

**COUNTY COURT (CR4) (CASE #04C29922)
CITY AND COUNTY OF DENVER**

CONSUMER CRUSADE, INC. PLAINTIFF	A.M. DEMIRALI ATTORNEY AT LAW 875 S. COLORADO BLVD. BOX 662 DENVER, CO 80246
HOP-ON.COM SAMUEL DEMISSIE DEFENDANTS	BRIAN PROFFITT ATTORNEY AT LAW 1050 17TH STREET #2500 DENVER, CO 80265-2080

DECISION AND RULING OF THE COURT

Plaintiff has filed this action pursuant to the Telephone Consumer Protection Act, 47 U.S.C. Section 227 (TCPA), asserting damages of \$19,500. Defendants have filed a Motion to Dismiss, arguing in part, that plaintiff's complaint seeks damages in excess of this Court's jurisdiction and that Colorado either refused to "opt-in" to the provisions of the TCPA or affirmatively opted-out by passing certain provisions of the Colorado Consumer Protection Act, Section 6-1-702, C.R.S. (CCPA).

Issues under the TCPA of standing, subject matter jurisdiction, and assignability have been considered by multiple Colorado District Courts:

(1) which have granted motions to dismiss: Consumer Crusade, Inc. v. Affordable Health Care Solutions, Inc. 04 CV 803, Denver District Court; Douglas McKenna v. Stephen Oliver, 03 CV 2099, Boulder County District Court; Consumer Crusades, Inc. v. MBA Financial Group, Inc. 04 CV 4841, Denver District Court.

(2) and which have denied motions to dismiss: Consumer Crusade, Inc. v. Sciax Technology, Inc. et al, 04 CV 8230, Denver District Court; USA Tax Law Center, Inc. v. Capital Arbitration, Inc., 04 CV 1267, Jefferson County District Court; USA Tax Law Center, Inc. v. Bridge 21, Inc., 03 CV 9245, Denver District Court.

It is clear and unambiguous that plaintiff's complaint exceeds this Court's jurisdictional limitation. On that basis alone, this Court grants defendant's motion to dismiss. Moreover, this Court adopts and incorporates the findings and orders of Judge Egelhoff in Consumer Crusade, Inc. v. Affordable Health Care Solutions, Inc. supra., and finds that Plaintiff's claim for relief under the TCPA is not recognized under Colorado law because Colorado's passage of the CCPA—which cannot be applied together with the TCPA—demonstrates Colorado's intent to "opt out" of the TCPA.

For those reasons and without considering defendants' Motion to Dismiss on grounds relating to assignability or treble damages, the Court grants defendants' Motion to Dismiss.

Dated at Denver, Colorado this 24th day of February, 2005

By the Court

