

COMMONWEALTH OF PENNSYLVANIA

COURT OF COMMON PLEAS

Judicial District, County Of **CLEARFIELD****46th**

NOTICE OF APPEAL

FROM

DISTRICT JUSTICE JUDGMENT

COMMON PLEAS No. **2007-47-CD**

NOTICE OF APPEAL

Notice is given that the appellant has filed in the above Court of Common Pleas an appeal from the judgment rendered by the District Justice on the date and in the case referenced below.

NAME OF APPELLANT Michael Caudriet		MAG. DIST. NO. 46-3-02	NAME OF D.J. Richard A. Ireland	
ADDRESS OF APPELLANT 479 Elegal Road		CITY Clearfield	STATE PA	ZIP CODE 16830
DATE OF JUDGMENT 12/12/06	IN THE CASE OF (Plaintiff) Portfolio Recovery Assoc.		(Defendant) Michael Caudriet	
DOCKET No. CV-0000354-d6		SIGNATURE OF APPELLANT OR ATTORNEY OR AGENT <i>Michael Caudriet</i>		
<p>This block will be signed ONLY when this notation is required under Pa. R.C.P.D.J. No. 1008B.</p> <p>This Notice of Appeal, when received by the District Justice, will operate as a SUPERSEDEAS to the judgment for possession in this case.</p> <p>_____ Signature of Prothonotary or Deputy</p>		<p>If appellant was Claimant (see Pa. R.C.P.D.J. No. 1001(6) in action before a District Justice, A COMPLAINT MUST BE FILED within twenty (20) days after filing the NOTICE of APPEAL.</p>		

PRAECIPE TO ENTER RULE TO FILE COMPLAINT AND RULE TO FILE

(This section of form to be used ONLY when appellant was DEFENDANT (see Pa. R.C.P.D.J. No. 1001(7) in action before District Justice. IF NOT USED, detach from copy of notice of appeal to be served upon appellee.

PRAECIPE: To Prothonotary

Enter rule upon **Portfolio Recovery Assoc.** appellee(s), to file a complaint in this appeal
Name of appellee(s)

(Common Pleas No. **2007-47-CD**) within twenty (20) days after service of rule or suffer entry of judgment of non pros..

RULE: To **Portfolio Recovery Assoc.** , appellee(s)
Name of appellee(s)

(1) You are notified that a rule is hereby entered upon you to file a complaint in this appeal within twenty (20) days after the date of service of this rule upon you by personal service or by certified or registered mail.

(2) If you do not file a complaint within this time, a JUDGMENT OF NON PROS MAY BE ENTERED AGAINST YOU. **Portfolio Recovery Assoc.**

(3) The date of service of this rule if service was by mail is the date of the mailing.

Date: **JAN. 9, 2007**

FILED**JAN 09 2007**

Signature of appellant or attorney or agent

William A. Shaw
Prothonotary/Clerk of Courts

CENT TO M. Ireland

MAY. Ireland

Portfolio Recovery Assoc.

Signature of Prothonotary or Deputy

YOU MUST INCLUDE A COPY OF THE NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH THIS NOTICE OF APPEAL.

PROOF OF SERVICE OF NOTICE OF APPEAL AND RULE TO FILE COMPLAINT

(This proof of service **MUST BE FILED WITHIN TEN (10) DAYS AFTER** filing of the notice of appeal. Check applicable boxes.)

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF _____ ; ss

AFFIDAVIT: I hereby (swear) (affirm) that I served

☐ a copy of the Notice of Appeal, Common Pleas No. _____, upon the District Justice designated therein on
(date of service) _____, 20____, ☐ by personal service ☐ by (certified) (registered) mail,
sender's receipt attached hereto, and upon the appellee, (name) _____, on
_____, 20____ ☐ by personal service ☐ by (certified) (registered) mail,
sender's receipt attached hereto.

(SWORN) (AFFIRMED) AND SUBSCRIBED BEFORE ME
THIS _____ DAY OF _____, 20____.

Signature of affiant

Signature of official before whom affidavit was made

Title of official

My commission expires on _____, 20____.

COMMONWEALTH OF PENNSYLVANIA

COURT OF COMMON PLEAS

Judicial District, County Of **CLEARFIELD****46TH**

NOTICE OF APPEAL

FROM

DISTRICT JUSTICE JUDGMENT

COMMON PLEAS No. **2007-47-CD**

NOTICE OF APPEAL

Notice is given that the appellant has filed in the above Court of Common Pleas an appeal from the judgment rendered by the District Justice on the date and in the case referenced below.

NAME OF APPELLANT Michael Caudriet	MAG. DIST. NO. 46-3-02	NAME OF D.J. Richard A. Ireland
ADDRESS OF APPELLANT 479 Elgal Road	CITY Clearfield	STATE PA
DATE OF JUDGMENT 12/12/06	IN THE CASE OF (Plaintiff) Portfolio Recovery Assoc.	ZIP CODE 16830
DOCKET No. CV-0000354-d6	(Defendant) Michael Caudriet	
SIGNATURE OF APPELLANT OR ATTORNEY OR AGENT Michael Caudriet		
This block will be signed ONLY when this notation is required under Pa. R.C.P.D.J. No. 1008B. This Notice of Appeal, when received by the District Justice, will operate as a SUPERSEDEAS to the judgment for possession in this case.		If appellant was Claimant (see Pa. R.C.P.D.J. No. 1001(6) in action before a District Justice, A COMPLAINT MUST BE FILED within twenty (20) days after filing the NOTICE of APPEAL.
_____ Signature of Prothonotary or Deputy		

PRAECIPE TO ENTER RULE TO FILE COMPLAINT AND RULE TO FILE

(This section of form to be used ONLY when appellant was DEFENDANT (see Pa.R.C.P.D.J. No. 1001(7) in action before District Justice. IF NOT USED, detach from copy of notice of appeal to be served upon appellee.

PRAECIPE: To Prothonotary

Enter rule upon **Portfolio Recovery Assoc.** appellee(s), to file a complaint in this appeal
Name of appellee(s)

(Common Pleas No. **2007-47-CD**) within twenty (20) days after service of rule or suffer entry of judgment of non pros..

RULE: To **Portfolio Recovery Assoc.**, appellee(s)
Name of appellee(s)

(1) You are notified that a rule is hereby entered upon you to file a complaint in this appeal within twenty (20) days after the date of service of this rule upon you by personal service or by certified or registered mail.

(2) If you do not file a complaint within this time, a JUDGMENT OF NON PROS MAY BE ENTERED AGAINST YOU. **Portfolio Rec. Assoc.**

(3) The date of service of this rule if service was by mail is the date of the mailing.

Date: **JAN. 9, 2007**

FILED
JAN 09 2007
Signature of appellant or attorney or agent
William A. Shaw
Prothonotary/Clerk of Courts

SENT TO M. Ireland
M. J. Ireland
Portfolio Rec. Assoc.

Withall
Signature of Prothonotary or Deputy

YOU MUST INCLUDE A COPY OF THE NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH THIS NOTICE OF APPEAL.

PROOF OF SERVICE OF NOTICE OF APPEAL AND RULE TO FILE COMPLAINT

(This proof of service MUST BE FILED WITHIN TEN (10) DAYS AFTER filing of the notice of appeal. Check applicable boxes.)

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF _____; ss

AFFIDAVIT: I hereby (swear) (affirm) that I served

☐ a copy of the Notice of Appeal, Common Pleas No. _____, upon the District Justice designated therein on
(date of service) _____, 20____, ☐ by personal service ☐ by (certified) (registered) mail,
sender's receipt attached hereto, and upon the appellee, (name) _____, on
_____, 20____ ☐ by personal service ☐ by (certified) (registered) mail,
sender's receipt attached hereto.

