

08-1550-CD
Erin Capital vs Shirley Belgin

COMMONWEALTH OF PENNSYLVANIA

COURT OF COMMON PLEAS

Judicial District, County Of Clearfield

NOTICE OF APPEAL

FROM

MAGISTERIAL DISTRICT JUDGE JUDGMENT

COMMON PLEAS No. 2008-1550-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 Magisterial District Judge on the date and in the case referenced below.

NAME OF APPELLANT Shirley Belgin	MAG. DIST. NO. 46-3-04	NAME OF MDJ James L. Hawkins
ADDRESS OF APPELLANT 742 Railroad St.	CITY Coalport	STATE PA
DATE OF JUDGMENT 07/22/2008	IN THE CASE OF (Plaintiff) Erin Capital Management, LLC	ZIP CODE 16627
DOCKET No. CV-0000063-08	SIGNATURE OF APPELLANT OR ATTORNEY OR AGENT	

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 Magisterial District Judge, 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 Magisterial District Judge, A COMPLAINT MUST BE FILED within

(20) days after filing the NOTICE of APPEAL.

Signature of Prothonotary or Deputy

FILED

07/14/08

AUG 19 2008

Att. Durant

ICC MDJ

PRAECIPE TO ENTER RULE TO FILE COMPLAINT AND RULE TO FILE

William A. Shaw

Hawkins

Att. Durant

Att. Shapiro

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 Magisterial District Judge. IF NOT USED, detach from copy of notice of appeal to be served upon appellee.

PRAECIPE: To Prothonotary

Enter rule upon Erin Capital Management, LLC appellee(s), to file a complaint in this appeal
Name of appellee(s)

(Common Pleas No. 2008-1550-CD) within twenty (20) days after service of rule or suffer entry of judgment of non pros.

Timothy E. Durant
Signature of appellant or attorney or agent

RULE: To them Erin Capital Management, LLC appellee(s)
Name of appellee(s)

OWNER

(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 JUDGMENT OF NON PROS MAY BE ENTERED AGAINST YOU.

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

Date Aug 19, 2008

William A. Shaw cm
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 the notice of appeal. Check applicable boxes)

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF _____; SS

AFFIDAVIT: I hereby swear or affirm that I served

- ☐ a copy of the Notice of Appeal, Common Pleas No. _____, upon the Magisterial District Judge 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 official before whom affidavit was made

Signature of affiant

Title of official

My commission expires on _____, 20____

COMMONWEALTH OF PENNSYLVANIA

COURT OF COMMON PLEAS

Judicial District, County Of Clearfield

NOTICE OF APPEAL

FROM

MAGISTERIAL DISTRICT JUDGE JUDGMENT

COMMON PLEAS No.

2008-1550-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 Magisterial District Judge on the date and in the case referenced below.

NAME OF APPELLANT Shirley Belgin	MAG. DIST. NO. 46-3-04	NAME OF MDJ James L. Hawkins
ADDRESS OF APPELLANT 742 Railroad St.	CITY Coalport	STATE PA
DATE OF JUDGMENT 07/22/2008	IN THE CASE OF (Plaintiff) Erin Capital Management, LLC	ZIP CODE 16627
DOCKET No. CV-0000063-08	(Defendant) vs. Shirley Belgin	
SIGNATURE OF APPELLANT OR ATTORNEY OR AGENT		

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 Magisterial District Judge, 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 Magisterial District Judge, A COMPLAINT MUST BE FILED within

(20) days after filing the NOTICE of Appeal by certifying this Notice of Appeal and attested copy of the original statement filed in this case.

Signature of Prothonotary or Deputy

AUG 16 2008
Hawkins
Prothonotary
District Courts

PRAECIPE TO ENTER RULE TO FILE COMPLAINT AND RULE TO FILE

Attest.

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 Magisterial District Judge. IF NOT USED, detach from copy of notice of appeal to be served upon appellee.

PRAECIPE: To Prothonotary

Enter rule upon **Erin Capital Management, LLC** appellee(s), to file a complaint in this appeal
Name of appellee(s)

(Common Pleas No. **2008-1550-CD**) within twenty (20) days after service of rule or suffer entry of judgment of non-pros.

Timothy E. Durant
Signature of appellant or attorney or agent

RULE: To **Erin Capital Management, LLC** appellee(s)
Name of appellee(s)

OWNER

(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 JUDGMENT OF NON PROS MAY BE ENTERED AGAINST YOU.

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

Date **Aug 19**, 20**08**

Willie L. Lister
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 the notice of appeal. Check applicable boxes)

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF _____; SS

AFFIDAVIT: I hereby swear or affirm that I served

- ☐ a copy of the Notice of Appeal, Common Pleas No. _____, upon the Magisterial District Judge 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 official before whom affidavit was made

Signature of affiant

Title of official

My commission expires on _____, 20____

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.: **46-3-04**
MDJ Name: Hon. **JAMES L. HAWKINS**
Address: **251 SPRING ST**
PO BOX 362
HOUTZDALE, PA
Telephone: **(814) 378-7160** **16651-0362**

SHIRLEY BELGIN
742 RAILROAD ST
P.O. BOX 163
COALPORT, PA 16627

**NOTICE OF JUDGMENT/TRANSCRIPT
CIVIL CASE**

PLAINTIFF: NAME and ADDRESS
ERIN CAPITAL MANAGEMENT LLC
35 EAST 21ST ST
5TH FLOOR
NEW YORK, NY 10010

VS.
DEFENDANT: NAME and ADDRESS
BELGIN, SHIRLEY
742 RAILROAD ST
P.O. BOX 163
COALPORT, PA 16627

Docket No.: **CV-0000063-08**
Date Filed: **6/16/08**



THIS IS TO NOTIFY YOU THAT:

Judgment: **FOR PLAINTIFF** (Date of Judgment) **7/22/08**

☒ Judgment was entered for: (Name) **ERIN CAPITAL MANAGEMENT LLC**

☒ Judgment was entered against: (Name) **BELGIN, SHIRLEY**
in the amount of \$ **7,959.69**

☐ 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	\$ 7,800.00
Judgment Costs	\$ 159.69
Interest on Judgment	\$.00
Attorney Fees	\$.00
Total	\$ 7,959.69
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.

