

IN THE COUNTY COURT IN AND FOR DUVAL COUNTY, FLORIDA

CASE NO.:

MIDLAND CREDIT MANAGEMENT, INC.

Plaintiff,

vs.

COMPLAINT

CARMELA SMITH,

Defendant.

_____ /

COMES NOW the Plaintiff, MIDLAND CREDIT MANAGEMENT, INC., by and through its undersigned counsel, and sues Defendant, CARMELA SMITH, and states as follows:

GENERAL ALLEGATIONS

1. This is an action for damages that is within the jurisdictional limits of this court exclusive of costs.
2. Venue of this action is proper in the county named above because the Defendant is a resident of this county and/or because the Defendant executed the subject agreement in this county.
3. Plaintiff, MIDLAND CREDIT MANAGEMENT, INC. (hereinafter "Plaintiff"), is a DELAWARE LIMITED LIABILITY COMPANY, authorized to do business in Florida.
4. Plaintiff and its predecessors have duly performed all promises and conditions precedent as required.
5. This is an attempt to collect a debt and any information obtained herein will be used for that purpose.

COUNT I – ACCOUNT XXXXXXXXXXXXXXX6822
ACCOUNT STATED

Plaintiff readopts and re-alleges allegations one (1) through five (5) above and further states as follows:

6. This is an action for damages that is within the jurisdictional limits of this court exclusive of costs.
7. Upon Defendant's request, the original creditor, COMENITY CAPITAL BANK, issued a credit account in the name of Defendant bearing the account number XXXXXXXXXXXXXXX6822

8. Prior to the commencement of this action, Plaintiff acquired Defendant's account originated by COMENITY CAPITAL BANK and as such is entitled to all rights originally bestowed upon the original creditor. See attached Exhibit "A".
9. Although demands have been made by Plaintiff upon Defendant for payment, Defendant has failed or refused to pay the amount due and owing on the account.
10. Before the institution of this action, Plaintiff's predecessor in interest and the Defendant had business transactions between them where the parties agreed upon a resulting balance. Plaintiff is an assignee and as such obtains all rights of the original creditor to be repaid.
11. There are no unresolved billing disputes made in response to receiving the account statements and, therefore, there is a prima facie case establishing the correctness of the account balance. See, *Farley v. Chase Bank, USA, NA*, 37 So. 3d 936 (Fla. 4th DCA 2010). Copies of any available statements are attached hereto and incorporated herein as Composite Exhibit "B".
12. By submitting payments in response to the monthly statements rendered and delivered by the original creditor, the Defendant accepted the resulting balance.
13. After adjustment for any credits or payments made after charge-off of the account, Defendant owes Plaintiff the amount of \$1,506.14.

WHEREFORE, as to Count I, Plaintiff respectfully requests this Honorable Court enter Judgment in its favor against Defendant in the sum of \$1,506.14 together with Court costs as described herein and any other just and further relief as this Honorable Court deems just and proper.

COUNT II- ACCOUNT XXXXXXXXXXXXXXXX4678
ACCOUNT STATED

Plaintiff readopts and re-alleges allegations one (1) through five (5) above and further states as follows:

14. This is an action for damages that is within the jurisdictional limits of this court exclusive of costs.
15. Upon Defendant's request, the original creditor, COMENITY BANK, issued a credit account in the name of Defendant bearing the account number XXXXXXXXXXXXXXXX4678.
16. Prior to the commencement of this action, Plaintiff acquired Defendant's account originated by COMENITY BANK and as such is entitled to all rights originally bestowed upon the original creditor. See attached Exhibit "C".
17. Although demands have been made by Plaintiff upon Defendant for payment, Defendant has failed or refused to pay the amount due and owing on the account.

18. Before the institution of this action, Plaintiff's predecessor in interest and the Defendant had business transactions between them where the parties agreed upon a resulting balance. Plaintiff is an assignee and as such obtains all rights of the original creditor to be repaid.
19. There are no unresolved billing disputes made in response to receiving the account statements and, therefore, there is a prima facie case establishing the correctness of the account balance. *See, Farley v. Chase Bank, USA, NA*, 37 So. 3d 936 (Fla. 4th DCA 2010). Copies of any available statements are attached hereto and incorporated herein as Composite Exhibit "D".
20. By submitting payments in response to the monthly statements rendered and delivered by the original creditor, the Defendant accepted the resulting balance.
21. After adjustment for any credits or payments made after charge-off of the account, Defendant owes Plaintiff, the amount of \$1,426.07.

WHEREFORE, as to Count II, Plaintiff respectfully requests this Honorable Court enter Judgment in its favor against Defendant in the sum of \$1,426.07 together with Court costs as described herein and any other just and further relief as this Honorable Court deems just and proper.

COUNT III- ACCOUNT XXXXXXXXXXXXXXXX5061
ACCOUNT STATED

Plaintiff readopts and re-alleges allegations one (1) through five (5) above and further states as follows:

22. This is an action for damages that is within the jurisdictional limits of this court exclusive of costs.
23. Upon Defendant's request, the original creditor, COMENITY BANK, issued a credit account in the name of Defendant bearing the account number XXXXXXXXXXXXXXXX5061.
24. Prior to the commencement of this action, Plaintiff acquired Defendant's account originated by COMENITY BANK and as such is entitled to all rights originally bestowed upon the original creditor. See attached Exhibit "E".
25. Although demands have been made by Plaintiff upon Defendant for payment, Defendant has failed or refused to pay the amount due and owing on the account.
26. Before the institution of this action, Plaintiff's predecessor in interest and the Defendant had business transactions between them where the parties agreed upon a resulting balance. Plaintiff is an assignee and as such obtains all rights of the original creditor to be repaid.
27. There are no unresolved billing disputes made in response to receiving the account statements and, therefore, there is a prima facie case establishing the correctness of the account balance. *See, Farley v. Chase Bank, USA, NA*, 37 So. 3d 936 (Fla. 4th DCA 2010). Copies of any available statements are attached hereto and incorporated herein as Composite Exhibit "F".

28. By submitting payments in response to the monthly statements rendered and delivered by the original creditor, the Defendant accepted the resulting balance.

29. After adjustment for any credits or payments made after charge-off of the account, Defendant owes Plaintiff, the amount of \$1,006.89.

WHEREFORE, as to Count III, Plaintiff respectfully requests this Honorable Court enter Judgment in its favor against Defendant in the sum of \$1,006.89 together with Court costs as described herein and any other just and further relief as this Honorable Court deems just and proper.

WHEREFORE in aggregate of the amounts owed in Count I, Count II, and Count III of the Complaint, Plaintiff, respectfully requests this Honorable Court enter Judgment in its favor against Defendant in the sum of \$3,939.10 together with court costs as described herein and any other just and further relief as this Honorable Court deems just and proper.

Respectfully submitted,
ANDREU, PALMA, LAVIN, & SOLIS, PLLC

/s/Oleksandra Piliwiko, ESQ-FBN 1015987

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EXHIBIT A

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