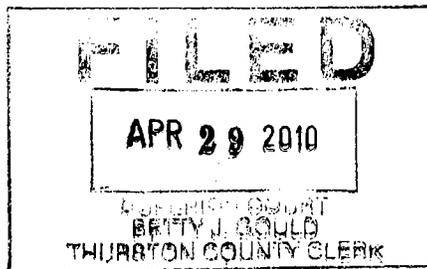


COPY

1  EXPEDITE  
2  No Hearing Set  
3  Hearing is Set  
4 Date:  
5 Time:



6  
7 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
8 IN AND FOR THE COUNTY OF THURSTON

9 STATE OF WASHINGTON,

10 Plaintiff,

11 v.

12 CREDEXX CORPORATION, a California  
13 corporation, dba Auto One Warranty, Auto One  
14 Warranty Specialists, and DAVID J. TABB,  
15 individually and his marital community,

16 Defendants.

NO. 10-2-00884-2

COMPLAINT, REQUEST FOR  
DECLARATORY JUDGMENT,  
INJUNCTIVE RELIEF,  
CONSUMER RESTITUTION  
AND CIVIL PENALTIES

17 Plaintiff, State of Washington, Office of the Attorney General, Consumer Protection  
18 Division, by and through its attorneys, Robert M. McKenna, Attorney General, and Mary C.  
19 Lobdell, Assistant Attorney General, brings this action against Credexx Corporation, dba Auto  
20 One Warranty, Auto One Warranty Specialists and David J. Tabb ("Defendants") alleging as  
21 follows:

22 I. JURISDICTION AND VENUE

23 1.1. The state of Washington ("State") files this Complaint and these proceedings  
24 under the provisions of Chapter 19.86 RCW, Unfair Business Practices -- Consumer Protection  
25 Act; chapter 80.36 RCW -- Automatic Announcing and Dialing Devices Act; and chapter 19.158  
26 -- Commercial Telephone Solicitation Act.



1           3.4. Defendant Tabb is being sued in his individual capacity as well as in his  
2 capacity as president and sole shareholder of Defendant Credexx.

3           3.5. On information and belief, Defendant Tabb, at all relevant times hereto,  
4 operated, dominated, controlled and directed the business activities of Defendant Credexx,  
5 causing, personally participating in, or ratifying the acts and practices of Defendant Credexx,  
6 as described in this Complaint.  
7

8           3.6. Specifically, Plaintiff believes that Defendant Tabb participated personally in  
9 (a) the design, establishment, and approval of the deceptive advertising, marketing and sales  
10 practices described in this Complaint; (b) the establishment of the refund policies and practices  
11 affecting consumers seeking to cancel their purchases of the goods described in this  
12 Complaint; (c) the hiring and firing of sales personnel and other representatives of Defendant  
13 Credexx whom Defendant Tabb directed to, and who did, carry out the advertising, marketing  
14 and deceptive sales practices described in this Complaint; and (d) the training, direction and  
15 oversight of sales personnel and other representatives of Defendant Credexx. Accordingly,  
16 Defendant Tabb is liable for those acts in which he personally participated as well as the acts  
17 of Defendant Credexx, its employees and other agents because Defendant Tabb controlled or  
18 directed these acts.  
19

20           3.7. For purposes of this Complaint, the terms "Defendants," unless otherwise  
21 specified, shall refer to all Defendants; and when used in conjunction with allegations of  
22 unlawful conduct, shall mean that each Defendant committed such act and/or is legally  
23 accountable for such act.  
24  
25  
26





1           **5.9.** Defendants created the false and misleading impression that it was associated  
2 with local automobile dealers.

3           **5.10.** Defendants provided consumers with inconsistent and inadequate information  
4 regarding the performance, characteristics, uses, and benefits of the service contracts it sold.  
5

6           **5.11.** Defendants falsely stated or misrepresented that consumers would receive  
7 “bumper to bumper,” “platinum,” “gold,” or “silver” coverage that would cover all or major  
8 repairs of consumers’ motor vehicles.

