleged general conduct was in violation of 15 U.S.C. 1692d in that it had the natural consequence of harrassing, oppressing, or abusing the Plaintiffs, VIVIAN M. MERCHANT and TOMMIE V. MERCHANT.

38. The Defendant's above-alleged general conduct was in violation of 15 U.S.C. 1692e in that it constituted false, deceptive, or misleading representation or means in the collection of an alleged debt.

39. The threats of arrest of imprisonment made by the Defendant were in violation of 15 U.S.C. 1692e (4), in that such action was not lawful and or the Defendant did not intend to take such action.

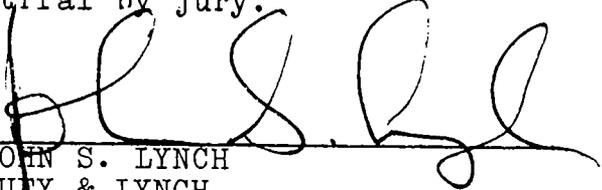
40. The threats of arrest, imprisonment, or extradition made by the Defendant were in violation of 15 U.S.C. 1692e (5) in that they were threats to take action that could not legally be taken or that was not intended to be taken.

41. The Defendant violated 15 U.S.C. 1692e (7) in that it falsely represented or implied to the Plaintiffs and Plaintiff TOMMIE V. MERCHANT's employer that one or both of the Plaintiffs had committed a crime.

42. The Defendant's representations as to the Plaintiff's imminent arrest and that a \$10,000.00 bond had already been set was in violation of 15 U.S.C. 1692e (10) in that it constituted a false representation or deceptive means to collect a debt or attempt to collect a debt.

43. The Defendant's threats to have the Plaintiffs extradited to Broward County, Florida were in violation of 15 U.S.C. 1692e (s) and 15 U.S.C. 1692i (a) (2) in that Defendant did not intend to and could not take legal action against the Plaintiffs in any judicial circuit outside of Marion County, Florida, where Plaintiffs signed the contract sued on and in which Plaintiffs resided at all times material hereto.

WHEREFORE, Plaintiffs demand judgment against the Defendant, NATIONWIDE COLLECTION SERVICE, INC. for actual damages, statutory damages of \$1,000.00, court costs, and attorney's fees, and further demand trial by jury.



JOHN S. LYNCH
HUEY & LYNCH
828 S. E. Ft. King Street
P. O. Box 696
Ocala, Florida 32678
904/622-8101

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Defendants.

TEMPORARY INJUNCTION

THIS CAUSE came to be heard on the Plaintiff's Complaint for injunctive relief and damages, and the Court finding that a default has been duly entered against the Defendant NATIONWIDE COLLECTION SERVICE, INC., and finding that irreparable harm may result to the Plaintiffs and the public if the Defendant NATIONWIDE COLLECTIONS SERVICE, INC. is not enjoined against violating the provisions of Florida Statute 559.72, it is hereby

ORDERED AND ADJUDGED:

1. The Defendant NATIONWIDE COLLECTION SERVICE, INC., its officers, agents, servants, employees, and attorneys are enjoined against violating the provisions of Florida Statute 559.72, as more particularly set forth in Paragraph 2 of this Order, in collecting any consumer claim from the Plaintiffs or any other consumer in the State of Florida.

2. Florida Statute 559.72 provides:

"In collecting consumer claims, no person shall:

1. Simulate in any manner a law enforcement officer or a representative of any governmental agency;

2. Use or threaten force or violence;

3. Tell a debtor who disputes a consumer claim that he or any person employing him will disclose to another, orally or in writing, directly or indirectly, information affecting the debtor's reputation for credit worthiness without also informing the debtor that the existence of the dispute will also be disclosed as required by subsection (6);

4. Communicate or threaten to communicate with a debtor's employer prior to obtaining final judgment against the debtor, unless the debtor gives his permission in writing to contact his employer or acknowledges in writing the existence of the debt after the debt has been placed for collection, but this shall not prohibit a person from telling the debtor that his employer will be contacted if a final judgment is obtained;

5. Disclose to a person other than the debtor or his family information affecting the debtor's reputation, whether or not for credit worthiness, with knowledge or reason to know that the other person does not have a legitimate business need for the information or that the information is false;

6. Disclose information concerning the existence of a debt known to be reasonably disputed by the debtor without disclosing that fact. If a disclosure is made prior to such reasonable dispute having been asserted and written notice is received from the debtor that any part of the claim is disputed and if such dispute is reasonable, the person who made the original disclosure shall reveal upon the request of the debtor within 30 days the details of the dispute to each person to whom disclosure of the debt without notice of the dispute was made within the preceding 90 days;

7. Willfully communicate with the debtor or any member of his family with such frequency as can reasonably be expected to harass the debtor or his family, or willfully engage in other conduct which can reasonably be expected to abuse or harass the debtor or any member of his family;

8. Use profane, obscene, vulgar, or willfully abusive language in communicating with the debtor or any member of his family;

9. Claim, attempt, or threaten to enforce a consumer claim when such person knows that the claim is not legitimate or some other legal right when such person knows that the right does not exist;

10. Use a communication which simulates in any manner legal or judicial process or which gives the appearance of being authorized, issued or approved by a government, governmental agency, or attorney-at-law, when it is not;

11. Communicate with a debtor under the guise of an attorney by using the stationery of an attorney or forms or instruments which only attorneys are authorized to prepare;

12. Orally communicate with a debtor in such a manner as to give the false impression or appearance that such person is or is associated with an attorney;

13. Advertise or threaten to advertise for sale any claim as a means to enforce payment except under court order or when acting as an assignee for the benefit of a creditor;

14. Publish or post, threaten to publish or post, or cause to be published or posted before the general public individual names or any list of names of consumers, commonly known as a deadbeat list, for the purpose of enforcing or attempting to enforce collection of consumer claims;

15. Refuse to provide adequate identification of himself or his employer or other entity whom he represents when requested to do so by a debtor from whom he is collecting or attempting to collect a consumer claim; or

16. Mail any communication to a debtor in an envelope or post card with words typed, written, or printed on the outside of the envelope or post card calculated to embarrass the debtor. An example of this would be an envelope addressed to "Deadbeat, John Doe."

3. This injunction shall take effect upon Plaintiffs posting a bond of \$10,00 with the clerk conditioned for the payment of costs and damages sustained by Defendant

NATIONWIDE COLLECTION SERVICE, INC., if it has been wrongfully enjoined, and shall stay in effect until further order of the Court.

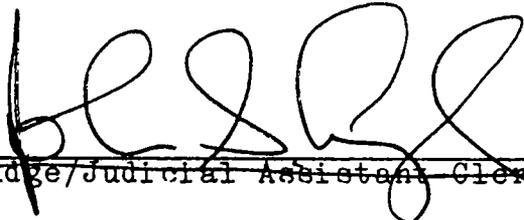
DONE AND ORDERED in Chambers at Ocala, Marion County, Florida, this 18th day of March, 1985.

WALLACE E. STURGIS, JR.

WALLACE E. STURGIS, JR.
Circuit Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by ~~hand~~mail to: Nationwide Collection Service, Inc., P. O. Box 5332, Ft. Lauderdale, Florida, 33310; C. Calvin Horvath, Esquire, 2153 Lee Road, Winter Park, Florida, 32789; and John S. Lynch, Esquire, P. O. Box 696, Ocala, Florida, 32678, on 18th day of April, 1985.


~~Judge/Judicial Assistant Clerk~~