(SWORN) (AFFIRMED) AND SUBSCRIBED BEFORE ME
THIS _____ DAY OF _____, 20____

Signature of affiant

Signature of official before whom affidavit was made

Title of official

My commission expires on _____, 20____.

COURT OF COMMON PLEAS

Judicial District, County Of **CLEARFIELD****46th**

NOTICE OF APPEAL

FROM

DISTRICT JUSTICE JUDGMENT

COMMON PLEAS No. **2007-47-CD**

NOTICE OF APPEAL

Notice is given that the appellant has filed in the above Court of Common Pleas an appeal from the judgment rendered by the District Justice on the date and in the case referenced below.

NAME OF APPELLANT Michael Cardriet	MAG. DIST. NO. 46-3-02	NAME OF D.J. Richard A Ireland
ADDRESS OF APPELLANT 479 Elgal Road	CITY Clearfield	STATE PA
DATE OF JUDGMENT 12/12/06	IN THE CASE OF (Plaintiff) Portfolio Recovery Assoc.	ZIP CODE 16830
DOCKET No. CV-0000354-d6	(Defendant) Michael Cardriet	
SIGNATURE OF APPELLANT OR ATTORNEY OR AGENT Mike J Cardriet		

This block will be signed ONLY when this notation is required under Pa. R.C.P.D.J. No. 1008B.

This Notice of Appeal, when received by the District Justice, will operate as a SUPERSEDEAS to the judgment for possession in this case.

Signature of Prothonotary or Deputy

If appellant was Claimant (see Pa. R.C.P.D.J. No. 1001(6) in action

before a District Justice, A COMPLAINT MUST BE FILED within twenty (20) days after filing the NOTICE of APPEAL.

PRAECIPE TO ENTER RULE TO FILE COMPLAINT AND RULE TO FILE

(This section of form to be used ONLY when appellant was DEFENDANT (see Pa.R.C.P.D.J. No. 1001(7) in action before District Justice. IF NOT USED, detach from copy of notice of appeal to be served upon appellee.

PRAECIPE: To Prothonotary

Enter rule upon **Portfolio Recovery Assoc.** appellee(s), to file a complaint in this appeal
Name of appellee(s)

(Common Pleas No. **2007-47-CD**) within twenty (20) days after service of rule or suffer entry of judgment of non pros.

RULE: To **Portfolio Recovery Assoc.**, appellee(s)
Name of appellee(s)

Mike J Cardriet
Signature of appellant or attorney or agent

012:1516

(1) You are notified that a rule is hereby entered upon you to file a complaint in this appeal within twenty (20) days after the date of service of this rule upon you by personal service or by certified or registered mail.

(2) If you do not file a complaint within this time, a JUDGMENT OF NON PROS MAY BE ENTERED AGAINST YOU. **PORTFOLIO RECOVERY ASSOC.**

(3) The date of service of this rule if service was by mail is the date of the mailing.

Date: **JAN. 9, 2007**

Waltham
Signature of Prothonotary or Deputy

YOU MUST INCLUDE A COPY OF THE NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH THIS NOTICE OF APPEAL.

PROOF OF SERVICE OF NOTICE OF APPEAL AND RULE TO FILE COMPLAINT

(This proof of service MUST BE FILED WITHIN TEN (10) DAYS AFTER filing of the notice of appeal. Check applicable boxes.)

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF _____; ss

AFFIDAVIT: I hereby (swear) (affirm) that I served

☐ a copy of the Notice of Appeal, Common Pleas No. _____, upon the District Justice designated therein on
(date of service) _____, 20____, ☐ by personal service ☐ by (certified) (registered) mail,
sender's receipt attached hereto, and upon the appellee, (name) _____, on
_____, 20____ ☐ by personal service ☐ by (certified) (registered) mail,
sender's receipt attached hereto.

(SWORN) (AFFIRMED) AND SUBSCRIBED BEFORE ME
THIS _____ DAY OF _____, 20____.

Signature of affiant

Signature of official before whom affidavit was made

Title of official

My commission expires on _____, 20____.

**NOTICE OF JUDGMENT/TRANSCRIPT
CIVIL CASE**

Mag. Dist. No.: **46-3-02**

MDJ Name: Hon. **RICHARD A. IRELAND**

Address: **650 LEONARD ST
STE 113
CLEARFIELD, PA**

Telephone: **(814) 765-5335 16830**

PLAINTIFF: NAME and ADDRESS
**PORTFOLIO RECOVERY ASSOC.
2417 WELSH ROAD APT/STE 21
#520
PHILADELPHIA, PA 19114**

VS.
DEFENDANT: NAME and ADDRESS
**COUDRIET, MICHAEL
479 FLEGAL ROAD
CLEARFIELD, PA 16830**

**MICHAEL COUDRIET
479 FLEGAL ROAD
CLEARFIELD, PA 16830**

Docket No.: **CV-0000354-06**
Date Filed: **10/31/06**



THIS IS TO NOTIFY YOU THAT:

Judgment: **DEFAULT JUDGMENT PLTF** (Date of Judgment) **12/12/06**

☒ Judgment was entered for: (Name) **PORTFOLIO RECOVERY ASSOC.**

☒ Judgment was entered against: (Name) **COUDRIET, MICHAEL**
in the amount of \$ **7,398.11**

☐ Defendants are jointly and severally liable.

☐ Damages will be assessed on Date & Time _____

☐ This case dismissed without prejudice.

☐ Amount of Judgment Subject to Attachment/42 Pa.C.S. § 8127
\$ _____

☐ Portion of Judgment for physical damages arising out of
residential lease \$ _____

Amount of Judgment	\$ 7,274.61
Judgment Costs	\$ 123.50
Interest on Judgment	\$.00
Attorney Fees	\$.00
Total	\$ 7,398.11
Post Judgment Credits	\$ _____
Post Judgment Costs	\$ _____
Certified Judgment Total	\$ _____

ANY PARTY HAS THE RIGHT TO APPEAL WITHIN 30 DAYS AFTER THE ENTRY OF JUDGMENT BY FILING A NOTICE OF APPEAL WITH THE PROTHONOTARY/CLERK OF THE COURT OF COMMON PLEAS, CIVIL DIVISION. YOU MUST INCLUDE A COPY OF THIS NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH YOUR NOTICE OF APPEAL.

EXCEPT AS OTHERWISE PROVIDED IN THE RULES OF CIVIL PROCEDURE FOR MAGISTERIAL DISTRICT JUDGES, IF THE JUDGMENT HOLDER ELECTS TO ENTER THE JUDGMENT IN THE COURT OF COMMON PLEAS, ALL FURTHER PROCESS MUST COME FROM THE COURT OF COMMON PLEAS AND NO FURTHER PROCESS MAY BE ISSUED BY THE MAGISTERIAL DISTRICT JUDGE.

UNLESS THE JUDGMENT IS ENTERED IN THE COURT OF COMMON PLEAS, ANYONE INTERESTED IN THE JUDGMENT MAY FILE A REQUEST FOR ENTRY OF SATISFACTION WITH THE MAGISTERIAL DISTRICT JUDGE IF THE JUDGMENT DEBTOR PAYS IN FULL, SETTLES, OR OTHERWISE COMPLIES WITH THE JUDGMENT.

