

MICHIGAN LAWYERS WEEKLY

Shareholders seek pre-merger information

Supplemental disclosures had critical details about intrinsic value of company

By: Michigan Lawyers Weekly Staff in Verdicts & Settlements January 28, 2014

Macomb County Circuit Court Judge John C. Foster approved a class-action settlement that secured valuable disclosures relating to the merger of defendant Asset Acceptance Capital Corp. with defendant Encore Capital Group Inc.

On March 27, 2013, AACC filed a Form S-4 preliminary registration statement and joint proxy statement/prospectus with the U.S. Securities Exchange and Commission. The statements announced the merger transaction and recommended shareholders vote their shares in favor of the merger.

With the assistance of a financial expert, and after a thorough review of the preliminary proxy, plaintiff determined this disclosure failed to provide shareholders with all the material information necessary to determine whether to vote their shares in favor of the merger.

The parties engaged in expedited discovery and extensive settlement discussions prior to the scheduled merger closing date.

As part of the settlement, on June 3, 2013, AACC filed supplemental disclosures in connection with the merger. The supplemental disclosures included, among other things, critical information about core business projections that provided information to shareholders about the intrinsic value of AACC.

This information, which had been omitted from the initial disclosures, provided shareholders with information to make an informed decision whether to vote in favor of the proposed merger. Based on these disclosures, the shareholders voted in favor of the merger, and the transaction closed June 13, 2013.

Type of action: Shareholder class action

Name of case: *Shell v. Asset Acceptance Capital Corp., et al.*

Court/Case no./Date: Macomb County Circuit Court; 2013-000959-CZ; Dec. 16, 2013

Name of judge: John C. Foster

Settlement terms: Mandated disclosures in connection with merger of Asset Acceptance Capital Corp.

Attorneys for plaintiff: E. Powell Miller, Marc L. Newman, David B. Viar, Edward M. Gergosian

Attorney(s) for defendant: Withheld

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