9           **5.11.1.** Defendants and/or its agents represented to Attorney General  
10 Complainant No. 357561 that she would receive an automobile service contract  
11 that would provide coverage of major repairs associated with a 2007 Prius.  
12

13           **5.11.2.** On information and belief, Defendants and/or its agents did not  
14 disclose exclusions from coverage to Complainant No. 357561.

15           **5.11.3.** When Complainant No. 357561 received the contract, she discovered  
16 that it did not cover the repair of the battery pack in her Prius.

17           **5.11.4.** Defendants and/or its agents materially misrepresented the terms and  
18 conditions of the contracts it sold to Complainant No. 357561.

19           **5.11.5.** Defendants and/or its agents represented to Attorney General  
20 Complainant No. 353613 that his vehicle would be covered by the vehicle  
21 service contract.  
22

23           **5.11.6.** Complainant No. 353613 discovered upon receipt of the contract, that  
24 his vehicle was not covered by the vehicle service contract because it has a  
25 trailer hitch and other towing modifications.  
26

1           **5.11.7.** Defendants and/or its agents materially misrepresented the terms and  
2           conditions of the contracts it sold to Complainant No. 353613.

3           **5.12.** Defendants falsely stated or misrepresented that the vehicle service contracts  
4           Defendants sell can provide the same terms and coverage as a manufacturer's warranty.

5           **5.13.** Defendants do not adequately explain contract limitations and exclusions of  
6           vehicle service contracts to consumers.

7           **5.13.1.** Defendants and/or its agents represented to Attorney General  
8           Complainant No. 353288 that transmission repairs would be covered if he  
9           purchased a vehicle service contract.

10           **5.13.2.** Defendants did not disclose any limitations or other material  
11           restrictions associated with the vehicle service contract being sold.

12           **5.13.3.** After purchase of the contract and review, Complainant No. 353288  
13           discovered that the contract contained significant limits on the cost of repairs  
14           that were not disclosed during the sales transaction.

15           **5.13.4.** Defendants and/or its agents materially misrepresented the terms and  
16           conditions of the contracts it sold to Complainant No. 353288.

17           **5.14.** Despite Defendants' representations regarding coverage, the vehicle service  
18           contracts they sell contain material restrictions, limitations and exclusions that significantly  
19           limit the value and use of the contract.

20           **5.15.** Defendants failed to disclose the material terms, restrictions, limitations and  
21           exclusions of their service contracts in solicitations, web pages and marketing contacts with  
22           consumers.



1           5.24. Defendants represented or implied that “factory warranty” offers were affiliated  
2 with an automobile manufacturer.

3           5.25. Defendants represented that “factory warranty” offers were associated with a  
4 motor vehicle dealership from which the consumer purchased their motor vehicles by  
5 referencing the make and model of the consumer’s vehicle and urging the consumer to “extend  
6 or reinstate your **Bumper to Bumper Warranty coverage.**” See Exhibit 1.

7  
8           5.26. Defendants mailed direct mail solicitations under the name “Auto One Warranty  
9 Specialists” rather than its corporate name, i.e. Credexx, Inc., in a further attempt to create the  
10 impression that Defendants were selling factory warranties offered by the manufacturer or  
11 dealer. See Exhibit 2.

12           5.27. Defendants failed to disclose that Defendants are not affiliated and have no  
13 relationship with the manufacturers who produced the consumers’ motor vehicles.

14           5.28. Defendants have failed to disclose that Defendants are not affiliated and have no  
15 relationship with the dealers who sold the consumers their motor vehicles.

16           5.29. Defendants represented that consumers’ motor vehicle warranties were expired,  
17 were expiring, were about to expire or may expire. See Exhibit 1.

18           5.30. Many consumers who received Defendants’ direct mail solicitations report that  
19 their auto warranties were not expired or about to expire.

20           5.31. Defendants represented that consumers had a limited time to contact Defendants  
21 to “reinstate your bumper to bumper coverage” for their motor vehicles, when in fact the offer  
22 was actually available for a longer period of time.  
23  
24  
25  
26

1 *DEFENDANTS' TELEMARKETING PRACTICES*

2 5.32. Defendants conducted sales through inbound telemarketing calls in which  
3 consumers call Defendants' sales representatives after receiving direct mail solicitations, after  
4 consumers hear and/or see Defendants television advertisement, or after consumers view the  
5 Defendants' website, www.autoonewarranty.com.