DEC 12 2006 Date *Richard A. Ireland*, Magisterial District Judge

I certify that this is a true and correct copy of the record of the proceedings containing the judgment.
_____, Date _____, Magisterial District Judge

My commission expires first Monday of January, **2012**

SEAL

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: **CLEARFIELD**

Mag. Dist. No. **46-3-02**
MDJ Name: Hon.
RICHARD A. IRELAND
Address: **650 LEONARD ST**
STE 113
CLEARFIELD, PA
Telephone: **(814) 765-5335** **16830**

RICHARD A. IRELAND
650 LEONARD ST
STE 113
CLEARFIELD, PA 16830

**NOTICE OF JUDGMENT/TRANSCRIPT
CIVIL CASE**

PLAINTIFF: **PORTFOLIO RECOVERY ASSOC.**
2417 WELSH ROAD APT/STE 21
#520
PHILADELPHIA, PA 19114

DEFENDANT: **COUDRIET, MICHAEL**
479 FLEGAL ROAD
CLEARFIELD, PA 16830

L **2007-47-CD**

Docket No.: **CV-0000354-06**
Date Filed: **10/31/06**



THIS IS TO NOTIFY YOU THAT:

Judgment: **DEFAULT JUDGMENT PLTF** (Date of Judgment) **12/12/06**

☒ Judgment was entered for: (Name) **PORTFOLIO RECOVERY ASSOC.**

☒ Judgment was entered against: (Name) **COUDRIET, MICHAEL**
in the amount of \$ **7,398.11**

☐ Defendants are jointly and severally liable.

☐ Damages will be assessed on Date & Time _____

☐ This case dismissed without prejudice.

☐ Amount of Judgment Subject to Attachment/42 Pa.C.S. § 8127
\$ _____

☐ Portion of Judgment for physical damages arising out of
residential lease \$ _____

Amount of Judgment	\$ 7,274.61
Judgment Costs	\$ 123.50
Interest on Judgment	\$.00
Attorney Fees	\$.00
Total	\$ 7,398.11
Post Judgment Credits	\$ _____
Post Judgment Costs	\$ _____
Certified Judgment Total	\$ _____

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FILED

JAN 12 2007

W/ 11:00/

William A. Shaw
Prothonotary/Clerk of Courts

DEC 12 2006

Date *Richard A. Ireland*, Magisterial District Judge

I certify that this is a true and correct copy of the record of the proceedings containing the judgment.

JAN 10 2007

Date *Richard A. Ireland*, Magisterial District Judge

My commission expires first Monday of January, **2012**

SEAL

AOPC 315-06

DATE PRINTED: 12/13/06 3:18:00 PM

APOTHAKE & ASSOCIATES, P.C.
BY: David J. Apothaker
Attorney I.D.#38423
2417 Welsh Road, Suite 21 #520
Philadelphia, PA 19114
(215) 634-8920
Attorneys for Plaintiff

FILED No cc
M12:34BN
FEB 07 2007 GR

William A. Shaw
Prothonotary/Clerk of Courts

PORTFOLIO RECOVERY	)	COURT OF COMMON PLEAS
ASSOCIATES, LLC	)	CLEARFIELD COUNTY
c/o David J Apothaker, Esquire)	
2417 Welsh Road, Suite 21 #520	)	NO.: 2007-47-CD
Philadelphia, PA 19114)	
Plaintiff,)	
vs.)	
)	
MICHAEL J COUDRIET)	
479 FLEGAL RD)	
CLEARFIELD, PA 16830-9725)	
Defendant.)	

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action with twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

CLEARFIELD COUNTY BAR ASSOCIATION
Lawyer Referral and Information Service
814-765-2641

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta asentar una comparencia escrita o con un abogado y entregar a la corte en forma escrita sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademas, la corte puede decidir a favor del edemandante y requiere que usted compla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO. VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

CLEARFIELD COUNTY BAR ASSOCIATION
Lawyer Referral and Information Service
814-765-2641

Attorneys for Plaintiff

Defendant.

7. In addition, Plaintiff avers that Defendant has failed and continues to fail to make any payments, leaving a balance due and owing of \$7,274.61 from July 06, 2005.

8. Although demand has been made, Defendant has failed to make payment of the amount due as above.

9. The original creditor is PROVIDIAN NATIONAL BANK.

WHEREFORE, Plaintiff demands judgment in favor of Plaintiff and against Defendant(s) for the sum of \$7,274.61 plus costs, and reasonable attorney's fees.

APOTHAKE & ASSOCIATES, P.C.
Attorney for Plaintiff
A Law Firm Engaged in Debt Collection

BY: _____

David J. Apothaker

Dated: January 23, 2007

Our File No.: 73735

PORTFOLIO RECOVERY ASSOCIATES, LLC

c/o David J Apothaker, Esquire
2417 Welsh Road, Suite 21 #520
Philadelphia, PA 19114

MICHAEL J COUDRIET
479 FLEGAL RD
CLEARFIELD, PA 16830-9725

STATEMENT OF ACCOUNT

Debtor's Name:	MICHAEL J COUDRIET
Account Number:	4465680200472057
Original Creditor:	PROVIDIAN NATIONAL BANK
Date of Debt:	July 06, 2005
Balance Due:	\$7,274.61

Our File No.: 73735

EXHIBIT "A"

VERIFICATION

Dionne Lawson, hereby states that I am legal specialist for plaintiff in this action, and that I am authorized to take this Verification, and that the statements made in the foregoing Civil Action Complaint are true and correct to the best of my knowledge, information, and belief. The undersigned understands that the statements therein are made subject to the penalties of 18 Pa.C.S.A. 4904 relating to unsworn falsification to authorities.



Dionne Lawson
Legal Specialist for Plaintiff

DATE:

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

FILED

FEB 27 2007

0 11:51/10

William A. Shaw
Prothonotary/Clerk of Courts

(K)

Portfolio Recovery Associates, LLC
(Plaintiff)

4717 Welsh Rd. Suite 21 #520
(Street Address)

Philadelphia, PA 19114
(City, State ZIP)

CIVIL ACTION

No. 2007-47-CD

Type of Case: Civil

Type of Pleading: _____

SENT TO

DEPT.

VS.

Mike J. Caudriat
(Defendant)

479 Plegel Road
(Street Address)

Clearfield, PA 16830
(City, State ZIP)

Filed on Behalf of:

(Plaintiff/Defendant)

Mike J. Caudriat
(Filed by)

479 Plegel Road
(Address)

Clearfield, PA 16830
(Phone)

Mike J. Caudriat
(Signature)

PORTFOLIO RECOVERY
ASSOCIATES, LLC

Plaintiff

No. 2007-47-CD

vs.

MICHAEL J COUDRIET

Defendant

TO: David J Apothaker, Esquire
4717 Welsh Road, Suite 21 #520
Philadelphia, PA 19114

1. Paragraph 1 of the complaint is completely true.
2. Paragraph 2 of the complaint is completely true.
3. Providian National Bank was the initial creditor of an unsecured credit card.
4. Defendant charged items on an unsecured credit card.
5. Defendant charged items on an unsecured credit card.
6. Defendant charged items on an unsecured credit card.
7. Defendant charged items on an unsecured credit card.
8. Defendant charged items on an unsecured credit card.
9. The original creditor was Providian National Bank not Portfolio Recovery Associates, LLC. The defendant attempted to make payment arrangements with Providian National Bank which Providian National Bank would not accept.

MIKE J COUDRIET

Defendant



I verify that the statements made in this Answer are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. Section 4904 relating to Unsworn Falsification to Authorities.

MIKE J COUDRIET

02/26/07

APOTHAKE & ASSOCIATES, P.C.
2417 Welsh Road, Suite 21 #520
Philadelphia, PA 19114
(215) 634-8920
Attorneys for Plaintiff
Kimberly F. Scian, Esquire
Attorney ID #55140

PORTFOLIO RECOVERY
ASSOCIATES, LLC

Plaintiff,

vs.