7-22-08 Date *James L. Hawkins*, Magisterial District Judge

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

8-18-08 Date *James L. Hawkins*, Magisterial District Judge

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

AOPC 315-07

DATE PRINTED: 7/22/08 12:25:00 PM

SEAL

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: **CLEARFIELD**

Mag. Dist. No.: 46-3-04
MDJ Name: Hon. JAMES L. HAWKINS
Address: 251 SPRING ST PO BOX 362 HOUTZDALE, PA
Telephone: (814) 378-7160 16651-0362

JAMES L. HAWKINS
251 SPRING ST
PO BOX 362
HOUTZDALE, PA 16651-0362

**NOTICE OF JUDGMENT/TRANSCRIPT
CIVIL CASE**

PLAINTIFF: NAME and ADDRESS
ERIN CAPITAL MANAGEMENT LLC
35 EAST 21ST ST
5TH FLOOR
NEW YORK, NY 10010

VS.
DEFENDANT: NAME and ADDRESS
BELGIN, SHIRLEY
742 RAILROAD ST
P.O. BOX 163
COALPORT, PA 16627

Docket No.: **CV-0000063-08**
Date Filed: **6/16/08**



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☒ Judgment was entered for: (Name) **ERIN CAPITAL MANAGEMENT LLC**

☒ Judgment was entered against: (Name) **BELGIN, SHIRLEY**
in the amount of \$ **7,959.69**

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☐ Damages will be assessed on Date & Time _____

☐ This case dismissed without prejudice.

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

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residential lease \$ _____

Amount of Judgment	\$ 7,800.00
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FILED

AUG 21 2008

William A. Shaw
Prothonotary/Clerk of Courts

7-22-08 Date *James L. Hawkins*, Magisterial District Judge

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

8-18-08 Date *James L. Hawkins*, Magisterial District Judge

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

SEAL

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: CLEARFIELD

CIVIL COMPLAINT

Magisterial District Number:

46-3-04

MDJ Name: Hon.

JAMES L. HAWKINS

Address: 430 SPRING STREET, SUITE 3

PO BOX 362

HOUTZDALE, PA 16651

Telephone: (814)378-7160

PLAINTIFF:

NAME and ADDRESS

ERIN CAPITAL MANAGEMENT LLC

35 EAST 21ST STREET

5TH FLOOR

NEW YORK, NY 10010

VS.

DEFENDANT:

NAME and ADDRESS

SHIRLEY BELGIN

742 RAILROAD STREET

COALPORT, PA 16627-0163

Docket No.: CV-63-08

Date Filed: 6-16-08



	AMOUNT	DATE PAID
FILING COSTS	\$ <u>190.00</u>	<u>6/16/08</u>
POSTAGE	\$ _____	<u>/ /</u>
SERVICE COSTS	\$ _____	<u>/ /</u>
CONSTABLE ED.	\$ _____	<u>/ /</u>
TOTAL	\$ _____	<u>/ /</u>

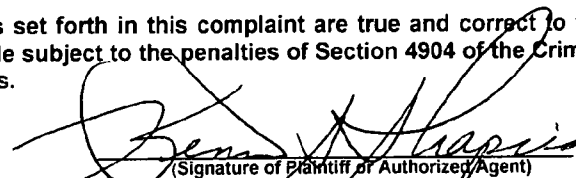
Pa.R.C.P.D.J. No. 206 sets forth those costs recoverable by the prevailing party.

TO THE DEFENDANT: The above named plaintiff(s) asks judgment against you for \$ 7,800.00 together with costs upon the following claim (Civil fines must include citation of the statute or ordinance violated):

Plaintiff acquired the obligation originally issued by Provident Financial Corp. (Mastercard). Plaintiff demands of Defendant(s) the unpaid principal balance due under the credit card agreement Mastercard Acct. # 5184450030071017. There is due and owing from defendant the sum of \$7,800.00, see affidavit attached (Exhibit "A").

In accordance with the Fair Debt Collection Practices Act, 15 U.S.C.A. 1692(e) on December 21, 2007, Plaintiff's counsel sent a written notice to Defendant. To date, Plaintiff's counsel has not received written notification from Defendant that the debt is disputed. (See Exhibit "B").

I, Kenneth Shapiro, Attorney for Plaintiff verify that the facts set forth in this complaint are true and correct to the best of my knowledge, information, and belief. This statement is made subject to the penalties of Section 4904 of the Crimes Code (18 PA. C.S. § 4904) related to unsworn falsification to authorities.


(Signature of Plaintiff or Authorized Agent)

Plaintiff's

Attorney: Kenneth S Shapiro Esq., ID26850

Telephone: (610)668-0707

Address: 33 Rock Hill Road, Suite 150

Bala Cynwyd, PA 19004-5050

IF YOU INTEND TO ENTER A DEFENSE TO THIS COMPLAINT, YOU SHOULD SO NOTIFY THIS OFFICE IMMEDIATELY AT THE ABOVE TELEPHONE NUMBER. YOU MUST APPEAR AT THE HEARING AND PRESENT YOUR DEFENSE. UNLESS YOU DO, JUDGMENT MAY BE ENTERED AGAINST YOU BY DEFAULT.

If you have a claim against the plaintiff which is within magisterial district judge jurisdiction and which you intend to assert at the hearing, you must file it on a complaint form at this office at least five (5) days before the date set for the hearing.