6  
7 5.33. Defendants also conducted sales through the use of outbound telemarketing,  
8 including the use of an automatic dialing and announcing device ("ADAD") in which  
9 Defendants offered to sell their service and additive contracts through pre-recorded  
10 telemarketing calls, often referred to as "robo-calls."

11 5.34. On information and belief, Defendants' pre-recorded telemarketing calls do not  
12 promptly and clearly identify that the call is being made on behalf of Defendants in order to  
13 make a sale to the consumer.  
14

15 5.35. On information and belief, Defendants' pre-recorded telemarketing calls purport  
16 to give consumers the option to speak with a sales representative, but consumers attempting to  
17 select this option for the purpose of asking to be placed on Defendants' internal do-not-call list  
18 have been disconnected or hung up on by Defendants or, if connected, Defendants' sales  
19 representatives hang up on the caller.  
20

21 5.36. On information and belief, Defendants' pre-recorded telemarketing calls purport  
22 to give consumers the option to put themselves on the Defendants' internal do-not-call list by  
23 pressing a certain number, but the internal do-not-call list did not in fact result in no further  
24 calls to consumers.  
25  
26

1           5.37. Defendants' telemarketing practices impaired consumers' efforts to notify  
2 Defendants and their agents that the consumers do not wish to receive solicitation calls by or  
3 on behalf of the Defendants.

4           5.38. On information and belief, Consumers continued to receive telemarketing calls  
5 from Defendants and their agents after the consumers have asked not to be called again and/or  
6 to have their names placed on Defendants' internal do-not-call list.

7           5.39. On information and belief, Defendants and their agents placed telemarketing  
8 calls in connection with their marketing of service contracts to telephone numbers in  
9 Washington that are listed with the National Do Not Call Registry maintained by the Federal  
10 Trade Commission.

11           5.40. On information and belief, consumers who registered with the National Do Not  
12 Call Registry continued to receive Defendants' telemarketing calls after they had advised  
13 Defendants' sales representatives that they were registered on the National Do Not Call  
14 Registry and that they wanted the calls stopped.

15           5.41. On information and belief, Defendants and their agents did not have prior  
16 express invitation or permission to make the telemarketing calls to the consumers who were  
17 registered with the National Do Not Call Registry.

18           5.42. Defendants placed telemarketing calls in connection with their marketing of  
19 service contracts and failed to transmit accurate caller identification information.

20           5.43. Defendants and their agents placed telemarketing calls in connection with their  
21 marketing of service contracts and failed to check that the numbers Defendants were calling  
22 were not on the National Do Not Call Registry.

1           5.44. Defendants and their agents placed telemarketing calls in connection with their  
2 marketing of service contracts and engaged in “spoofing” by blocking, disguising, or falsifying  
3 the identity of Defendants and failed to transmit or display the originator’s telephone number  
4 or the telephone number of Defendants that consumers may call during regular business hours  
5 to be placed on a do-not-call list.  
6

7           5.45. On information and belief, Defendants and their agents placed telemarketing  
8 calls in connection with their marketing of service contracts and failed or refused to place  
9 consumers on internal do-not-call lists upon request by the consumer.

10           5.46. On information and belief, Defendants placed telemarketing calls in connection  
11 with their marketing of service contracts and provided false or misleading caller identification  
12 information, including preventing the display of caller identification, using methods that  
13 bypass, circumvent, or disable caller identification, or using methods that mislead the caller as  
14 to the identification of the caller or the caller’s phone number.  
15

16           5.47. During the telemarketing calls, Defendants secure the agreement and a down  
17 payment over the phone. Following receipt of the down payment, Defendants mail the actual  
18 service contract to the consumer. This is the first opportunity the consumers have to review  
19 the contract and see its actual terms.  
20

21           5.48. Defendants sometimes do not mail the service contract to consumers.