MICHAEL J COUDRIET

Defendant.

) COURT OF COMMON PLEAS OF
) CLEARFIELD COUNTY
)
)
) NO.: 2007-47-CD
)
) Civil Action
)
)

ORDER

AND NOW, this _____ day of _____, 20____, upon consideration of Plaintiff's Motion for Summary Judgment and Brief in Support thereof, and upon consideration of the Response (if any) filed by Defendant, the Court determines that Plaintiff is entitled to Summary Judgment as a matter of law, and it is hereby:

ORDERED and DECREED that judgment is entered in favor of Plaintiff and against Defendant, MICHAEL J COUDRIET, for \$7,398.11 plus interest for \$147.15.

BY THE COURT,

J.

Our File No.: 73735

APOTHAKE & ASSOCIATES, P.C.
2417 Welsh Road, Suite 21 #520
Philadelphia, PA 19114
(215) 634-8920
Attorneys for Plaintiff
Kimberly F. Scian, Esquire
Attorney ID #55140

CA
FILED

APR 18 2007

W/12-10/14
William A. Shaw
Prothonotary/Clerk of Courts

2 CLERK TO ATT7

PORTFOLIO RECOVERY
ASSOCIATES, LLC

Plaintiff,

vs.

MICHAEL J COUDRIET

Defendant.

) COURT OF COMMON PLEAS OF
) CLEARFIELD COUNTY
)
)

) NO.: 2007-47-CD
)
)

) Civil Action
)
)

MOTION FOR SUMMARY JUDGMENT

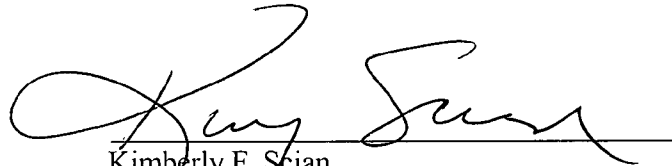
Plaintiff, PORTFOLIO RECOVERY ASSOCIATES, LLC, respectfully requests that the Court enter an Order granting Summary Judgment in its favor in the above captioned matter for the following reasons:

1. There are no genuine issues of material fact to be decided.
2. Defendant filed an answer on or about February 27, 2007, a copy of which is attached hereto as Exhibit A and incorporated by reference herein, wherein he admits that he owes the debt.
3. In their answer, Defendant admits that he has failed make payments.
4. Plaintiff has provided an affidavit that defendant is in default and set forth the amount owed by the defendants.
5. Defendant has failed to sustain his burden of presenting facts which contradict the averments in Plaintiff's complaint, nor have they offered any legal defense to same.

6. Plaintiff has clearly demonstrated that there are no genuine issues of triable fact in this matter.

WHEREFORE, Plaintiff respectfully requests that judgment be entered in its favor for the amount due with interest and costs prayed for in the complaint.

Respectfully Submitted,



Kimberly F. Scian
Attorney for Plaintiff

Dated: April 12, 2007

Our File No.: 73735

APOTHAKE & ASSOCIATES, P.C.
2417 Welsh Road, Suite 21 #520
Philadelphia, PA 19114
(215) 634-8920
Attorneys for Plaintiff
Kimberly F. Scian, Esquire
Attorney ID #55140

PORTFOLIO RECOVERY
ASSOCIATES, LLC

Plaintiff,

vs.

MICHAEL J COUDRIET

Defendant.

) COURT OF COMMON PLEAS OF
) CLEARFIELD COUNTY
)
)

) NO.: 2007-47-CD
)
)

) Civil Action
)
)

CERTIFICATION OF SERVICE

I hereby certify that a true and correct copy of the foregoing Plaintiff's Motion for Summary Judgment, Brief in support thereof and Motion Court Cover Sheet was served by regular mail on defendant on the date listed below:

Date:

4/12/07



Kimberly F. Scian
Attorney for Plaintiff

Dated: April 12, 2007

Our File No.: 73735

APOTHAKE & ASSOCIATES, P.C.
2417 Welsh Road, Suite 21 #520
Philadelphia, PA 19114
(215) 634-8920
Attorneys for Plaintiff
Kimberly F. Scian, Esquire
Attorney ID #55140

PORTFOLIO RECOVERY
ASSOCIATES, LLC

Plaintiff,

vs.

MICHAEL J COUDRIET

Defendant.

) COURT OF COMMON PLEAS OF
) CLEARFIELD COUNTY
)
)
) NO.: 2007-47-CD
)
) Civil Action
)
)

PLAINTIFF'S BRIEF IN SUPPORT
OF ITS MOTION FOR SUMMARY JUDGMENT

Facts

Plaintiff is a credit card company. Plaintiff extends credit for purchases made by customers who assent to a credit agreement. In the agreement, Plaintiff promises to extend a line of credit to the customer in consideration of the customer's promise to repay in full the outstanding balance due plus interest incurred. Defendant, MICHAEL J COUDRIET, entered into a credit agreement with the Plaintiff. Defendant purchased goods pursuant to the credit agreement. On July 06, 2005 the outstanding balance due and owing the Plaintiff was \$7,398.11 together with interest of \$147.15. As Defendant has failed to make payments in accordance with the credit agreement on the outstanding balance, the Defendant has breached his contractual duty and is liable for the full amount due as well as reasonable attorney's fees as provided for in the credit agreement. Plaintiff filed a complaint on or about October 18, 2006. Defendant filed his answer on or about February 27, 2007 wherein he admits that he owes a debt to the plaintiff.

As there exists no genuine issue of material fact to be decided, Plaintiff is entitled to a summary judgment.

Argument

Summary judgment for plaintiff is appropriate on the record before this court. Pennsylvania Rule of Civil Procedure 1035.2 states that a motion for summary judgment may only be granted when there is no genuine issue of material fact as to a necessary element of the cause of action or defense which could be established by additional discovery or expert report42 Pa. C.S.A. 1035.2(1). A material fact for motion on summary judgment, is one that directly effects the outcome of the case. *Fortney v. Callenberger*, 801 A. 2d 594, Super. 2002. Application of this rule has held that summary judgment may be granted only in those cases where the right to summary judgment is clear and free from doubt. *Laich v. Bracey*, 776 A. 2d 1022, Cmnwlth. 2001. A motion for summary judgment shall be granted if the documents of record show there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. *Pa.R.C.P. 1035(b)*; *Allen v. Merriweather*, 413 Pa. Super. 410, 411, 605 A.2d 424 (1992); *Beasel v. New Blvd. Baking Co. Inc.*, 410 Pa. Super. 591, 593, 600 A.2d 610 (1991). Summary judgment may be entered prior to the completion of discovery in matters where additional discovery would not aid in the establishment of any material fact. *Gatling v. EatonCorp.*, A. 2d, Super. 2002.

The moving party bears the burden of demonstrating clearly that there is no genuine issue of triable fact. *Driscoll v. Carpenters District Council of Western Pennsylvania*, 370 Pa. Super. 295, 536 A.2D 412 (1988); *affirmed*, 525 Pa. 205, 579 A.2d 863 (1991); *Allen*, 413 Pa. Super. at 411; *Beasel*, 410 Pa. Super. at 594; *Hower v. Whitmark Assoc.*, 371 Pa. Super 443, 381 A.2d 524 (1988). In response, the nonmoving party may not rest upon the pleadings, but must set forth specific facts controverting the movant's case. *Pa.R.C.P. 1035.3. Phaff v. Gerner*, 451 Pa. 146, 303 A.2d 826 (1973). A review of the pleadings as a whole in the instant

case reveals that Defendant has failed to sustain their burden of presenting facts which contradict the elements of Plaintiff's claim.