If you are disabled and require a reasonable accommodation to gain access to the Magisterial District Court and its services, please contact the Magisterial District Court at the above address or telephone number. We are unable to provide transportation.

AFFIDAVIT OF INDEBTEDNESS

STATE OF NEW YORK

COUNTY OF NEW YORK

Name: Shirley Belgin

Providian Financial Corp Account No. 5184450030071017

Carl Fon, being sworn, deposes and says that the Affiant making this affidavit is an employee of Erin Capital Management LLC (the "Company"), which is located at 35 East 21st Street, New York, NY 10010. The Affiant is authorized to make the statements and representations herein. The Company's business records show that there was due and payable from Shirley Belgin, Account #5184450030071017 the amount of \$24,880.44. The Company's records reflect the date of last payment as 09/26/2005. The Company acquired this account as assignee in interest from First American Receivables Company, LLC on November 28, 2007. The amount was originally due and owing to Providian Financial Corp. The Affiant states to the best of his knowledge, information and belief there are no uncredited payments against the said debt.

Dated this 17 day of ~~December~~ ^{January}, 2008

ERIN CAPITAL MANAGEMENT LLC.
The Company

By: _____

Printed Name: Carl Fon, Asst. Secretary

Subscribed to and sworn to before me this 17 day of ~~December~~ ^{January}, 2008 by Carl Fon, Assistant Secretary of the Company.

Albert McConnach
Notary Public

ALBERT MCCONNACH
Notary Public, State of New York
No. 01MC6164157
Qualified in Kings County
Commission Expires April 9, 2011

EE539



Erin Capital Management, LLC
35 East 21st Street – 5th Floor
New York, NY 10010

STATEMENT OF TRANSACTIONAL HISTORY

Shirley Belgin
Po Box 163
Coalport, PA 16627-0163

Minimum Payment Due	\$24,880.44
Payment Due Date	December 14, 2007
Statement Closing Date	December 14, 2007

Original Creditor: **Providian Financial Corp**
Account Number: **5184450030071017**
Current Creditor: **ERIN Capital Management LLC**

ACCOUNT SUMMARY

New Balance	\$24,880.44
Previous Balance	\$24,880.44
Payments and Credits	0.00
Purchases and Debits	0.00
Cash Advances	0.00
Finance Charges	0.00

TRANSACTIONS

DESCRIPTION		AMOUNT
December 14, 2007	Account Purchased by Erin Capital Management	\$24,880.44

YOUR ACCOUNT IS CURRENTLY PAST DUE AND IS CLOSED TO FURTHER PURCHASES

545P2673

SHAPIRO LAW OFFICE, P.C.

P.O. Box 1050
33 ROCK HILL ROAD, SUITE 150
BALA CYNWYD, PA. 19004-5050
(610) 668-0707

Postmaster:

COALPORT, PA 16627-0163

Date: April 7, 2008

Request for Change of Address or Boxholder
Information Needed for Service of Legal Process

Please furnish the new address or the name and street address (if a boxholder) for the following:

Name: Shirley Belgin
Address: PO BOX 163

NOTE: The name and last known address are required for change of address information. The name, if known, and post office box address are required for boxholder information.

The following information is provided in accordance with 30 CFR 265.6(d)(6)(ii). There is no fee for providing boxholder information. The fee for providing change of address information is waived in accordance with 39 CFR 265.6(d)(1) and (2) and corresponding Administrative Support Manual 352.44a and b.

1. Capacity of requester (e.g. process server, attorney, party representing himself): Attorney
2. Statute or regulation that empowers me to serve process (not required when requester is an attorney or a party acting pro se – except a corporation acting pro se must cite).
3. The names of all known parties to the litigation: Erin Capital Management, LLC vs. Shirley Belgin
4. The court in which the case has been or will be heard: District Magistrate Court
5. The docket or identifying number if one has been issued: The Sheriff and/or Constable requires a street address for service. Suit will be filed as soon as one is obtained.
6. The capacity in which this individual is to be served (e.g. defendant or witness): Defendant

WARNING

THE SUBMISSION OF FALSE INFORMATION TO OBTAIN AND USE CHANGE OF ADDRESS INFORMATION OR BOXHOLDER INFORMATION FOR ANY PURPOSE OTHER THAN THE SERVICE OF LEGAL PROCESS IN CONNECTION WITH ACTUAL OR PROSPECTIVE LITIGATION COULD RESULT IN CRIMINAL PENALTIES INCLUDING A FINE OF UP TO \$10,000 OR IMPRISONMENT OR (2) TO AVOID PAYMENT OF THE FEE FOR CHANGE OF ADDRESS INFORMATION OF NOT MORE THAN 5 YEARS, OR BOTH (TITLE 18 U.S.C. SEC. 1001)

I certify that the above information is true and that the address information is needed and will be used solely for service of legal process in connection with actual or prospective litigation.

Signature

Gretchen Hibbs, Esq.

I.D. No. 46406

SHAPIRO LAW OFFICE, P.C.

33 ROCK HILL ROAD, SUITE 150

BALA CYNWYD, PA. 19004-5050

FOR POST OFFICE USE ONLY

- ☐ Not known at address given
☐ Moved, left no forwarding address
☒ No such address
☒ Good As Address

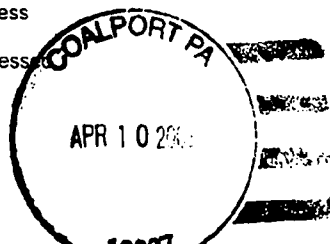
No Change of Address order on file.

BOXHOLDER'S

NAME AND STREET ADDRESS

PO Box 163

COALPORT, PA 16627-0163



SHAPIRO LAW OFFICE, P.C.

