

07-2100-CD

LVNV Funding vs Debbie A. Kirsch

Date: 3/19/2008

Time: 09:02 AM

Page 1 of 1

## Clearfield County Court of Common Pleas

ROA Report

Case: 2007-02100-CD

Current Judge: Paul E. Cherry

LVNV Funding, LLC vs. Debbie A. Kirsch

## Civil Other-COUNT

Date	Judge
12/26/2007	No Judge
12/26/2007	No Judge
1/25/2008	No Judge
1/30/2008	No Judge
2/25/2008	No Judge
2/28/2008	Paul E. Cherry

New Case Filed.  
 Filing: Civil Action Complaint Paid by: Apothaker, David J. (attorney for LVNV Funding, LLC) Receipt number: 1921968 Dated: 12/26/2007 Amount: \$85.00 (Check) 1CC shff and 1CC Atty.  
 Preliminary Objections, filed by s/ Robin Jean Foor, Esquire. 3CC Atty.  
 Foor  
 Certificate of Service, filed. That on the 29th day of January 2008, served a copy of the Preliminary Objection filed in the above captioned matter by first class mail to David J. Apothaker Esq., filed by s/ Robin Jean Foor Esq. 1CC Atty Foor.  
 Petition to Schedule Argument on Preliminary Objections, filed by s/ Robin Jean Foor, Esquire. 3CC Atty. Foor  
 Order, this 28th day of Feb., 2008, upon consideration of Defendant's Preliminary Objections, it is Ordered that argument has been scheduled for the 28th day of March, 2008 at 1:30 p.m. in courtroom 2. by The Court, /s/ Paul E. Cherry, Judge. 3CC Atty. Foor

3-19-08 Certificate of Service  
 3-28-08 Order, dated 3-28-08 (PO's)

**COURT OF COMMON PLEAS, CLEARFIELD COUNTY  
PENNSYLVANIA**

**CASE NO. CP-17-CR-1077-2007**

**Date of Jury Selection: February 28, 2008**

**Presiding Judge: Paul E. Cherry, Judge**

**Commonwealth of Pennsylvania**

**VS**

**Raimon Anthony Johnson**

**Court Reporter: \_\_\_\_\_**

**Date of Trial: March 19, 2008**

**Date Trial Ended: \_\_\_\_\_**

**Charges: Charges**

**MEMBERS OF THE JURY**

**1. Joann McCracken  
2. Gregory Norris  
3. Geraldine Scott  
4. Jeanne Kenawell  
5. Nancy Geist  
6. Kathy Yutzey  
ALT #1 Terry Krach**

**7. Frederick Antes  
8. Tracey Rowles  
9. John Hrynn  
10. James Flanagan  
11. Donald Foster  
12. Kolene Parkes  
ALT #2 Alton Dotts**

**COMMONWEALTH WITNESSES:**

**1. \_\_\_\_\_  
2. \_\_\_\_\_  
3. \_\_\_\_\_  
4. \_\_\_\_\_  
5. \_\_\_\_\_**

**DEFENSE WITNESSES:**

**1. \_\_\_\_\_  
2. \_\_\_\_\_  
3. \_\_\_\_\_  
4. \_\_\_\_\_  
5. \_\_\_\_\_**

**DIST. ATTY: William A. Shaw Jr. Esq.,  
District Attorney**

**DEF. ATTY: Daniel Bell Esq.**

**ADDRESS TO JURY: \_\_\_\_\_**

**ADDRESS TO JURY: \_\_\_\_\_**

**JUDGE'S ADDRESS TO JURY: \_\_\_\_\_**

**JURY OUT: \_\_\_\_\_ JURY IN: \_\_\_\_\_**

**VERDICT: \_\_\_\_\_**

**FOREPERSON: \_\_\_\_\_**

128964

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY  
PENNSYLVANIA

LVNV Funding LLC

(Plaintiff)

CIVIL ACTION

c/o 2417 Welsh Road Suite 21 #520

(Street Address)

Phila., PA 19114

(City, State ZIP)

No. 07-2100-CD

Type of Case: CIVIL

Type of Pleading: COMPLAINT

vs.