Conclusion

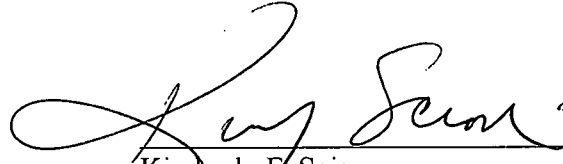
The purpose of the summary judgment procedure is to prevent vexation and delay, improve the machinery of justice, promote the expeditious disposition of cases and avoid unnecessary trials when no genuine issue of material fact is raised.

In making its determination, the Court must accept as true all properly pleaded facts, as well as all reasonable inferences which might be drawn therefrom. *Thompson v Nason*, 379 Pa. Super. 115, 535 A.2d 1177 (1988), affirmed, 527 Pa. 330, 591 A. 2d 703 (1991). The Court must restrict its review to material filed in support of and in opposition to the motion for summary judgment, and to uncontroverted allegations in the pleadings. Pa.R.C.P.1035. *Overly v. Kass*, 382 Pa. Super. 108, 545 A 2d 970 (1989).

Plaintiff submits that is has demonstrated sufficient facts to warrant summary judgment in its favor. Plaintiff has provided an affidavit that Defendant is in default and set forth the amount owed. Plaintiff has provided an affidavit that defendant is in default and set forth the amount owed by defendant. Defendant admits in his answer that he owes the debt to plaintiff. Therefore, plaintiff maintains that it has produced sufficient evidence to establish that there is no genuine issue of material fact to be decided. Once Plaintiff has satisfied its burden, Defendant has a responsibility to demonstrate facts which would create a genuine issue for trial. *Phaff, supra*. Defendant has failed to sustain his burden of presenting facts which would contradict the elements of Plaintiffs claim.

WHEREFORE, Plaintiff respectfully requests that a judgment be entered in its favor for the amount due with interest and costs as prayed for in the Complaint.

Respectfully submitted,



Kimberly E. Scian
Attorney for Plaintiff

Dated: April 12, 2007

Our File No.: 73735

14

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

PORTFOLIO RECOVERY
ASSOCIATES, LLC

vs.

MICHAEL J. COUDRIET


:
:
:
: No. 07-47-CD
:
:

ORDER

AND NOW, this 26 day of April 2007, it is the ORDER of the Court that argument on Plaintiff's Motion for Summary Judgment in the above-captioned matter is hereby scheduled for Friday, May 18, 2007 at 2:00 P.M. in Courtroom No. 1, Clearfield County Courthouse, Clearfield, PA.

It is the responsibility of the Plaintiff to serve certified copy of said scheduling Order on the Defendant.

BY THE COURT:


FREDRIC J. AMMERMAN
President Judge

FILED

APR 27 2007

3cc

Att. Scian

GW

William A. Shaw
Prothonotary/Clerk of Courts

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

PORTFOLIO RECOVERY ASSOCIATES, LLC,
Plaintiff

vs.
MICHAEL J. COUDRIET,

Defendant

*
*
*
*
*

No. 07-47-CD

Eu

ORDER

NOW, this 18th day of May, 2007, the date being set for argument on the Plaintiff's Motion for Summary Judgment, the Court notes the following:

1. No representative or counsel for the Plaintiff appeared for said argument; and
2. The record does not reflect that the Defendant was served with the Court's scheduling Order of April 26, 2007, since the Plaintiff did not file a Certificate of Service.

Therefore, it is the ORDER of this Court that the Plaintiff's Motion for Summary Judgment be and is hereby DISMISSED.

BY THE COURT,

Fredric J. Ammerman

FREDRIC J. AMMERMAN
President Judge

FILED

013:09:30
MAY 21 2007

William A. Shaw
Prothonotary/Clerk of Courts

cc: Atty. Scian

cc: Def.

479 Flegal Road

Clearfield, PA 16830

FILED

MAY 21 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 5/21/07

X You are responsible for serving all appropriate parties.

X The Prothonotary's office has provided service to the following parties:

 Plaintiff(s) X Plaintiff(s) Attorney Other

X Defendant(s) Defendant(s) Attorney

 Special Instructions:

Our File No.: 73735
APOTHAKE & ASSOCIATES, P.C.
By: Benjamin J. Cavallaro, Esquire
Attorney I.D. #307949
520 Fellowship Road C306
Mount Laurel, NJ 08054
(800) 672-0215
Attorneys for Plaintiff

FILED
M 1:11 P.M. GK
JUN 24 2010
1cc Atty
William A. Shaw
Prothonotary/Clerk of Courts

PORTFOLIO RECOVERY	)	COURT OF COMMON PLEAS OF
ASSOCIATES, LLC	)	CLEARFIELD COUNTY
)	
Plaintiff	)	NO.: 2007-47-CD
vs.)	
	)	Civil Action
MICHAEL J COUDRIET)	
)	
Defendant)	

MOTION FOR SUMMARY JUDGMENT

Plaintiff, PORTFOLIO RECOVERY ASSOCIATES, LLC, respectfully requests that the Court enter an Order granting Summary Judgment in its favor for the following reasons:

1. There are no genuine issues of material fact to decide.
2. Plaintiff, PORTFOLIO RECOVERY ASSOCIATES, LLC, filed a Complaint to recover a \$7,274.61 balance on the defendant's delinquent account with PROVIDIAN NATIONAL BANK. A copy of Plaintiff's Complaint is attached hereto as Exhibit "A" and incorporated by reference herein.
3. Defendant, MICHAEL J COUDRIET, filed an Answer to the Complaint in which defendant admits failing to make payments. A copy of Defendant's Answer is attached hereto as Exhibit "B" and incorporated by reference herein.

4. Defendant's Answer is insufficient as it does not conform to Pa.R.C.P. 1029(a) which requires that a responding party, in a responsive pleading, must admit or deny each averment of fact.

5. Pa.R.C.P. No. 1029(b) states that averments in a pleading not specifically admitted or denied are deemed admitted. It further states that a general denial or demand for proof shall have the effect of an admission.

6. For this reason, Defendant's responses are rendered admissions.

7. Defendant has failed to sustain the burden of presenting facts which contradict the averments of Plaintiff's Complaint.

8. Plaintiff has demonstrated that there is no genuine issue of triable fact.

9. Plaintiff was unable to obtain defendant's concurrence to this motion.

WHEREFORE, Plaintiff respectfully requests that a judgment be entered in its favor for the sum of \$7,274.61.

APOTHAKER & ASSOCIATES, P.C.
Attorney for Plaintiff
A Law Firm Engaged in Debt Collection

BY: 
Benjamin J. Cavallaro, Esquire

Dated: June 21, 2010

PORTFOLIO RECOVERY
ASSOCIATES, LLC

Plaintiff

vs.

MICHAEL J COUDRIET

Defendant

) COURT OF COMMON PLEAS OF
) CLEARFIELD COUNTY
)
)

) NO.: 2007-47-CD
)
)

) Civil Action
)
)

ORDER

AND NOW, this _____ day of _____, 20____, upon consideration of Plaintiff's Motion for Summary Judgment and Brief in Support thereof, and upon consideration of the Response (if any) filed by Defendant, the Court determines that Plaintiff is entitled to Summary Judgment as a matter of law, and it is hereby:

ORDERED and **DECREED** that Plaintiff's Motion for Summary Judgment shall be **GRANTED**. Judgment is hereby entered in favor of the Plaintiff in the amount of \$7,274.61.

BY THE COURT,

J.

PORTFOLIO RECOVERY
ASSOCIATES, LLC

Plaintiff

vs.