P.O. Box 1050
33 Rock Hill Road - Suite 150
Bala Cynwyd, PA 19004-5050
(610) 668-0707
Fax (610) 668-1815

December 21, 2007

File No. EE539/ 545P2673

Mastercard Acct# 5184450030071017

Shirley Belgin
Po Box 163
Coalport, PA 16627-0163

RE: Erin Capital Management, LLC
VS : Shirley Belgin

Dear Shirley Belgin,

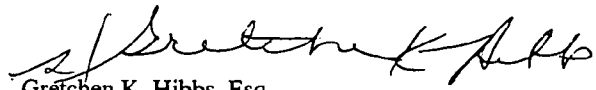
Erin Capital Management LLC as successor in interest to Providian Financial Corp, has retained this firm to collect the debt of \$24,880.44 that you now owe to Erin Capital Management, LLC. You should direct all future communications regarding this matter to my attention at the above address and telephone number.

The account is overdue. Payment in full is hereby requested. You have not paid the balance due on the account and are in default of your agreement.

Please contact this office within thirty (30) days of the date of this letter to make arrangements for payment of the above debt. Monthly payments are acceptable. We only ask that you remember this debt each month when you pay your other bills.

If we do not hear from you within thirty days, we may proceed with all actions of law, including suit and proceedings in attachment of assets, without further demand.

Very truly yours,


Gretchen K. Hibbs, Esq.
For the Firm

UNLESS YOU NOTIFY THIS OFFICE WITHIN 30 DAYS AFTER RECEIVING THIS NOTICE THAT YOU DISPUTE THE VALIDITY OF THIS DEBT OR ANY PORTION THEREOF, THIS OFFICE WILL ASSUME THIS DEBT IS VALID. IF YOU NOTIFY THIS OFFICE IN WRITING WITHIN 30 DAYS FROM RECEIVING THIS NOTICE, THIS OFFICE WILL: OBTAIN VERIFICATION OF THE DEBT OR OBTAIN A COPY OF A JUDGMENT AND MAIL YOU A COPY OF SUCH JUDGMENT OR VERIFICATION. IF YOU REQUEST THIS OFFICE IN WRITING WITHIN 30 DAYS AFTER RECEIVING THIS NOTICE, THIS OFFICE WILL PROVIDE YOU WITH THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR, IF DIFFERENT FROM THE CURRENT CREDITOR.

THIS IS AN ATTEMPT TO COLLECT A DEBT BY A DEBT COLLECTOR AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

SHAPIRO LAW OFFICE P.C.
BY: Kenneth S. Shapiro, Esq.
Identification No. 26850
P.O. Box 1050
33 Rock Hill Road Suite 150
Bala Cynwyd, PA 19004
610-668-0707

FILED 2cc AH
m/12:50pm Shapiro
SEP - 2 2008
William A. Shaw
Prothonotary/Clerk of Courts

Erin Capital Management, LLC
35 East 21st Street, 5th Floor
New York, NY 10010

: IN THE COURT OF COMMON PLEAS
CLEARFIELD COUNTY, PA

Plaintiff

Vs.

Shirley Belgin
742 Railroad Street
Coalport, PA 16627

CASE NO. 2008 - 1550 - CD

Defendant(s)

NOTICE

You have been sued in the Court of Common Pleas of CLEARFIELD County, in the Commonwealth of Pennsylvania. 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 is served, by entering a written appearance personally or via attorney, by filing, in writing with the above captioned 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, 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.

Daniel J. Nelson, Court Administrator
Clearfield County Courthouse
Clearfield, PA 16830
(814) 765-2641 ext. 5982

SHAPIRO LAW OFFICE P.C.
BY: Kenneth S. Shapiro, Esq.
Identification No. 26850
P.O. Box 1050
33 Rock Hill Road Suite 150
Bala Cynwyd, PA 19004
610-668-0707

Erin Capital Management, LLC
35 East 21st Street, 5th Floor
New York, NY 10010

Plaintiff

Vs.

Shirley Belgin
742 Railroad Street
Coalport, PA 16627

Defendant(s)

: IN THE COURT OF COMMON PLEAS
CLEARFIELD COUNTY, PA

:

:

:

:

:

:

CASE NO. 2008 – 1550 - CD

COMPLAINT

1. Plaintiff, Erin Capital Management, LLC, is a New York Company, with its principal place of business at 35 East 21st Street, 5th Floor, New York, NY 10010.
2. Defendant(s), Shirley Belgin, is/are individual(s), whose last known address is 742 Railroad Street, Coalport, PA 16627.
3. On or about November 1, 1993, Defendant(s) originally contracted with Providian Financial Corp. for a MasterCard Credit Card Account No. 5184450030071017 (the "Account"). (See Exhibit "A", Affidavit of Indebtedness attached hereto and made a part hereof.) The written application signed by the Defendant(s) for the account is not accessible, as it has not yet been provided to Plaintiff by Providian Financial Corp. or its assigns.

5. Defendant defaulted under the terms of the agreement in that she has failed to make any payments on the balance due on the account since September 26, 2005. The credit card agreement and subsequent statements are not presently available as they have not yet been provided to Plaintiff by Providian Financial Corp. or its assigns. Plaintiff's latest statement sent to Defendant is attached as Exhibit B, attached hereto and made a part hereof.
6. Plaintiff has duly made demand for payment from the Defendant, who has failed and refused to comply with said demand.
7. In accordance with the Fair Debt Collection Practices Act, 15 U.S.C.A. Sec. 1692(e) on December 21, 2007, Attorney for Plaintiff sent a written notice to Defendant specifying (among other things) the amount of the debt, the name of the creditor to whom the debt is owed and a statement that unless the Defendant notifies the attorney for Plaintiff in writing within the thirty-day period that the debt or any portion thereof is disputed, the debt would be assumed to be valid. To date, attorney for Plaintiff has not received any written notification from Defendant that the debt is disputed. (See Exhibit "C")
8. In accordance with the terms of the account and the underlying agreement with Providian Financial Corp., Defendant is obligated to the Plaintiff in the amount of \$24,880.44 (as of November 22, 2004), calculated as follows:

Principal Balance due on Account	\$ 24,880.44
----------------------------------	--------------

Total Amount Due	\$ 24,880.44
------------------	--------------

(See Exhibit "A", Affidavit of Indebtedness)

WHEREFORE, Plaintiff requests that this Court enter judgment in favor of Plaintiff and against the Defendant in the amount of \$24,880.44 plus interest and costs.

