

TRUIST BANK,	:	
Plaintiffs	:	NO. CV-21-1133
	:	
vs.	:	
	:	
KARISSA M. WELLS,	:	CIVIL ACTION –
Defendant	:	Preliminary Objections

Before the Court are Defendant's Preliminary Objections to Plaintiff's Complaint. For the reasons set forth below, the Preliminary Objections are sustained.

The Complaint alleges that the Plaintiff is the holder of a credit agreement between Plaintiff and Defendant, and that Defendant defaulted under the terms and conditions of the contract when due. This credit card debt collection action arises out of Defendant's alleged failure to make full payment of the amount of \$12,953.63 owed on her credit card account. Also attached to the Complaint are Defendant's credit card application, credit card statements and a template cardholder agreement.

Plaintiff's Complaint was filed on November 8, 2021, and Defendant's Preliminary Objections were filed December 13, 2021. Plaintiff filed an Amended Complaint on December 23, 2021, and Defendant again filed Preliminary Objections on January 5, 2022. Argument was held on March 29, 2022, with Patricia Bowman, Esquire, appearing as local counsel on behalf of the Plaintiff and Kristian Villegas, Esquire, appearing on behalf of the Defendant.

III. Discussion

Defendant's Preliminary Objection falls under Pa.R.C.P. 1028(a)(2), "failure of a pleading to conform to law or rule of court or inclusion of scandalous or impertinent matter." Rule 1019 of the Pennsylvania Rules of Civil Procedure states that "[w]hen any claim or defense is based upon a writing, the pleader shall attach a copy of the writing, or the material part thereof, but if the writing or copy is not accessible to the pleader, it is sufficient so to state, together with the reason, and to set forth the substance in writing." Pa.R.C.P. 1019(i). Here, Defendant argues that the cardmember agreement attached to the Complaint does not include the specific or material terms, including fees or interest that will be charged. The agreement attached to the Complaint references a separate writing that includes some of the material terms but that separate writing is not attached. At the time of the argument on the Preliminary Objection, it was confirmed that the BB&T Mastercard/Visa Consumer Cardholder Agreement and Truth in Lending Disclosures document references a separate "Interest Rate and Interest Charges" document which details the annual percentage rate. The Court agrees that the interest rate and charges are material terms of the agreement and therefore must be attached to the Complaint pursuant to Pa.R.C.P. 1019(i).

IV. Conclusion

After argument, for the reasons set forth above, Defendant's Preliminary Objection is **SUSTAINED**. Plaintiff shall have twenty (20) days from the date of this Order to file an Amended Complaint which attaches as an exhibit the separate "Interest Rate and Interest Charges" document referenced in the BB&T

Mastercard/Visa Consumer Cardholder Agreement and Truth in Lending
Disclosures document.

ORDER

AND NOW, this 1st day of **April, 2022**, upon consideration of Defendant's Preliminary Objection and Plaintiff's response thereto, and for the reasons set forth above, Defendant's Preliminary Objection regarding the omission of material terms of the agreement is **SUSTAINED**.

Plaintiff shall have twenty (20) days from the date of this Order to file an Amended Complaint which attaches as an exhibit the separate "Interest Rate and Interest Charges" document referenced in the BB&T Mastercard/Visa Consumer Cardholder Agreement and Truth in Lending Disclosures document.

BY THE COURT,

Ryan M. Tira, Judge

RMT/jel

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