MICHAEL J COUDRIET

Defendant

COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY

NO.: 2007-47-CD

Civil Action

FILED

JUN 25 2010

William A. Shaw
Prothonotary/Clerk of Courts

1 sent to Mr. [unclear]

ORDER

AND NOW, this 24 day of June, 2010, upon consideration of the foregoing motion, it is hereby ordered that:

(1) a rule is issued upon the respondent to show cause why the moving party is not entitled to the relief requested;

(2) the respondent shall file an answer to the motion within _____ days of this date;

(3) the motion shall be decided under Pa.R.C.P. 206.7;

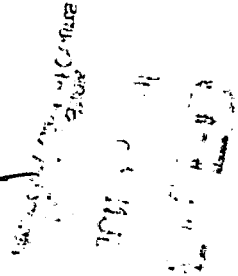
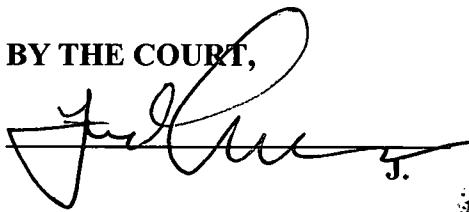
(4) depositions and all other discovery shall be completed within _____ days of this date;

(5) an evidentiary hearing on disputed issues of material fact shall be held on _____, in the Clearfield County Courthouse, Clearfield, Pennsylvania, in Courtroom No. _____;

(6) argument shall be held on Tuesday, September 7, 2010 at 9:30 AM, in Courtroom No. 1 of the Clearfield County Courthouse; and

(7) notice of the entry of this order shall be provided to all parties by the moving party.

BY THE COURT,



FILED

JUN 25 2010

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 6-22-10
You are responsible for serving all appropriate parties.
☒ The Prothonotary's office has provided service to the following parties:
____ Plaintiff(s) _____ Plaintiff(s) Attorney _____ Other
____ Defendant(s) _____ Defendant(s) Attorney
____ Special Instructions:

Tricia L. Coudriet
479 Flegal Road
Clearfield, PA 16830
(814) 765-2557

07-47-CD

Fredric J. Ammerman

President Judge
Judge's Chambers
Clearfield County Courthouse
230 E. Market Street
Clearfield, PA 16830

I request this case be dismissed because the plaintiff failed to diligently prosecute this case. I do not feel I am able or have the ability to defend the case due to the reasons listed below.

- Portfolio Recovery Associates, LLC is seeking reimbursement for an unsecured credit card which the initial law suit was filed 07/06/05. Based on my research, the statute of limitations for unsecured credit cards is 4 years. Please see the attached.
- My defense in this case was required to be submitted to the court within 20 days. My question is how can Portfolio Recovery Associates have over 3 years to file an argument?
- This negative charge has been listed on my credit report for many years so I don't know how this can reappear has an unresolved debt.
- My husband was in intensive care at the time I initially stopped paying the credit card and I attempted to work with customer service. However, because my name was not associated with the account I was not able to resolve the outstanding issues.

I feel the attorneys observe credit reports until a person's credit improves, then re-files law suits. Again, any assistance with this would be appreciated.

Thank You!

Tricia L Coudriet
On Behalf of Michael J. Coudriet

Enclosures

FILED
013:55BP
SEP 02 2010
William A. Shaw
Prothonotary/Clerk of Courts

§ 5525. Four year limitation. (a) General rule.—Except as provided for in subsection (b), the following actions and proceedings must be commenced within four years: (1) An action upon a contract, under seal or otherwise, for the sale, construction or furnishing of tangible personal property or fixtures. (2) Any action subject to 13 Pa.C.S. § 2725 (relating to statute of limitations in contracts for sale). (3) An action upon an express contract not founded upon an instrument in writing. (4) An action upon a contract implied in law, except an action subject to another limitation specified in this subchapter. (5) An action upon a judgment or decree of any court of the United States or of any state. (6) An action upon any official bond of a public official, officer or employee. (7) An action upon a negotiable or nonnegotiable bond, note or other similar instrument in writing. Where such an instrument is payable upon demand, the time within which an action on it must be commenced shall be computed from the later of either demand or any payment of principal or interest on the instrument. (8) An action upon a contract, obligation or liability founded upon a writing not specified in paragraph (7), under seal or otherwise, except an action subject to another limitation specified in this subchapter. **(b) Special provisions.**—An action subject to section 8315 (relating to damages in actions for identity theft) must be commenced within four years of the date of the offense or four years from the date of the discovery of the identity theft by the plaintiff. (Oct. 5, 1980, P.L.693, No.142, eff. 60 days; Dec. 20, 1982, P.L.1409, No.326, eff. 60 days; June 19, 2002, P.L.430, No.62, eff. 60 days) **Cross References.** Section 5525 is referred to in section 5529 of this title.

PORTFOLIO RECOVERY
ASSOCIATES, LLC

Plaintiff

vs.

MICHAEL J COUDRIET

Defendant

COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY

NO.: 2007-47-CD

Civil Action

ORDER

AND NOW, this 24 day of June, 2010, upon consideration of the foregoing motion, it is hereby ordered that:

(1) a rule is issued upon the respondent to show cause why the moving party is not entitled to the relief requested;

(2) the respondent shall file an answer to the motion within _____ days of this date;

(3) the motion shall be decided under Pa.R.C.P. 206.7;

(4) depositions and all other discovery shall be completed within _____ days of this date;

(5) an evidentiary hearing on disputed issues of material fact shall be held on _____, in the Clearfield County Courthouse, Clearfield, Pennsylvania, in Courtroom No. _____;

(6) argument shall be held on Tuesday, September 7, 2010 at 9:30 AM, in Courtroom No. 1 of the Clearfield County Courthouse; and

(7) notice of the entry of this order shall be provided to all parties by the moving party.

BY THE COURT,
/S/ Fredric J Ammerman

I hereby certify this to be a true
and attested copy of the original
statement filed in this case.

JUN 25 2010

Attest,

William A. Khan
Prothonotary/
Clark of Courts

PORTFOLIO RECOVERY
ASSOCIATES, LLC

Plaintiff

vs.

MICHAEL J COUDRIET

Defendant

COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY

NO.: 2007-47-CD

Civil Action

ORDER

AND NOW, this 29 day of June, 2010, upon consideration of Plaintiff's Motion for Summary Judgment and Brief in Support thereof, and upon consideration of the Response (if any) filed by Defendant, the Court determines that Plaintiff is entitled to Summary Judgment as a matter of law, and it is hereby:

ORDERED and **DECREED** that Plaintiff's Motion for Summary Judgment shall be **GRANTED**. Judgment is hereby entered in favor of the Plaintiff in the amount of \$7,274.61.

BY THE COURT,

J.

I hereby certify this to be a true
and attested copy of the original
statement filed in this case.

Our File No.: 73735
APOTHAKE & ASSOCIATES, P.C.
By: Benjamin J. Cavallaro, Esquire
Attorney I.D. #307949
520 Fellowship Road C306
Mount Laurel, NJ 08054
(800) 672-0215
Attorneys for Plaintiff

JUN 24 2010

/s/ Most.

William L. Shaw
Prothonotary/
Clerk of Court

PORTFOLIO RECOVERY
ASSOCIATES, LLC

Plaintiff

vs.