SHAPIRO LAW OFFICE P.C.

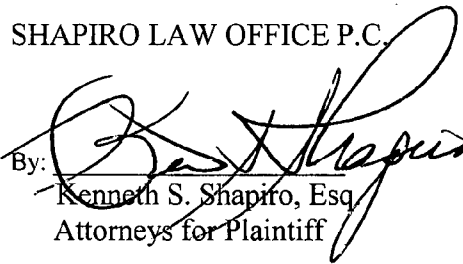
By: 
Kenneth S. Shapiro, Esq.
Attorneys for Plaintiff

EXHIBIT A

AFFIDAVIT OF INDEBTEDNESS

STATE OF NEW YORK

COUNTY OF NEW YORK

Name: Shirley Belgin

Providian Financial Corp Account No. 5184450030071017

Carl Fon, being sworn, deposes and says that the Affiant making this affidavit is an employee of Erin Capital Management LLC (the "Company"), which is located at 35 East 21st Street, New York, NY 10010. The Affiant is authorized to make the statements and representations herein. The Company's business records show that there was due and payable from Shirley Belgin, Account #5184450030071017 the amount of \$24,880.44. The Company's records reflect the date of last payment as 09/26/2005. The Company acquired this account as assignee in interest from First American Receivables Company, LLC on November 28, 2007. The amount was originally due and owing to Providian Financial Corp. The Affiant states to the best of his knowledge, information and belief there are no uncredited payments against the said debt.

Dated this 17 day of ~~December~~ ^{JANUARY}, 2008

ERIN CAPITAL MANAGEMENT LLC.
The Company

By: _____

Printed Name: Carl Fon, Asst. Secretary

Subscribed to and sworn to before me this 17 day of ~~December~~ ^{JANUARY}, 2008 by Carl Fon, Assistant Secretary of the Company.

Albert McConnach
Notary Public

ALBERT MCCONNACH
Notary Public, State of New York
No. 01MC6164157
Qualified in Kings County
Commission Expires April 9, 2011

EE539

EXHIBIT B



Erin Capital Management, LLC
35 East 21st Street – 5th Floor
New York, NY 10010

STATEMENT OF TRANSACTIONAL HISTORY

Shirley Belgin
Po Box 163
Coalport, PA 16627-0163

Minimum Payment Due	\$24,880.44
Payment Due Date	December 14, 2007
Statement Closing Date	December 14, 2007

Original Creditor: Providian Financial Corp
Account Number: 5184450030071017
Current Creditor: ERIN Capital Management LLC

ACCOUNT SUMMARY

New Balance	\$24,880.44
Previous Balance	\$24,880.44
Payments and Credits	0.00
Purchases and Debits	0.00
Cash Advances	0.00
Finance Charges	0.00

TRANSACTIONS

DESCRIPTION		AMOUNT
December 14, 2007	Account Purchased by Erin Capital Management	\$24,880.44

YOUR ACCOUNT IS CURRENTLY PAST DUE AND IS CLOSED TO FURTHER PURCHASES

545P2673

EXHIBIT C

SHAPIRO LAW OFFICE, P.C.

**P.O. Box 1050
33 Rock Hill Road - Suite 150
Bala Cynwyd, PA 19004-5050
(610) 668-0707
Fax (610) 668-1815**

December 21, 2007

File No. EE539/ 545P2673

Mastercard Acct# 5184450030071017

Shirley Belgin
Po Box 163
Coalport, PA 16627-0163

RE: Erin Capital Management, LLC
VS : Shirley Belgin

Dear Shirley Belgin,


Erin Capital Management LLC as successor in interest to Providian Financial Corp, has retained this firm to collect the debt of \$24,880.44 that you now owe to Erin Capital Management, LLC. You should direct all future communications regarding this matter to my attention at the above address and telephone number.

The account is overdue. Payment in full is hereby requested. You have not paid the balance due on the account and are in default of your agreement.

Please contact this office within thirty (30) days of the date of this letter to make arrangements for payment of the above debt. Monthly payments are acceptable. We only ask that you remember this debt each month when you pay your other bills.

If we do not hear from you within thirty days, we may proceed with all actions of law, including suit and proceedings in attachment of assets, without further demand.

Very truly yours,


Gretchen K. Hibbs, Esq.
For the Firm

UNLESS YOU NOTIFY THIS OFFICE WITHIN 30 DAYS AFTER RECEIVING THIS NOTICE THAT YOU DISPUTE THE VALIDITY OF THIS DEBT OR ANY PORTION THEREOF, THIS OFFICE WILL ASSUME THIS DEBT IS VALID. IF YOU NOTIFY THIS OFFICE IN WRITING WITHIN 30 DAYS FROM RECEIVING THIS NOTICE, THIS OFFICE WILL: OBTAIN VERIFICATION OF THE DEBT OR OBTAIN A COPY OF A JUDGMENT AND MAIL YOU A COPY OF SUCH JUDGMENT OR VERIFICATION. IF YOU REQUEST THIS OFFICE IN WRITING WITHIN 30 DAYS AFTER RECEIVING THIS NOTICE, THIS OFFICE WILL PROVIDE YOU WITH THE NAME AND ADDRESS OF THE ORIGINAL CREDITOR, IF DIFFERENT FROM THE CURRENT CREDITOR.

