

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

PORTFOLIO RECOVERY ASSOCIATES, LLC,	: NO. 19 - 0740
Plaintiff,	:
vs.	:
	: CIVIL ACTION
	:
CAROL TEMPLIN,	:
Defendant.	: <i>Preliminary Objections</i>

**OPINION AND ORDER**

This matter concerns an alleged credit card account debt. On July 22, 2019, Defendant filed Preliminary Objections to Plaintiff's Amended Complaint. Defendant alleges various deficiencies in the Plaintiff's Amended Complaint. Defendant's allegations stem from a lack of pleading sufficiency. Specifically, Defendant claims that Plaintiff violated Pennsylvania Rule of Civil Procedure 1019 by failing to: provide a complete record of account statements; state whether the credit card account agreement was oral or written; attach the signed original credit card account agreement indicating a zero balance, and; attach Notifications Files to the Bill of Sale to provide proof of assignment.

Defendant also alleges that Plaintiff failed to aver the time and place of the credit card account charges, as those charges are "special damages."<sup>1</sup> The Defendant further alleged that Plaintiff Counsel's verification of her out-of-state client was improper under Rule 1024; however, Plaintiff has since remedied this issue by filing a Praecipe to Substitute Verification. Plaintiff has filed a Response to the Preliminary Objections with a supportive Memorandum of Law, arguing that its Amended Complaint pleads sufficiently to allow Defendant to prepare a defense.

The Court agrees with Plaintiff. The Plaintiff's Amended Complaint avers: that Plaintiff is the assignee and successor in interest to Synchrony Bank; that Synchrony

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<sup>1</sup> See Pa.R.C.P. No. 1019(f).

Bank issued the original credit account to Defendant at Defendant's request; that Defendant made use of the credit account and is in default of the credit agreement; that the amount due is \$8,079.27, and; that despite requests from the Plaintiff, Defendant has failed to pay the overdue amount.

In the instant case Plaintiff has provided as evidence: a Bill of Sale and Assignment from Synchrony Bank to Plaintiff;<sup>2</sup> account information linking Defendant to the account; a template version of the account agreement that Plaintiff alleges Defendant has violated, and; billing records for the account from 01/24/17 – 12/31/17. Additionally, the balance requested in the Amended Complaint is reflected in the last set of billing records provided by Plaintiff.

This Court previously addressed the sufficiency of a pleading under an analogous fact scenario in *Cavalry SPV I, LLC v. James R. Mattern*.<sup>3</sup> In that context, the Court found that Plaintiff's complaint was sufficient to provide Defendant notice of the Plaintiff's claim and established the facts essential to support the claim.<sup>4</sup> Defendant's attorney has failed to provide a basis of distinction between this matter and *Mattern*. Additionally, in the context of a credit card default proceeding, the Pennsylvania Superior Court has held that a plaintiff's attachment of an unsigned, template cardholder agreement to its complaint was sufficient to satisfy the requirements of Rule 1019(i).<sup>5</sup> Plaintiff has clarified during argument that the template cardholder agreement filed as Exhibit 2 in this case is the agreement that would have been in effect at the time of Defendant's alleged default. This Court therefore finds that the Plaintiff's Amended Complaint conforms to Rule 1019. Plaintiff has sufficiently

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<sup>2</sup> See Pa.R.C.P. No. 2002 ("[A]ll actions shall be prosecuted by and in the name of the real party in interest[.]").

<sup>3</sup> *Cavalry SPV I, LLC v. James R Mattern*, CV-18-0982 (Op. & Ord. Nov. 16, 2018).

<sup>4</sup> See *Youndt v. First Nat'l Bank of Port Allegany*, 868 A.2d 539, 544 (Pa. Super. Ct. 2005) (quoting *Sevin v. Kelshaw*, 611 A.2d 1232, 1235 (Pa. Super. Ct. 1992)) ("Pennsylvania is a fact-pleading jurisdiction. A complaint must therefore not only give the defendant notice of what the plaintiffs' claim is and the grounds upon which it rests, but it must also formulate the issues by summarizing those facts essential to support the claim.").

summarized the material facts necessary to enable the Defendant to prepare her defense. In regards to rule 1019(f), special damages are not involved in this case.<sup>6</sup>

While the Pennsylvania Rules of Civil Procedure requires that a complaint contain the material facts that form the basis of the cause of action,<sup>7</sup> this does not mean that the complaint is required to plead the evidence.<sup>8</sup> Based on the sufficiency of the pleadings, and noting that the verification issue has been rendered moot, Defendant's Four Preliminary Objections are hereby OVERRULED.

IT IS SO ORDERED this 17<sup>th</sup> day of October 2019.

BY THE COURT,

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Eric R. Linhardt, Judge

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<sup>5</sup> See *Discover Bank v. Stucka*, 33 A.3d 82, 87-88 (Pa. Super. 2011).

<sup>6</sup> See *Morin v. Brassington*, 871 A.2d 844, 848 (Pa. Super. Ct. 2005) (quoting *Aerospace Fin. Leasing v. New Hampshire Ins. Co.*, 696 A.2d 810, 812 n.5 (Pa. Super. Ct. 1997)) ("Special damages are damages that are the 'actual, but not the necessary, result of the injury complained of, and which, in fact, follow it as a natural and proximate consequence in the particular case, that is, by reason of special circumstances or conditions.'").

<sup>7</sup> See *Bouchon v. Citizen Care, Inc.*, 176 A.3d 244, 258 (Pa. Super. Ct. 2017), *re'arg denied* (Jan. 25, 2018), *appeal denied*, 189 A.3d 993 (Pa. 2018) ("Rule of Civil Procedure 1019(a) requires that the material facts on which a cause of action or defense is based be stated in a concise and summary form. [A] pleader must set forth concisely the facts upon which his cause of action is based. The complaint must not only apprise the defendant of the claim being asserted, but it must also summarize the essential facts to support the claim. A complaint also must apprise the defendant of the nature and extent of the plaintiff's claim so that the defendant has notice of what the plaintiff intends to prove at trial and may prepare to meet such proof with his own evidence.") (internal citations omitted)).

<sup>8</sup> *Com. by Shapiro v. Golden Gate Nat'l Senior Care, LLC*, 194 A.3d 1010, 1029 (Pa. 2018) ("While our rules require the pleading of all material facts upon which claims are based, there is no requirement to plead the evidence upon which the pleader will rely to establish those facts.").