

**COURT OF COMMON PLEAS  
FOR THE STATE OF DELAWARE  
KENT COUNTY COURTHOUSE  
DOVER, DELAWARE 19901  
PHONE: (302) 739-4618**

**CHARLES W. WELCH, III  
JUDGE**

June 27, 2012

Seth H. Yeager, Esq.  
Lyons, Doughty, and Veldhuis, P.A.  
15 Ashley Place Suite B  
Wilmington, DE 19804

Ms. Darlene Carrion  
304 Mimosa Avenue  
Dover, DE 19904

RE: Midland Funding, LLC. v. Darlene Carrion  
C.A. No. CPU5-12-000296

Decision on Plaintiff's Motion for Summary Judgment

Dear Mr. Yeager and Ms. Carrion:

This civil case involves a debt action to collect on a delinquent credit card account that has been assigned to the plaintiff, Midland Funding, LLC (hereinafter "Midland"). Midland alleges that the defendant, Darlene Carrion (hereinafter "Carrion"), owes an unpaid balance on the credit card account (hereinafter "credit card account"). Midland filed a Motion for Summary Judgment for this matter seeking an entry of judgment against Carrion and a hearing was held on the motion, after which the Court reserved decision. For the reasons provided below, Midland's motion is granted in part and denied in part. Judgment is entered against Carrion in the amount of \$6,545.10, plus pre and post judgment interest at the contract rate of 17.24% per annum from February 19, 2006, and court costs.

Midland has moved for summary judgment on a debt it alleges is owed to it by Carrion. In support of its motion, Midland attached an affidavit stating that Midland owns a credit card account that appears to have been opened by Carrion through her union at work. Attached to the affidavit are two billing statements for the credit card account. Another billing statement was introduced by Midland at the hearing for this matter. One billing statement shows a \$400.00 payment on the credit card account on February 19, 2009. The latest billing statement, dated September 13, 2009, shows that the credit card account is delinquent and provides a new balance of \$20,822.28. Midland is requesting a judgment in that amount plus interest from September 30, 2009.

Carrion admits that she had the credit card account through her union at work and that she defaulted on it. She has not worked since December 2005 due to a medical condition. Carrion testified that she attempted to have her account frozen and to, then, arrange a payment plan to satisfy the amount due on it. Unfortunately, arrangements could not be made due to her limited income. Carrion admits that she owes a balance on the credit card account. However, she contests the amount due on the account. She admits owing just over \$6,000.00 on the credit card account. In support of her contention, she introduced a billing statement for the credit card account into evidence at the hearing for this matter. The statement shows a balance due of \$6,545.10 as of February 19, 2006. It also shows that she made purchases on the account in January and February of 2006 and that interest on the credit card account was being calculated at 17.24% per annum. Carrion testified that she has not taken any action on the account since that time. She also brought the Court's attention to the fact that although the account number on the credit card account records that Midland provided at the hearing

were very close to the account number on the records that she provided, they were not exactly the same. While Midland's records show the credit card account number ending in numbers "0763", her records show the credit card account number ending in numbers "2763". Carrion testified that she only had the one account with her union, therefore, she questioned the accuracy of Midland's account record.

When considering a motion for summary judgment, the Court must view the facts and reasonable inferences therefrom in the light most favorable to the non-moving party. *Browning-Ferris, Inc. v. Rockford Enterprises, Inc.*, 642 A.2d 820, 823 (Del. Super. 1993). The Court will grant summary judgment only if the pleadings and the record show that there are no genuine issues as to any material fact and that the moving party is entitled to a judgment as a matter of law. *See Moore v. Sizemore*, 405 A.2d 679, 680 (Del. 1979); *see also Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986). The moving party bears the burden of proof to show that no such issues exist. *Moore*, 405 A.2d at 680-81.

In this case, there is no genuine issue of material fact as to whether Carrion has defaulted on her credit card account currently owned by Midland. She admits to owing over \$6,000.00 on the account and produced a billing statement for the account to prove what she owes. The billing statement shows that she owed a balance of \$6,545.10 on the account as of February 19, 2006. She testified that there was no further activity on the account by her from that point. The fact that Carrion owes the amount due as of February 19, 2006, is not in dispute. Additionally, the contractual interest on the account at the time, during which she also made purchases on the account, was 17.24% per annum. Therefore, Midland's Motion for Summary Judgment is granted to this extent and

judgment is entered for Midland and against Carrion in the amount of \$6,545.10, plus pre and post judgment interest at the contractual rate of 17.24% from February 19, 2006, and court costs. The remainder of the amount that Midland is seeking in its Motion for Summary Judgment in excess of the judgment granted is denied as there remain genuine issues of material fact as to any additional amounts due on the credit card account.

**IT IS SO ORDERED.**

Sincerely,

A handwritten signature in black ink, appearing to read "Charles W. Welch, III". The signature is written in a cursive style with a large initial "C" and "W".

Charles W. Welch, III

CWW:mek