THIS IS AN ATTEMPT TO COLLECT A DEBT BY A DEBT COLLECTOR AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

SHAPIRO LAW OFFICE, P.C.

P.O. Box 1050
33 ROCK HILL ROAD, SUITE 150
BALA CYNWYD, PA. 19004-5050
(610) 668-0707

Postmaster:
COALPORT, PA 16627-0163

Date: April 7, 2008

Request for Change of Address or Boxholder
Information Needed for Service of Legal Process

Please furnish the new address or the name and street address (if a boxholder) for the following:

Name: Shirley Belgin
Address: PO BOX 163

NOTE: The name and last known address are required for change of address information. The name, if known, and post office box address are required for boxholder information.

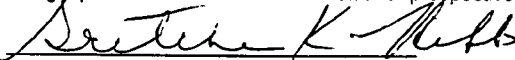
The following information is provided in accordance with 30 CFR 265.6(d)(6)(ii). There is no fee for providing boxholder information. The fee for providing change of address information is waived in accordance with 39 CFR 265.6(d)(1) and (2) and corresponding Administrative Support Manual 352.44a and b.

1. Capacity of requester (e.g. process server, attorney, party representing himself): Attorney
2. Statute or regulation that empowers me to serve process (not required when requester is an attorney or a party acting pro se – except a corporation acting pro se must cite).
3. The names of all known parties to the litigation: Erin Capital Management, LLC vs. Shirley Belgin
4. The court in which the case has been or will be heard: District Magistrate Court
5. The docket or identifying number if one has been issued: The Sheriff and/or Constable requires a street address for service. Suit will be filed as soon as one is obtained.
6. The capacity in which this individual is to be served (e.g. defendant or witness): **Defendant**

WARNING

THE SUBMISSION OF FALSE INFORMATION TO OBTAIN AND USE CHANGE OF ADDRESS INFORMATION OR BOXHOLDER INFORMATION FOR ANY PURPOSE OTHER THAN THE SERVICE OF LEGAL PROCESS IN CONNECTION WITH ACTUAL OR PROSPECTIVE LITIGATION COULD RESULT IN CRIMINAL PENALTIES INCLUDING A FINE OF UP TO \$10,000 OR IMPRISONMENT OR (2) TO AVOID PAYMENT OF THE FEE FOR CHANGE OF ADDRESS INFORMATION OF NOT MORE THAN 5 YEARS, OR BOTH (TITLE 18 U.S.C. SEC. 1001)

I certify that the above information is true and that the address information is needed and will be used solely for service of legal process in connection with actual or prospective litigation.



Signature
Gretchen Hibbs, Esq.
I.D. No. 46406

SHAPIRO LAW OFFICE, P.C.
33 ROCK HILL ROAD, SUITE 150
BALA CYNWYD, PA. 19004-5050

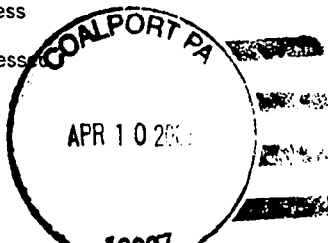
FOR POST OFFICE USE ONLY

- ☐ Not known at address given
- ☐ Moved, left no forwarding address
- ☐ No such address
- ☒ Good As Address

No Change of Address order on file.

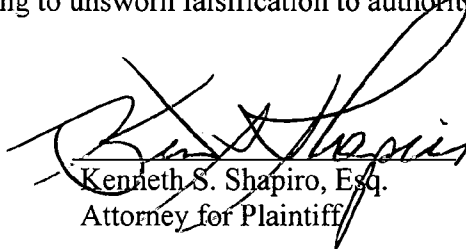
BOXHOLDER'S
NAME AND STREET ADDRESS

772 RAILROAD ST
P.O. Box 163
COALPORT, PA 16627-0163



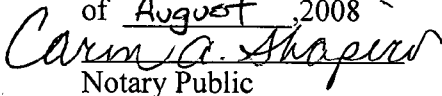
VERIFICATION

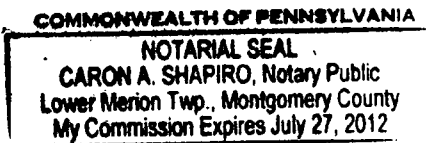
Kenneth S. Shapiro, Esq. states the he is the attorney for the Plaintiff, herein; that he is acquainted with the facts set forth in the foregoing Complaint; that the averments contained therein are true and correct to the best of his knowledge, information, and belief; that the Plaintiff is outside the jurisdiction of the court and verification cannot be obtained within the time allowed for filing; and that this statement is made subject to the penalties of 18 Pa.C.S. Sec. 4904 relating to unsworn falsification to authorities.


Kenneth S. Shapiro, Esq.
Attorney for Plaintiff

August 28, 2008
Dated

Sworn to and subscribed
before me this 28 day
of August, 2008

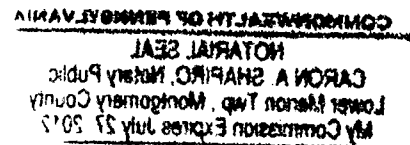

Notary Public



FILED

SEP - 2 2008

William A. Shaw
Prothonotary/Clerk of Courts



SHAPIRO LAW OFFICE, P.C.
BY: Kenneth S. Shapiro, Esq.
Identification No. 26850
P.O. Box 1050
33 Rock Hill Road, Suite 150
Bala Cynwyd, PA 19004-5050
610-668-0707

FILED
M 11:29 a.m. GK
SEP 12 2008 ICC Atty
William A. Shaw
Prothonotary/Clerk of Courts (CN)