MICHAEL J COUDRIET

Defendant

) COURT OF COMMON PLEAS OF
) CLEARFIELD COUNTY
)
)

) NO.: 2007-47-CD
)
)

) Civil Action
)
)

MOTION FOR SUMMARY JUDGMENT

Plaintiff, PORTFOLIO RECOVERY ASSOCIATES, LLC, respectfully requests that the Court enter an Order granting Summary Judgment in its favor for the following reasons:

1. There are no genuine issues of material fact to decide.
2. Plaintiff, PORTFOLIO RECOVERY ASSOCIATES, LLC, filed a Complaint to recover a \$7,274.61 balance on the defendant's delinquent account with PROVIDIAN NATIONAL BANK. A copy of Plaintiff's Complaint is attached hereto as Exhibit "A" and incorporated by reference herein.
3. Defendant, MICHAEL J COUDRIET, filed an Answer to the Complaint in which defendant admits failing to make payments. A copy of Defendant's Answer is attached hereto as Exhibit "B" and incorporated by reference herein.

4. Defendant's Answer is insufficient as it does not conform to Pa.R.C.P. 1029(a) which requires that a responding party, in a responsive pleading, must admit or deny each averment of fact.

5. Pa.R.C.P. No. 1029(b) states that averments in a pleading not specifically admitted or denied are deemed admitted. It further states that a general denial or demand for proof shall have the effect of an admission.

6. For this reason, Defendant's responses are rendered admissions.

7. Defendant has failed to sustain the burden of presenting facts which contradict the averments of Plaintiff's Complaint.

8. Plaintiff has demonstrated that there is no genuine issue of triable fact.

9. Plaintiff was unable to obtain defendant's concurrence to this motion.

WHEREFORE, Plaintiff respectfully requests that a judgment be entered in its favor for the sum of \$7,274.61.

APOTHAKE & ASSOCIATES, P.C.
Attorney for Plaintiff
A Law Firm Engaged in Debt Collection

BY: 

Benjamin J. Cavallaro, Esquire

Dated: June 21, 2010

Our File No.: 73735
APOTHAKER & ASSOCIATES, P.C.
By: Benjamin J. Cavallaro, Esquire
Attorney I.D. #307949
520 Fellowship Road C306
Mount Laurel, NJ 08054
(800) 672-0215
Attorneys for Plaintiff

RECEIVED

JUN 25 2010

Court Administrator's
Office

PORTFOLIO RECOVERY
ASSOCIATES, LLC

Plaintiff

vs.

MICHAEL J COUDRIET

Defendant

COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY

NO.: 2007-47-CD

Civil Action

**PLAINTIFF'S BRIEF IN SUPPORT
OF ITS MOTION FOR SUMMARY JUDGMENT**

Statement of Questions Involved

Should Plaintiff's Motion for Summary Judgment be granted because there are no genuine issues of material fact to decide?

Suggested Answer: Yes

Facts

Plaintiff, PORTFOLIO RECOVERY ASSOCIATES, LLC, by the undersigned attorneys, respectfully submits this brief in support of its motion for an order for Summary Judgment. Plaintiff is a purchaser of debt and as such, is a successor in interest to PROVIDIAN NATIONAL BANK, which shall hereafter be defined as the original creditor. Defendant, MICHAEL J COUDRIET, entered into a credit agreement with the original creditor. Defendant

purchased goods pursuant to the credit agreement. As Defendant has failed to make payments in accordance with the credit agreement on the outstanding balance, defendant is in breach of contract.

Plaintiff filed a Complaint on or about October 18, 2006. Defendant filed an Answer, in which defendant admits failing to make payments on the account. Defendant's Answer is insufficient as it does not conform to Pa.R.C.P. 1029(a) which requires that every responsive pleading admit or deny each averment of fact. Pa.R.C.P. No. 1029(b) states that averments in a pleading not specifically admitted or denied are deemed admitted. It further states that a general denial or demand for proof shall have the effect of an admission. *Swift v. Milner*, 538 A. 2d 28, 371 Pa. Super. 302, Super 1988; *Swayne v. Lovett*, 21 Pa. Commw. 462, 346A. 2d 5857 (1975).

Because defendant failed to properly Answer Plaintiff's Complaint, the improper responses must be deemed admissions by this Court. Plaintiff has therefore successfully established the requisite elements of its claim, a contractual duty, a breach of said duty and resulting damages. As there are no genuine issues of material fact to be decided, Plaintiff is entitled to Summary Judgment.

Legal Argument

Pa.R.C.P. No. 1035.2 states that a Motion for Summary Judgment may only be granted when there is no genuine issue of material fact as to a necessary element of the cause of action or defense which could be established by additional discovery or expert report. Pa.R.C.P. No. 1035.2(1). A material fact for motion on summary judgment is one that directly affects the outcome of the case. *Fortney v. Callenberger*, 801 A. 2d 594 (Pa. Super. 2002). Application of this rule has held that summary judgment may be granted only in those cases where the right to

summary judgment is clear and free from doubt. *Laich v. Bracey*, 776 A. 2d 1022, (Pa.Cmwlth. 2001).

The purpose of the summary judgment procedure is to prevent vexation and delay, improve the machinery of justice, promote the expeditious disposition of cases and avoid unnecessary trials when no genuine issue of material fact is raised. A motion for summary judgment shall be granted if the documents of record show there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. Pa.R.C.P. §1035(b); *Allen v. Merriweather*, 413 Pa. Super. 410, 411 (1992); *Beasel v. New Blvd. Baking Co. Inc.*, 410 Pa. Super. 591, 593 (1991). In making its determination, the Court must accept as true all properly pleaded facts, as well as all reasonable inferences which might be drawn therefrom. *Thompson v Nason*, 379 Pa. Super. 115 (1988), *aff'd*, 527 Pa. 330 (1991). The Court must restrict its review to material filed in support of and in opposition to the motion for summary judgment, and to uncontroverted allegations in the pleadings. Pa.R.C.P. §1035; *Overly v. Kass*, 382 Pa. Super. 108 (1989).

The party requesting Summary Judgment bears the burden of demonstrating clearly that there is no genuine issue of material fact. *Driscoll v. Carpenters District Council of Western Pennsylvania*, 370 Pa. Super. 295 (1988); *aff'd*, 525 Pa. 205 (1991); *Allen*, 413 Pa. Super. at 411; *Beasel*, 410 Pa. Super. at 594; *Hower v. Whitmark Assoc.*, 371 Pa. Super 443 (1988). In response, the nonmoving party may not rest upon the pleadings, but must set forth specific facts controverting the movant's case. Pa.R.C.P. §1035.3; *Phaff v. Gerner*, 451 Pa. 146 (1973). A review of the pleadings as a whole in the instant case reveals that Defendant has failed to sustain its burden of presenting facts which contradict the elements of Plaintiff's claim.

Conclusion

Plaintiff has demonstrated sufficient facts to warrant summary judgment in its favor. Once Plaintiff satisfies its burden, Defendant must demonstrate facts which would create a genuine issue for trial. *Phaff, supra*. Defendant has failed to sustain its burden of presenting facts which would contradict the elements of Plaintiff's claim.

WHEREFORE, Plaintiff demands Judgment in favor of Plaintiff and against Defendant(s) for the sum of \$7,274.61.

I, Benjamin J. Cavallaro, Esquire, hereby certify that I have read this Motion for Summary Judgment and to the best of my knowledge, information and belief there are good grounds to support said Motion and it is not interposed merely for delay.

