

**IN THE COURT OF COMMON PLEAS FOR THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY**

MIDLAND FUNDING LLC,)	
assignee of Chase Bank USA, N.A.)	
Plaintiff,)	
)	
v.)	C.A. No. CPU4-12-002421
)	
EARL COLEMAN,)	
)	
Defendant.)	

**ORDER GRANTING
SUMMARY JUDGMENT AS TO LIABILITY**

Submitted: October 5, 2012
Decided: October 17, 2012

Seth Yeager, Esquire, Wilmington, Delaware, for Plaintiffs
Earl Coleman, New Castle, Delaware, self-represented Defendant

ROCANELLI, J.

This is a debt collection action. On June 28, 2012, Midland Funding LLC (“Plaintiff”) filed a Complaint against Defendant, Earl Coleman, alleging that Mr. Coleman defaulted on a credit card agreement entered into with Chase Bank (USA) N.A. (“Chase”). The rights to the agreement between Mr. Coleman and Chase have been assigned to Plaintiff as shown in the Affidavit of Sale attached to the Complaint. Plaintiff alleges that Mr. Coleman breached the terms of the agreement by failing to make payments and that Mr. Coleman has become unjustly

enriched. Plaintiff avers that the principal balance due on Mr. Coleman's account ending in 3472 is \$8,329.61. Plaintiff requests the Court to enter judgment in the amount of \$9,395.80 (Principal Balance: \$8,329.61 plus 5.75%; and interest from March 31, 2010 through June 21, 2012: \$1,066.19), plus interest and costs.

Plaintiff attached several documents to the Complaint: Bill of Sale from Chase to Plaintiff on October 24, 2011, indicating that a pool of accounts was sold from Chase to Plaintiff; Affidavit of Martin Lavergne, agent for Chase, stating that on or about October 24, 2011 Chase sold a pool of charged-off accounts to Plaintiff; Affidavit of Chistina Paperman, agent for Chase, stating that the account ending in 3472 was included in the October 24, 2011 sale of the pool of accounts from Chase to Plaintiff and that on October 7, 2009, the date of the last payment made on the account ending in 3472, the account balance was \$8,329.61; Chase Account Statement addressed to Mr. Coleman listing the balance for the account ending in 3472 as \$8,329.61.

On July 28, 2012, Mr. Coleman was personally served with the Summons and Complaint.

On August 1, 2012, Mr. Coleman filed an Answer admitting the existence of an agreement for account 3472 and his inability to pay the defaulted amount due to financial hardship. However, Mr. Coleman disputed the amount of damages requested by Plaintiff. Mr. Coleman requests a detailed report of the charges and

payments made on the account to determine the amount owed in order to reconcile the matter before the Court.

On September 5, 2012, Plaintiff filed the instant Motion for Summary Judgment alleging that there are no genuine issues of material fact and that Plaintiff is entitled to judgment as a matter of law on the grounds that Mr. Coleman admitted he entered into and breached the credit card agreement.

On September 17, 2012, Plaintiff filed the instant Motion to Compel Responses to Interrogatories. Mr. Coleman did not respond to either of Plaintiff's motions.

On October 5, 2012, the Court held a hearing on Plaintiff's Motion for Summary Judgment. Plaintiff was present, but Mr. Coleman failed to appear. Plaintiff requested that the Court enter Summary Judgment against Mr. Coleman on the grounds that Mr. Coleman admitted the existence of the account and his default on the account. Plaintiff also requested that the Court grant Plaintiff's Motion to Compel Answers to Interrogatories addressing the amount of debt owed by Mr. Coleman.

This Court, based on the findings of at the hearing, has determined that judgment should be entered against Mr. Coleman as to liability because Mr. Coleman admits that he owes the debt and denies only the amount of damages requested. However, the Court reserves judgment on the amount of damages. The

Court finds that Plaintiff is entitled to responses to discovery and therefore grants Plaintiff's Motion to Compel Answers to Interrogatories.

**AND NOW, THEREFORE, this 17 day of October 2012, IT IS
HEREBY ORDERED:**

1. Plaintiff's Motion for Summary Judgment is GRANTED as to liability;
2. Plaintiff's Motion to Compel Responses to Interrogatories regarding damages is GRANTED;
3. Mr. Coleman shall answer Plaintiff's interrogatories by November 9, 2012; and
4. On November 30, 2012, the parties will reconvene before the Court for a damages hearing, limited to a presentation regarding damages.

Andrea L. Rocanelli

The Honorable Andrea L. Rocanelli