22                           ***DEFENDANTS’ GENERAL MISLEADING AND DECEPTIVE BUSINESS***  
23                                           ***PRACTICES***

24           5.49. Defendants represented an offer to be Defendants’ “final” offer to a consumer,  
25 when in fact Defendants had never made any previous attempts to contact the consumer.  
26



1 contract, but reassure the consumers that they can cancel the contract during the first thirty  
2 days and receive a full refund.

3           **5.57.** Defendants fail to disclose the difficulty consumers will face if they attempt to  
4 cancel the contract.

5           **5.58.** Defendants make it difficult for consumers to cancel their contracts by not  
6 accepting telephone cancellation, by not accepting written requests for cancellation that do not  
7 include a refund request, and by failing to provide a timely refund.

8           **5.59.** In those instances where consumers succeed in cancelling the vehicle protection  
9 product, Defendants refuse to refund any money if any portion of the additive was used.

10           **5.60.** In those instances where consumers succeed in cancelling the service contract,  
11 Defendants refused to timely refund the money taking 8 months or more to provide a refund  
12 after the consumer filed a complaint with the Better Business Bureau or state Attorney  
13 General.

14           **5.61.** Defendants did not correctly calculate the refund amount due the consumer and  
15 failed to provide consumers with statutory penalties required by RCW 48.110.075(4)(c) for  
16 refunds not paid within thirty days of return of the contract to the obligor.

17  
18  
19  
20                           **VI. FIRST CAUSE OF ACTION**  
                          **COMMERCIAL TELEPHONE SOLICITATION ACT**

21           **6.1.** Plaintiff realleges paragraphs 1.1 through 4.8 and incorporates them herein as if  
22 set forth in full.

23           **6.2.** Defendants' business constitutes commercial telephone solicitation as defined in  
24 RCW 19.158.020. Defendants are not registered as commercial telephone solicitors with the  
25 Washington State Department of Licensing as required by RCW 19.158.050.  
26

1           6.3. Defendants are in violation of RCW 19.158.050(1) which requires a commercial  
2 telephone solicitor to be registered with the Department of Licensing. Pursuant to RCW  
3 19.158.050(4)(a) and RCW 19.150.030, the violation of RCW 19.158.050(1) constitutes a *per*  
4 *se* violation of the Consumer Protection Act., RCW 19.86.  
5

6                                   **VII. SECOND CAUSE OF ACTION**  
7                                   **MISREPRESENTATION**

8           7.1. Plaintiff realleges paragraphs 1.1 through 4.8 and incorporates them herein as if  
9 set forth in full.

10           7.2. In connection with the solicitation of Washington consumers by mail and  
11 telephone for the purpose of inducing the purchase of automobile service contracts and vehicle  
12 protection product warranties, Defendants made or implied material misrepresentations that  
13 include, but are not limited to the following:

14                   7.2.1. That the product being sold is a “warranty,” “factory warranty,” or  
15 “extended warranty”;

16                   7.2.2. That the consumer is contracting with the Defendants;

17                   7.2.3. That the Defendants will pay the consumers’ repair costs;

18                   7.2.4. That the Defendants are associated with, authorized by or are a  
19 manufacturer;

20                   7.2.5. That the Defendants are associated with local automobile dealers;

21                   7.2.6. That the product being offered covers all “bumper to bumper” repairs;

22                   7.2.7. That the product being offered provides the same terms and coverage as  
23 a manufacturer’s warranty;

24                   7.2.8. That the product has no material exclusions;  
25  
26



1 8.3. Defendants made it difficult for consumers to cancel their contracts by  
2 providing consumers with false or misleading information on how to obtain a refund.

3 8.4. Defendants failed to timely refund monies to consumers.

4 8.5. Defendants had a pattern and practice of miscalculating refunds; and

5 8.6. Defendants provided refunds only if a consumer complained multiple times,  
6 complained to the Attorney General or complained to the Better Business Bureau.

7 8.7. The conduct described above constitutes unfair or deceptive acts or practices in  
8 trade or commerce and unfair methods of competition in violation of RCW 19.86.020.