APOTHAKE & ASSOCIATES, P.C.
Attorney for Plaintiff
A Law Firm Engaged in Debt Collection

BY: 

Benjamin J. Cavallaro, Esquire

Dated: June 21, 2010

Our File No.: 73735
APOTHAKER & ASSOCIATES, P.C.
By: Benjamin J. Cavallaro, Esquire
Attorney I.D. #307949
520 Fellowship Road C306
Mount Laurel, NJ 08054
(800) 672-0215
Attorneys for Plaintiff

_____	)	COURT OF COMMON PLEAS OF
PORTFOLIO RECOVERY	)	CLEARFIELD COUNTY
ASSOCIATES, LLC)	
)	
Plaintiff	)	NO.: 2007-47-CD
vs.)	
	)	Civil Action
MICHAEL J COUDRIET)	
)	
Defendant)	

CERTIFICATION OF SERVICE

I, Benjamin J. Cavallaro, Esquire, attorney for Plaintiff, certify that on June 21, 2010, I mailed a copy of Plaintiff's Order, Motion for Summary Judgment and Brief in support thereof to:

MICHAEL J COUDRIET
479 FLEGAL RD
CLEARFIELD, PA 16830-9725

APOTHAKER & ASSOCIATES, P.C.
Attorney for Plaintiff
A Law Firm Engaged in Debt Collection

BY: 
Benjamin J. Cavallaro, Esquire

Dated: June 21, 2010

CA

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION**

PORTFOLIO RECOVERY ASSOCIATES, LLC

Plaintiff

vs.

MICHAEL J. COUDRIET

Defendant

*
*
*
*
*

NO. 07-47-CD

ORDER

NOW, this 31st day of August, 2010, the Court being in receipt of the pro se Motion to Dismiss filed on behalf of Michael J. Coudriet; it is the ORDER of this Court that argument on said Motion be and is hereby scheduled for the 7th day of September, 2010 at 9:30 a.m. in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT



FREDRIC J. AMMERMAN
President Judge

FILED

SEP 03 2010

William A. Shaw
Promotory/Clerk of Courts

ICC Def.-

479 Flegal Rd.

Clearfield, PA 16830

FILED

SEP 03 2010

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 9/3/10

 You are responsible for serving all appropriate parties.

 X The Prothonotary's office has provided service to the following parties:

 Plaintiff(s) X Plaintiff(s) Attorney Other

 X Defendant(s) Defendant(s) Attorney

 Special Instructions:

FILED

CA

FILED 2007-47-CD
SEP 08 2010 2007-47-CD
William A. Shaw
Prothonotary/Clerk of Courts
Clearfield, PA
10830
60

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

PORTFOLIO RECOVERY
ASSOCIATES, LLC

VS.

MICHAEL J. COUDRIET

NO. 2007-47-CD

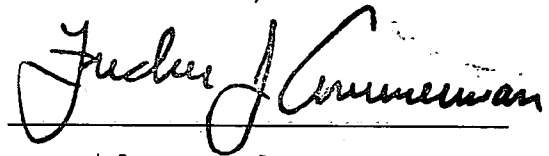
ORDER

NOW this 7th day of September, 2010, this being the date set for hearing on the Plaintiff's Motion for Summary Judgment, as well as the pro se Motion to Dismiss filed on behalf of the Defendant by his wife, Tricia L. Coudriet; the Court noting that neither the Defendant, nor his wife, have appeared this date before the Court; upon the Court's review of the Plaintiff's Complaint and the Answer filed by the Defendant, pro se, which, in essence, admits the allegations set forth in the Complaint, it is the ORDER of this Court that the Motion for Summary Judgment be and is hereby granted.

Judgment is hereby entered in favor of

Plaintiff against the Defendant in the amount of \$7,398.11,
plus interest in the amount of \$147.15.

BY THE COURT,

A handwritten signature in cursive script, reading "Frederick J. Cummings", written over a horizontal line.

President Judge

FILED

SEP 08 2010

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 9/8/10

 You are responsible for serving all appropriate parties.

X The Prothonotary's office has provided service to the following parties:

 Plaintiff(s) X Plaintiff(s) Attorney Other

X Defendant(s) Defendant(s) Attorney

 Special Instructions:

Our File No.: 73735
APOTHAKE & ASSOCIATES, P.C.
BY: Benjamin J. Cavallaro, Esquire
Attorney I.D.# 307949
520 Fellowship Road C306
Mount Laurel, NJ 08054
(800) 672-0215
Attorney for Plaintiff

4 **FILED**
SEP 13 2010
William A. Shaw
Prothonotary/Clerk of Courts
2 LHM TO MHA

PORTFOLIO RECOVERY
ASSOCIATES, LLC

Plaintiff

vs.

MICHAEL J COUDRIET

Defendant

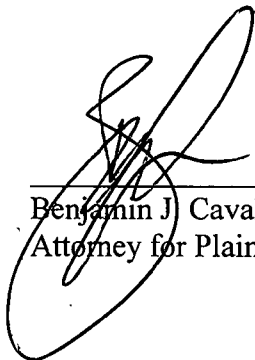
) COURT OF COMMON PLEAS
) CLEARFIELD COUNTY
)
)
)
) NO.: 2007-47-CD
)
)
)
)

CERTIFICATION OF SERVICE

I, Benjamin J. Cavallaro, Esquire, attorney for Plaintiff, certify that on
07/08/2010, I mailed a copy of the Filed Motion for Summary Judgment with the
Scheduled Argument Date by Regular mail to

MICHAEL J COUDRIET
479 FLEGAL RD
CLEARFIELD, PA 16830-9725

Date: 9/3/2010

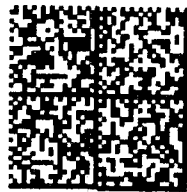

Benjamin J. Cavallaro, Esquire
Attorney for Plaintiff

William A. Shaw
Prothonotary/Clerk of Courts
Po Box 549
Clearfield, PA 16830.

William A. Shaw
Prothonotary/Clerk of Courts

FILED
JUL 10 2013

Shelley M Wilson
479 Flegal Rd
Clearfield, PA 16830



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06/27/2013

Mailed From 16830

US POSTAGE

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

REMIT CORPORATION
Plaintiff

vs.

SHELLEY M. WILSON
Defendant

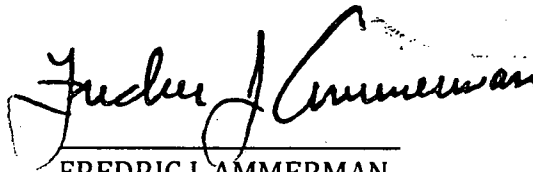
* NO. 2007-047-CD
*
*
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ORDER

NOW, this 25th day of June, 2013, it is the ORDER of this Court that a **status conference** be and is hereby scheduled for the **29th day of August, 2013 at 1:30 p.m.** in Courtroom No. 1, Clearfield County Courthouse, Clearfield, Pennsylvania.

If this case has been concluded, the moving party is directed to file the appropriate Praecept with the Prothonotary of Clearfield County to finalize that status of the case.

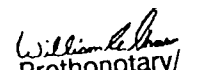
BY THE COURT,


FREDRIC J. AMMERMAN
President Judge

I hereby certify this to be a true
and attested copy of the original
statement filed in this case.

JUN 27 2013

Attest.


Prothonotary/
Clerk of Courts

OFFICE OF THE PROTHONOTARY AND CLERK OF COURTS
CLEARFIELD COUNTY



PO BOX 549
CLEARFIELD, PENNSYLVANIA 16830
(814) 765-2641 Ext. 5013
FAX (814) 765-2641

WILLIAM A. SHAW
PROTHONOTARY
AND
CLERK OF COURTS

JACKI KENDRICK
DEPUTY PROTHONOTARY

JOHN SUGHRUE
SOLICITOR

LYNN MILLER
ADMINISTRATIVE ASSISTANT

Left
479 Flipp Rd
Clearfield
16830

To: All Concerned Parties

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 2136 Thank you.

DATE: 6-27-13

William A. Shaw, Prothonotary

____ You are responsible for serving all appropriate parties.

X The Prothonotary's office has provided service to the following parties:

____ Plaintiff(s) Y Plaintiff(s) Attorney ____ Other

X Defendant(s) ____ Defendant(s) Attorney

____ Special Instructions: