

IN THE COUNTY COURT IN AND FOR
BROWARD COUNTY, FLORIDA

Palisades Collection, LLC.,
Plaintiff,

Case No.: COWE 08-05098

RECEIVED
CITIBANK CIRCUIT COURT
BROWARD COUNTY, FL.

2009 APR 15 AM 9:12

WEST

v.

Rosaine Thomas,
Defendant.

ORDER ON DEFENDANT/COUNTER-PLAINTIFF'S MOTION FOR FINAL
SUMMARY JUDGMENT

THIS CAUSE came before the court on March 02, 2009, based upon the Defendant/Counter-Plaintiff's motion for summary judgment. The Plaintiff is represented by Scott L. Fishman of Jacobson, Sobo, & Moselle, and the Defendant by Angelo Marino, Jr. Based on the arguments of counsel, the pleadings, and motions, the court finds as follows:

The Plaintiff alleged that it was an assignee of a credit card debt owned to CitiBank that was issued to the Defendant. The Plaintiff filed three counts against the Defendant which appear to be for money owned on a credit card, breach of contract, and account stated.

The Defendant filed a counterclaim against the Plaintiff for violation of Florida Statutes 559.715 and 559.72, violation of Florida Statute 559.72(9) for filing suit in violation of statute of limitations, and for Unfair Trade Practices.

After plaintiff filed suit, Defendant filed her Request for Admissions to Plaintiff on April 16, 2008. After two orders granting Plaintiff over 150 days to answer the request for admissions, the Court granted Defendant's motion to deem the answers admitted. In response to Defendant's request to produce, Plaintiff produced various assignments from different entities that allegedly owned the debt and assigned it ultimately to Plaintiff. Defendant moved for summary judgment on numerous grounds: failure to demonstrate a continuous and uninterrupted chain of title, violations of Florida Statutes 559.712, no cause of action for quantum meruit, and statute of limitations.

A creditor seeking to recover on an obligation has the burden of proof to show that it has the right to seek collection on the debt because it owns the consumer's obligation or State law gives it the right to sue on behalf of the owner, **Great Seneca Fin. Corp. v. Leanna**, 2006 WL 2536275 (Conn. Super. Ct. August 2006); **Midwest Health Mgmt., Inc. v. Walker**, 208 S.W. 3d 295 (Mo. Ct. App. 2006); **C & W Asset Acquisition, LLC v Somogyi**, 136 S.W. 3d 134 (Mo. Ct. App. 2004); **Citibank (SD) v. Martin**, 807 N.Y.S. 2d 284 Civ. Ct. 2005).

Case law clearly demonstrates that a collector must show a continuous unbroken chain of

RECEIVED APR 16 2009

assignments from the original creditor to the entity collecting on the debt. **In re Leverette**, 378 B.R. 793 (E.D. Tex. 2007); **Wright v Asset Acceptance Corp.**, 2000 WL 33216031 (S.D. Ohio Jan 3, 2000); **in re Kendall**, 380 B. R. 37 Bankr. N.D. Okla. 2007); **Rushmore Recoveries X, LLC v. Skolnick**, 841 N.Y. S. 2d 823 (Dist. Ct. 2007); and **National Check Bureau, Inc. v. Cody**, 2007 W L 174762 (Ohio Ct App. Jan. 27, 2005).

An earlier debt buyer can assign to the current collector only the rights it itself acquired from its assignor, **Wright v Asset Acceptance Corp.**, 2000 WL 33216031 (S.D. Ohio Jan 3, 2000); **Rushmore Recoveries X, LLC v. Skolnick**, 841 N.Y. S. 2d 823 (Dist. Ct. 2007).

According to the documents produced by Plaintiff, there were multiple transfers of title allegedly from one assignee to another. The records reveal no continuous transfer of title from Citibank to Plaintiff, Palisades Collection, LLC. There was a break in the chain of title. Moreover, one of the assignees, Cliff's Portfolio Acquisitions I, LLC., never transferred its ownership of the debt to Plaintiff, Palisades Collection, LLC. The assignment between Cliff's Portfolio Acquisitions I, LLC, and plaintiff stated in part: " Assignor shall retain title and ownership of such Receivables." Because the evidence in the light most favorable to the Plaintiff fails to demonstrate a continuous chain of title and that Plaintiff is not the real party in interest, the court need not consider the other grounds of the motion for summary judgment.

In summary, Plaintiff did not demonstrate that there was a continuous and uninterrupted chain of title and that it had title to the debt. Cliff's Therefore Defendant's motion for summary judgment against the plaintiff shall be granted.

ORDERED AND ADJUDGED THAT Defendant/Counter-plaintiff's motion for final summary judgment against the plaintiff is granted, and the plaintiff shall take nothing from the defendant.

Done and ordered this 14 day of April, 2009, in Broward County, Florida.


County Court Judge, The Honorable
Alan J. Marks
R.