9  
10 **IX. FOURTH CAUSE OF ACTION**  
11 **AUTOMATIC ANNOUNCING AND DIALING DEVICES**

12 9.1. Plaintiff realleges paragraphs 1.1 through 4.8 and incorporates them herein as if  
13 set forth in full.

14 9.2. Defendants' and/or their agents use an automatic dialing and announcing device  
15 to make commercial solicitations to Washington consumers.

16 9.3. Defendants and/or their agents' actions violate RCW 80.36.400(2), which  
17 prohibits the use of automatic dialing and announcing devices for purposes of commercial  
18 solicitation and specifically applies to all commercial solicitation intended to be received by  
19 telephone customers within Washington State.

20 9.4. Pursuant to RCW 80.36.400, a violation of RCW 80.36.400(2) constitutes a *per*  
21 *se* violation of RCW 19.86 *et seq.*, the Consumer Protection Act.

22  
23  
24 ///

25 ///

26 ///

1 **X. PRAYER FOR RELIEF**

2 **WHEREFORE**, Plaintiff, State of Washington, prays for relief as follows:

3 **10.1.** That the Court adjudge and decree that Defendants have engaged in the conduct  
4 complained of herein.

5 **10.2.** That the Court adjudge and decree that the conduct complained of herein  
6 constitutes unfair or deceptive acts and practices and unfair methods of competition in  
7 violation of the Consumer Protection Act, chapter 19.86 RCW.

8 **10.3.** That the Court issue a permanent injunction enjoining and restraining  
9 Defendants, and their representatives, successors, assigns, officers, agents, servants,  
10 employees, and all other persons acting or claiming to act for, on behalf of, or in active concert  
11 or participation with Defendants, from continuing or engaging in the unlawful conduct  
12 complained of herein, including but not limited to, permanently enjoining the Defendants from  
13 engaging in any business related to the buying, selling, telemarketing or other marketing of  
14 vehicle service contracts or vehicle protection product in Washington.

15 **10.4.** That the Court assess civil penalties, pursuant to RCW 19.86.140, of up to two  
16 thousand dollars (\$2,000) per violation against Defendants for each and every violation of  
17 RCW 19.86.020 caused by the conduct complained of herein.

18 **10.5.** That the Court make such orders pursuant to RCW 19.86.080 as may be  
19 necessary to restore to any person the money or property acquired by the Defendants as a result  
20 of the conduct complained of herein.

21 **10.6.** That the Court make such orders pursuant to RCW 19.86.080 to provide that  
22 Plaintiff, State of Washington, have and recover from Defendants the costs of this action,  
23 including reasonable attorneys' fees if allowed by law.

24 ///

25 ///

26 ///



# **EXHIBIT 1**

**Auto One Warranty Specialists**  
4521 Campus Drive, Ste 388  
Irvine, California 92612

IF YOU ARE THE REGISTERED OWNER OF ONE OF THE VEHICLES BELOW,  
PLEASE CALL US IMMEDIATELY TO CHECK THE STATUS OF YOUR VEHICLE WARRANTY.

PRESORTED  
FIRST CLASS MAIL  
U.S. POSTAGE  
PAID  
FT LAUD, FL  
PERMIT NO. 792

<b>Customer ID No:</b> TAB656295	<b>Registered Owner:</b> WILLIAM REIBER	<b>Status:</b> EXPIRED WARRANTY
<b>Deadline Date:</b> NOVEMBER 19, 2007	<b>Pre-Approval Code:</b> T300XA	<b>Vehicle Year/Make:</b> 2003 - FORD

# FINAL WARRANTY NOTICE

EXPIRED VEHICLE FACTORY WARRANTY



211\*\*\*\*\*3-DIGIT 982

WILLIAM REIBER  
1208 LINCOLN ST UNIT 287  
BELLINGHAM WA 98229-5736

- 0% Interest Free Financing
  - Coverages Available Up to 250,000 Miles
  - Low Monthly Installments Available
- OPEN MONDAY 11-12-07 VETERAN'S DAY • REGULAR HOURS

# FINAL WARRANTY NOTICE

This is your **FINAL NOTICE** to extend or reinstate your **Bumper to Bumper Warranty Coverage.**