Erin Capital Management, LLC	:	In The Court Of Common Pleas
35 East 21st Street	:	Clearfield County, PA
5th Floor	:	
New York, NY 10010-0000	:	
Plaintiff	:	
Vs.	:	
Shirley Belgin	:	CASE NO. 2008 - 1550 - CD
PO BOX 163	:	
COALPORT, PA 16627	:	
Defendant(s)	:	

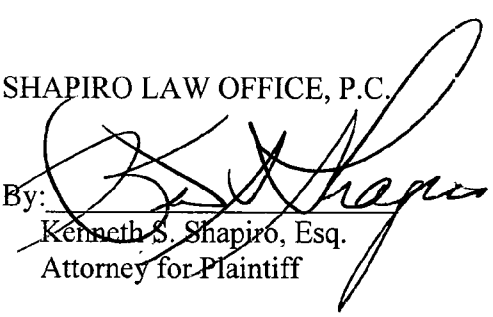
CERTIFICATE OF SERVICE

I, Kenneth S. Shapiro, Esq., attorney for Erin Capital Management, LLC, certify that I have served a true and correct copy of the Complaint upon Defendant, Shirley Belgin, by depositing a true and correct copy of the same in the United States mail, first-class postage prepaid, addressed as follows:

Timothy E. Durant, Esq.
Attorney for Defendant, Shirley Belgin
201 North 2ND Street
Clearfield, PA 16830

SHAPIRO LAW OFFICE, P.C.

By:


Kenneth S. Shapiro, Esq.
Attorney for Plaintiff

Date: Sept. 10, 2008

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

ERIN CAPITAL MANAGEMENT, LLC
Plaintiff

vs.

SHIRLEY BELGIN

Defendant

*
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*
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*
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No. 08-1550-CD

PRELIMINARY OBJECTIONS

FILED ON BEHALF OF
Defendant, Shirley Belgin

COUNSEL OF RECORD FOR
THIS PARTY:

TIMOTHY E. DURANT, ESQ.
Pa. I.D. No. 21352
201 North Second Street
Clearfield, PA 16830
(814) 765-1711 Telephone

OPPOSING COUNSEL: for plaintiff

KENNETH S. SHAPIRO
Pa. I.D. No. 26850
SHAPIRO LAW OFFICE, P.C.
P.O. Box 1050
33 Rock Hill Rd., Suite 150
Bala Cynwyd, PA 19004
(610) 668-0707 Telephone
(610) 668-1815 Facsimile

FILED

O 11:20 a.m. EK

SEP 26 2008

3cc Atty.

William A. Shaw
Prothonotary/Clerk of Courts

(42)

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

ERIN CAPITAL MANAGEMENT, LLC
Plaintiff

vs.

SHIRLEY BELGIN

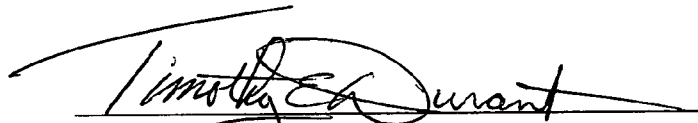
Defendant

*
* No. 08-1550-CD
*
*
*
*

To: Erin Capital Management, LLC
c/o KENNETH S. SHAPIRO, ESQ.
SHAPIRO LAW OFFICE, P.C.
P.O. Box 1050
33 Rock Hill Rd., Suite 150
Bala Cynwyd, PA 19004

NOTICE TO PLEAD

You are hereby notified to file a written response to the enclosed Preliminary Objections within twenty (20) days from service hereof or a judgment may be entered against you.



Timothy E. Durant, Esquire, Attorney for
Defendant, Shirley Belgin
201 North Second Street
Clearfield, PA 16830
(814) 765-1711

Dated: *September 26, 2008*

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

ERIN CAPITAL MANAGEMENT, LLC
Plaintiff

vs.

SHIRLEY BELGIN

Defendant

*
*
*
*
*
*

No. 08-1550-CD

PRELIMINARY OBJECTIONS

COUNT I - DEMURRER

Defendant, SHIRLEY BELGIN by her counsel, Timothy E. Durant, file these Preliminary
Objections to the Plaintiff's Complaint on the following basis:

1. Petitioner is Shirley Belgin, Defendant in the above-captioned case.
2. Respondent is Erin Capital Management, LLC, Plaintiff in the above-captioned case
and believed to be some type of collection agency.
3. Plaintiff commenced an action for \$24,880.44 plus interest and costs against Defendant
as a result of an alleged default involving an alleged MasterCard credit card issued by Providian
Financial Corp. and Plaintiff further alleged in Paragraph #3 and Exhibit "A" of the Complaint
that the card account No. was 5184450030071017.
4. No copy of any statement, signed by Defendant, for or pertaining to the said
MasterCard was attached to the Complaint.
5. No copy of any statement or cardholder agreement, signed by Defendant, was attached
to the Complaint and there is no exhibit attached which in any way is legally sufficient to bind the

Defendant to pay this account.

6. The Complaint does not show any signed agreement for any rate of interest by Defendant.

7. The Complaint does not provide any list of items charged by Defendant nor any bills submitted to Defendant by Master Card.

8. The Complaint does not contain any document evidencing Plaintiff's right to any assignment by Providian Financial Corp or any other entity signed by any person on behalf of the assignor.

9. The Plaintiff has provided no evidence of debt except for a one page sheet of paper apparently created by the collection agency itself (attached as Exhibit "A").

10. If the claim is based upon a writing, the Plaintiff has nevertheless failed to attach a copy of the writing to the Complaint. There is no document attached or pled which was signed by Defendant.

11. It is believed and therefore averred that the complaint fails to state facts sufficient to constitute a cause of action and is insufficient as a matter of law to permit Plaintiff's claim to be sustained or to permit Plaintiff to recover.