DeBBie A. Kirsch LVNV Funding LLC  
(Plaintiff/Defendant)

203 Nichols St.

(Street Address)

CLEARFIELD PA 16830

(City, State ZIP)

David J. Apothaker, Esquire

(Filed by)

2417 Welsh Road Suite 21 #520

(Address) Phila., PA 19114

215-634-8920

(Phone)

(Signature)

FILED Atty pd. \$5.00  
m 10.00 10/26/07 ICC Sheriff  
DEC 26 2007  
ICC Atty

William A. Shaw  
Prothonotary/Clerk of Courts

Our File No.: 128964

APOTHAKER & ASSOCIATES, P.C.

BY: David J. Apothaker, Esq.

Attorney I.D.#38423

2417 Welsh Road, Suite 21 #520

Philadelphia, PA 19114

(215) 634-8920

Attorneys for Plaintiff

---

LVNV FUNDING LLC  
c/o Apothaker & Associates, P.C.  
2417 Welsh Road, Suite 21 #520  
Philadelphia, PA 19114

Plaintiff,

vs.

DEBBIE A KIRSCH  
203 NICHOLS ST  
CLEARFIELD, PA 16830

Defendant.

) COURT OF COMMON PLEAS  
) CLEARFIELD COUNTY  
)  
) NO.:  
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### 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 within 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 ONCE. 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 páginas siguientes, usted tiene veinte (20) días de plazo al partir de la fecha de la demanda y la notificación. Hace falta asentar una comparecencia 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 tomará medidas y puede continuar la demanda en contra suya sin previo aviso o notificación. Además, la corte puede decidir a favor del demandante y requiere que usted cumpla 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 SUFFICIENTE 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

**APOTHAKER & ASSOCIATES, P.C.**

BY: David J. Apothaker, Esq.

Attorney I.D.#38423

2417 Welsh Road, Suite 21 #520

Philadelphia, PA 19114

(215) 634-8920

Attorneys for Plaintiff

---

LVNV FUNDING LLC

c/o Apothaker & Associates, P.C.

2417 Welsh Road, Suite 21 #520

Philadelphia, PA 19114

Plaintiff,

vs.

DEBBIE A KIRSCH

203 NICHOLS ST

CLEARFIELD, PA 16830

Defendant.

) COURT OF COMMON PLEAS

) CLEARFIELD COUNTY

)

) NO.:

)

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**CIVIL ACTION COMPLAINT  
FIRST COUNT**

1. Plaintiff, LVNV FUNDING LLC, is a company with its principal place of business located at c/o Apothaker & Associates, P.C., 2417 Welsh Road, Suite 21 #520, Philadelphia, PA 19114.

2. Defendant is DEBBIE A KIRSCH, an adult individual residing at 203 NICHOLS ST CLEARFIELD, PA 16830.

3. At the special instance and request of Defendant, Plaintiff sold and delivered to Defendant goods and/or services at the times, of the kinds, in the quantities, and for the prices set forth in Plaintiff's records. A true and correct copy of which is attached hereto, incorporated herein by reference and designated Exhibit "A".

4. Defendant received and accepted the goods and/or services described in Exhibit "A".

5. The prices set forth in Exhibit "A" are the fair, reasonable and market prices for said goods and/or services, and the prices which Defendant agreed to pay.

6. All credits, if any, to which Defendant is entitled, are set forth in Exhibit "A".

7. In addition, Plaintiff avers that Defendant has failed and continues to fail to make any payments, leaving a balance due and owing of \$1,354.71.

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

9. The original creditor is CITI-SEARS.

WHEREFORE, Plaintiff demands judgment in favor of Plaintiff and against Defendant(s) for the sum of \$1,354.71 and requests this Court award Plaintiff attorney's fees and costs to the extent permitted by applicable law.

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

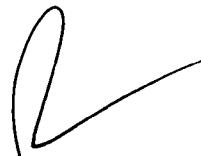
BY: \_\_\_\_\_  
David J. Apothaker

Dated: 12/20/2007

Our File No.: 128964

**VERIFICATION**

David J. Apothaker, Esq. hereby states that I am counsel 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.



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David J. Apothaker  
Attorney for Plaintiff

DATE: 12/20/2007

LVNV FUNDING LLC  
c/o Apotheker & Associates, P.C.  
2417 Welsh Road, Suite 21 #520  
Philadelphia, PA 19114

DEBBIE A KIRSCH  
203 NICHOLS ST  
CLEARFIELD, PA 16830

STATEMENT OF ACCOUNT

Debtor's Name: DEBBIE A KIRSCH  
Account Number: 1150103400968  
Original Creditor: CITI-SEARS  
Balance Due: \$1,354.71

Our File No.: 128964

EXHIBIT "A"

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

LVNV FUNDING LLC,  
Plaintiff

vs.

Debbie A. Kirsch,  
Defendant

\*

\*  
\* NO.: 07-2100-CD

\*

\* Type of Case: Civil

\*

\* Type of Pleading: Preliminary  
\* Objections

\*

\* Filed on Behalf of: Defendant

\*

\* Counsel of Record for this Party:  
\* Robin Jean Foor, Esquire

\*

\* Supreme Court No.: 41520

\*

\* MidPenn Legal Services  
\* 211 East Locust Street  
\* Clearfield, PA 16839  
\* (814)765-9646

FILED 3CC  
01/28/08  
JAN 25 2008 Atty Foor

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LVNV FUNDING, LLC, :  
Plaintiff : Civil Action  
vs. : No. 07-2100-CD  
DEBBIE A. KIRSCH, :  
Defendant :  
:

**DEFENDANT'S PRELIMINARY OBJECTIONS**  
**TO PLAINTIFF'S COMPLAINT**

Pursuant to Pa. R.C.P. No. 1028(c), Defendant Deborah A. Kirsch, by and through her attorneys, Robin Jean Foor, and MidPenn Legal Services preliminarily objects to Plaintiff's Complaint and moves for its dismissal as follows:

## **I. PRELIMINARY OBJECTIONS RAISING FAILURE OF A PLEADING TO CONFORM TO LAW OR RULE OF COURT Pa. R.C.P. 1028 (a)(2)**

1. Pennsylvania Rule of Civil Procedure 1019(i) states that “when a claim is based on upon a writing, the pleader shall attach a copy of the writing or the material part thereof...”
2. Plaintiff lists the original creditor as Citi-Sears and therefore plaintiff must be an assignee of the original creditor.
3. Plaintiff has failed to attach any documentation of the assignment.
4. Plaintiff filed a Complaint demanding damages in the amount of \$ 1,354.17 plus attorney fees and costs.
5. Plaintiff has failed to attach to the Complaint a signed written contract between Plaintiff and Defendant. Such writing would form the very core of Plaintiff’s case, but such

writing has not been appended to the Complaint, nor its absence explained, as required by Pa.R.C.P. No. 1019(h) and (i).

WHEREFORE, Defendant respectfully requests that the Court sustain Defendant's Preliminary Objections and dismiss Plaintiff's Complaint.

**II. PRELIMINARY OBJECTION RAISING INSUFFICIENT SPECIFICITY IN A PLEADING Pa. R.C.P. 1028 (a)(3)**

1. The Complaint contains alleged claims for money owed but fails to provide adequate documentation or accounting of charges allegedly made by Defendant, which would support Plaintiff's claim of damages, such as a breakdown of charges, payments, and interest, so that Defendant can properly formulate a response and assert any counterclaims.

2. The Complaint is deficient in reciting factual averments and Defendant is without information upon which she can premise a meaningful response and formulate a defense.

WHEREFORE, Defendant respectfully requests that the Court sustain Defendant's Preliminary Objections and dismiss Plaintiff's Complaint.

Respectfully submitted,

**MidPenn Legal Services**  
Attorneys for Defendant

1-25-08  
Date

BY:   
\_\_\_\_\_  
Robin Jean Foor, Esquire  
ID# 41520

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

LVNV FUNDING LLC,  
Plaintiff

vs.

Debbie A. Kirsch,  
Defendant

\*

\* NO.: 07-2100-CD

\*

\* Type of Case: Civil

\*

\* Type of Pleading: Certificate of  
Service

\*

\* Filed on Behalf of: Defendant

\*

\* Counsel of Record for this Party:

\* Robin Jean Foor, Esquire

\*

\* Supreme Court No.: 41520

\*

\* MidPenn Legal Services

\* 211 East Locust Street

\* Clearfield, PA 16839

\* (814)765-9646

FILED <sup>1CC</sup>  
01/23/2008 *Att'y Foor*  
JAN 30 2008  
*LM*  
William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

LVNV FUNDING, LLC,

Plaintiff : Civil Action

vs. : No. 07-2100-CD

DEBBIE A. KIRSCH,

Defendant :

CERTIFICATE OF SERVICE

I, Robin Jean Foor, Esquire, hereby certify that on the 29<sup>th</sup> day of January, 2008, I served a copy of the Preliminary Objections filed in that above captioned matter to the following individual by first class mail, postage prepaid:

David J. Apotheker, Esquire  
2417 Welsh Road, Suite 21 #520  
Philadelphia, PA 19114



---

Robin Jean Foor  
PA ID # 41520  
MidPenn Legal Services Inc.  
211 East Locust Street  
Clearfield, PA 16803  
(814)765-9646

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

LVNV FUNDING LLC,  
Plaintiff

vs.

Debbie A. Kirsch,  
Defendant

- \*
- \*
- \* NO.: 07-2100-CD
- \*
- \* Type of Case: Civil
- \*
- \* Type of Pleading: Petition to Schedule
- \* Argument on Preliminary Objections
- \*
- \* Filed on Behalf of: Defendant
- \*
- \* Counsel of Record for this Party:
- \* Robin Jean Foor, Esquire
- \*
- \* Supreme Court No.: 41520
- \*
- \* MidPenn Legal Services
- \* 211 East Locust Street
- \* Clearfield, PA 16839
- \* (814)765-9646

FILED 3CC  
01/5/08 Atty Foor  
FEB 25 2008

William A. Shaw  
Prothonotary/Clerk of Courts

(GK)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LVNV FUNDING, LLC,

Plaintiff : Civil Action

vs. : No. 07-2100-CD

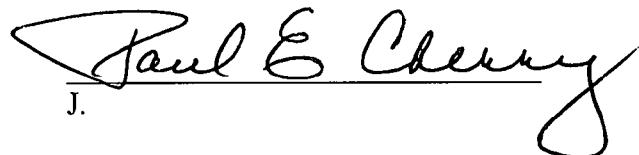
DEBBIE A. KIRSCH,

Defendant

ORDER

AND NOW, this 28<sup>th</sup> day of February, 2008, upon consideration of Defendant Deborah A. Kirsch's Preliminary Objections filed in the above captioned matter, it is the Order of the Court that argument has been scheduled for the 28<sup>th</sup> day of March, 2008 at 1:30 o'clock PM in Courtroom # 2, Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT,

  
J.

FILED 3cc  
01/14/2008 Atty Foor  
FEB 28 2008  
610  
William A. Shaw  
Prothonotary/Clerk of Courts

**FILED**

**FEB 28 2008**

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 2/28/08

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:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

LVNV FUNDING, LLC,

Plaintiff : Civil Action

vs. : No. 07-2100-CD

DEBBIE A. KIRSCH,

Defendant :

PETITION TO SCHEDULE ARGUMENT ON DEFENDANT'S PRELIMINARY  
OBJECTIONS TO PLAINTIFF'S COMPLAINT

Defendant, Deborah A. Kirsch, by and through her attorneys, Robin Jean Foor, Esq and MidPenn Legal Services, requests the court to schedule the argument on defendant's objections and alleges as follows:

1. Plaintiff filed a complaint on or about December 26, 2007.
2. Defendant filed preliminary objections to the complaint on January 25, 2008.
3. As of February 22, 2008, the plaintiff has not filed an amended complaint.

WHEREFORE, defendant requests the Court to schedule argument on the Preliminary Objections.

  
\_\_\_\_\_  
Robin Jean Foor

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

LVNV FUNDING LLC,  
Plaintiff

vs.

Debbie A. Kirsch,  
Defendant

\*  
\* NO.: 07-2100-CD  
\*  
\* Type of Case: Civil  
\*  
\* Type of Pleading: Certificate of Service  
\*  
\* Filed on Behalf of: Defendant  
\*  
\* Counsel of Record for this Party:  
\* Robin Jean Foor, Esquire  
\*  
\* Supreme Court No.: 41520  
\*  
\* MidPenn Legal Services  
\* 211 East Locust Street  
\* Clearfield, PA 16839  
\* (814)765-9646

FILED  
01/30/08  
MAR 19 2008  
ATTY FOOR  
LAW  
William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

LVNV FUNDING, LLC,

Plaintiff : Civil Action

vs. : No. 07-2100-CD

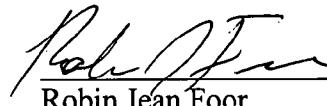
DEBBIE A. KIRSCH,

Defendant :

CERTIFICATE OF SERVICE

I, Robin Jean Foor, Esquire, hereby certify that on the 28<sup>th</sup> day of February, 2008, I served a copy of the Petition and Order scheduling argument on Preliminary Objections filed in that above captioned matter to the following individual by first class mail, postage prepaid:

David J. Apothaker, Esquire  
2417 Welsh Road, Suite 21 #520  
Philadelphia, PA 19114



---

Robin Jean Foor  
PA ID # 41520  
MidPenn Legal Services Inc.  
211 East Locust Street  
Clearfield, PA 16803  
(814)765-9646

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

LVNV FUNDING, LLC

VS

: NO. 07-2100-CD

DEBBIE A. KIRSCH

FILED

MAR 28 2008

William A. Shaw  
Prothonotary/Clerk of Courts

O R D E R

NOW, this 28th day of March, 2008, this being the date set for Argument on Preliminary Objections filed on behalf of the Defendant Debbie A. Kirsch, the Court noting that Plaintiff nor its counsel have appeared despite receiving due and proper notice, upon presentation of the issues before the Court and upon consideration of same, it is the ORDER of this Court that Defendant's Preliminary Objections shall be and are hereby SUSTAINED and Plaintiff's complaint shall be and is hereby DISMISSED with prejudice.

BY THE COURT,

Paul E. Cleary

Judge

DATE: 7/28/08  
You are responsible for serving all appropriate parties to the following:  
 Plaintiff(s) Attorney  Plaintiff(s) Attorney  
 The Prothonotary  Defendant(s) Attorney  
 Plaintiff(s)  Defendant(s) Attorney  
 Defendant(s)  
 Special Instructions:

William A. Shaw  
Prothonotary/Clerk of Courts

MAR 28 2009

FILED

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 103577  
NO: 07-2100-CD  
SERVICE # 1 OF 1  
COMPLAINT

PLAINTIFF: LVNV FUNDING LLC  
VS.  
DEFENDANT: DEBBIE A. KIRSCH

FILED

03/20/08  
MAY 01 2008

William A. Shaw  
Prothonotary/Clerk of Courts

SHERIFF RETURN

NOW, January 14, 2008 AT 11:30 AM SERVED THE WITHIN COMPLAINT ON DEBBIE A. KIRSCH DEFENDANT AT 203 NICHOLS ST., CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO DEBBIE A KIRSCH, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: DEHAVEN / HUNTER

PURPOSE	VENDOR	CHECK #	AMOUNT
SURCHARGE	APOTHAKER	69214	10.00
SHERIFF HAWKINS	APOTHAKER	69214	20.00

Sworn to Before Me This

\_\_\_\_ Day of \_\_\_\_\_ 2008

So Answers,

*Chester A. Hawkins*  
*by Marilyn Harn*  
Chester A. Hawkins  
Sheriff