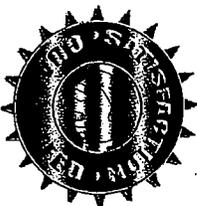
You have been pre-selected for this exclusive program. Please call us **IMMEDIATELY** with your exact mileage and VIN # to take advantage of this **FINAL OFFER!**

**1-888-978-7707**

Business Hours:  
6 am - 7 pm PST Monday - Friday  
7 am - 2 pm PST Saturday



**\$200 DISCOUNT**  
if you call within  
the deadline date!



## **EXHIBIT 2**

Ext - Ext 412 - 01540C

Auto One Warranty Specialists

SPECIAL INSTANT REBATE OF \$350 OFF THE PRICE OF OUR EXTENDED COVERAGE TO HELP OUR CUSTOMERS WITH THE SLOWING ECONOMY. OFFER EXPIRES BY DEADLINE DATE ON POSTCARD. MUST MENTION THE REBATE TO AGENT AT THE START OF CALL.

PRESORTED  
FIRST CLASS MAIL  
U.S. POSTAGE  
PAID  
FT. LAUDERDALE, FL  
PERMIT NO. 792

Customer ID No: TAJ530512      Vehicle Year/Manufacturer: 2003 - GMC      Deadline Date: FEBRUARY 20, 2009

# FINAL WARRANTY NOTICE

MASTER  
5yr 100,000  
Air cond.  
Washer pump  
Timing  
Engine  
trans  
turbo  
Drive train  
DIT + TRAN

EXPIRED VEHICLE FACTORY WARRANTY

\$ 490 -  
- 100 ded -  
- 0 inst.  
Free



67\*1\*\*\*\*\*3-DIGIT 983  
DANNY ROWLAND  
PO BOX 1023  
SEQUIM WA 98382-1023

3/20 / 295<sup>cc</sup> diesel  
14302  
15 months  
4/5

WE WILL BE OPEN PRESIDENTS DAY: FEB 16TH REGULAR BUSINESS HOURS

•A1W010808

# FINAL WARRANTY NOTICE

*Eric*  
 This is your **FINAL NOTICE** to extend or reinstate your bumper to bumper warranty coverage. You have been pre-selected for this exclusive program. Please call us immediately with your exact mileage and VIN # to take advantage of this **FINAL OFFER!**

- 0% Interest Free Financing
- Low Monthly Installments Available
- Coverages Available Up To 250,000 Miles

**\$200 DISCOUNT**  
 on first call activation!

# 85268

*Eric Ext 412*  
**1-800-978-4145**

Monday - Friday: 7 am - 9 pm CST / Saturday: 9 am - 6 pm CST



*1 GT HK 29193E 255788*

7007 2560 0002 8989 4461

**U.S. Postal Service™  
 CERTIFIED MAIL™ RECEIPT**  
 (Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at [www.usps.com](http://www.usps.com)

**OFFICIAL USE**

Postage	\$ 4.95	0386
Certified Fee	\$2.70	03
Return Receipt Fee (Endorsement Required)	\$2.20	Postmark Here
Restricted Delivery Fee (Endorsement Required)	\$0.00	
Total Postage & Fees	\$ 9.85	04/07/2009

Sent to *Auto One Warranty*  
 Street, Apt. No.,  
 or PO Box No. *310 Commerce Suite 150*  
 City, State, ZIP+4  
*Irvine CA 92602*

PS Form 3800, August 2006 See Reverse for Instructions

COMPLETE THIS SECTION ON DELIVERY

A. Signature  Agent  Addressee  
*[Signature]*  
 B. Received by (Printed Name) *[Signature]*  
 C. Date of Delivery *4/09/09*  
 D. Is delivery address different from item 1?  Yes  No  
 If YES, enter delivery address below:

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.  
 4. Restricted Delivery? (Extra Fee)  Yes

SENDER: COMPLETE THIS SECTION

1. Article Addressed to:  
*Auto One Warranty*  
*310 Commerce Suite 150*  
*Irvine CA 92602*

2. Article Number:  
 (Transfer from service label)  
 7007 2560 0002 8989 4461

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540