

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

BANK OF AMERICA, N.A. : No. CV 22-00654
VS :
WILLIAM J. FULLER :

ORDER

AND NOW, this 22nd day of August, 2022, this matter came before the Court on Defendant's Preliminary Objections to the Complaint filed on July 11, 2022. The Defendant claims that the Complaint is insufficient in detail to satisfy the applicable provisions of the Pennsylvania Rules of Civil Procedure (the "PA Rules").

Rule 1019 (a) of the PA Rules requires that a Complaint set forth the material facts on which the cause of action is based. Subsection (h) of that Rule requires that, where a claim is based upon a writing is based upon an agreement, that the pleading state whether the agreement is oral or written. Subsection (i) of that Rule requires that, when a claim is based upon a writing, that the writing be attached.

Although Pennsylvania claims to be a "fact pleading" state, authority is legion for the proposition that a Plaintiff need not allege evidentiary details in the Complaint.

The Complaint in this matter appears to be prepared on a preprinted form, in which the Plaintiff has inserted the name of the Defendant, the date on which the account was opened, the date of the last payment, and the amount due period. Although the details are scant, the allegations comply with the bare minimum required by Rule 1019 (a).

Despite the fact the Complaint meets the test of Rule 1019 (a), Defendant accurately points out that the Plaintiff has failed to allege whether the underlying contract was oral or written. If written, it must be attached.

Although this Court finds that the allegations set forth in the Complaint are sufficient under the minimum test of Rule 1019 (a), the Court will Order Plaintiff to cure the defect under Rules 1019 (h) and 1019 (i).

By The Court,

William P. Carlucci, Judge

cc: R. Thom Rosamila, Esquire
241 West Main Street, Lock Haven, PA 17745
Frederic I. Weinberg, Esquire
375 E. Elm St., Suite 210, Conshohocken, PA 19428

lmw

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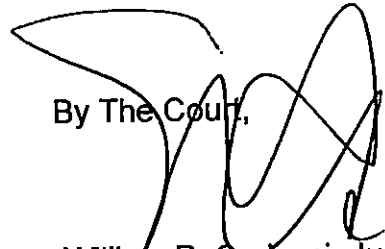
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ORDER

AND NOW, this 22nd day of August, 2022, after oral argument on Defendant's Preliminary Objections, those objections are sustained in part. Within 60 days of the date hereof, Plaintiff is directed to file an Amended Complaint which complies with Rules 1019 (h) and 1019 (i) of the Pennsylvania Rules of Civil Procedure.

By The Court,



William P. Carlucci, Judge

cc: ✓ R. Thom Rosamila, Esquire
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