WHEREFORE Defendant requests this Court dismiss the Complaint for Plaintiff's failure to state a case upon which it is entitled to recover as a matter of law.

COUNT II - FAILURE TO CONFORM TO RULE OF COURT

12. Paragraphs 1 through 11 are incorporated by reference.

13. Pursuant to Pa Rules of Civil Procedure, Rule 1019(h), any claim which is based upon

an agreement must state in the pleading specifically whether the agreement is oral or written.

14. Pursuant to Pa Rules of Civil Procedure, Rule 1019(i), copies of a writing “shall be” attached to the Complaint.

15. Plaintiff has alleged an assignment of the MasterCard debt to the Plaintiff but has failed to attach any written instrument to verify such an assignment.

16. Plaintiff has inferred or alleged that there was a violation of an agreement pertaining to a “credit card” but has not attached any document evidencing such agreement to the Complaint.

17. Plaintiff has only attached an unverified, self-serving, one page, sheet of paper apparently created by the collection agency itself that is unsigned by the Defendant.

WHEREFORE the Petitioner requests this Court strike the Complaint for failure to comply with Pa.R.C.P. Nos. 1019(h) and 1019(i).

COUNT III - MOTION FOR MORE SPECIFIC PLEADING

In the alternative, if the Court does not dismiss or strike the Complaint, Defendant prays for the relief stated hereafter:

18. Paragraphs 1 through 17 are incorporated by reference.

19. The Complaint contains no listing of any item bought by Defendant.

20. The Complaint contains no statement of any amount expended by Defendant.

21. The Complaint contains no statement of any date upon which any item was purchased by Defendant.

22. The Complaint contains no statement of any payment made by Defendant with regard to dollar amount of such payment.

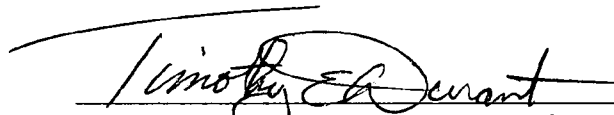
23. The Complaint contains no statement of any payment made by Defendant with regard to the date of such payment.

24. Plaintiff recites in conclusionary fashion that a balance of \$24,880.44 is due from Defendant. No documents or calculations are proffered by Plaintiff to support any of its above allegations.

25. Defendant is unable to respond to the Complaint as presented due to its vagueness and insufficient specificity.

WHEREFORE pursuant to Pa.R.C.P. No 1028(3) and in the alternative to dismissing or striking the Complaint as requested above, Defendant request that this Court order a timely, more specific pleading, in the absence of which the said Complaint shall be dismissed with prejudice.

Respectfully submitted,



Timothy E. Durant, Esquire, Attorney for
Defendant Shirley Belgin

DATE: September 26, 2008

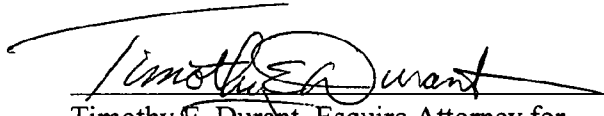
AFFIDAVIT OF SERVICE

TIMOTHY E. DURANT, certifies that on September 26, 2008 he did deposit in the United States mail a true and correct copy of the Preliminary Objections in the above captioned matter.

The said Preliminary Objections were sent to ERIN CAPITAL MANAGEMENT, LLC, Plaintiff, in care of its counsel:

KENNETH S. SHAPIRO, ESQ.
SHAPIRO LAW OFFICE, P.C.
P.O. Box 1050
33 Rock Hill Rd., Suite 150
Bala Cynwyd, PA 19004

Affiant understands that false statements herein are made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.


Timothy E. Durant, Esquire Attorney for
Shirley Belgin

Dated: September 26, 2008

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

⁵ FILED

ERIN CAPITAL MANAGEMENT, LLC

Plaintiff

CASE NUMBER: 08-1550-CD
OCT 14 2008
11:00/4
William A. Shaw
Notary/Clerk of Courts

Vs

SHIRLEY BELGIN

Defendant

TYPE OF PLEADING:
PLAINTIFF'S RESPONSE TO
DEFENDANT'S PRELIMINARY
OBJECTIONS
1 cert to
Att 670

FILED ON BEHALF OF:
PLAINTIFF, ERIN CAPITAL
MANAGEMENT, LLC

COUNSEL OF RECORD FOR PLAINTIFF:

Kenneth S. Shapiro, Esq.
I. D. #26950.
Shapiro Law Office, P.C.
33 Rock Hill Road, Suite 150
Bala Cynwyd, PA 19004
610-668-0707

COUNSEL FOR DEFENDANT:

Timothy E. Durant, Esq.
I. D. #21352
201 North Second Street
Clearfield, PA 16830
814-765-1711

SHAPIRO LAW OFFICE,P.C.
BY: Kenneth S. Shapiro, Esq.
Identification No. 26850
33 Rock Hill Road Suite 150
Bala Cynwyd, PA 19004
610-668-0707

Erin Capital Management, LLC
35 East 21st Street
5th Floor
New York, NY 10010-0000
Plaintiff

Vs.

Shirley Belgin
P.O. Box 163
Coalport, PA 16627

Defendant(s)

: Court Of Common Pleas
Clearfield County, PA

:

:

:

CASE NO. 08-1550-CD

:

**PLAINTIFF'S RESPONSE TO DEFENDANT'S
PRELIMINARY OBJECTIONS.**

Plaintiff, Erin Capital Management, LLC, by its attorneys, Shapiro Law Office,
P.C., responds to Defendant, Shirley Belgin's, Preliminary Objections as follows:

1. Admitted.

2. Admitted in part, denied in part. It is admitted that Erin Capital Management
LLC is the respondent in this matter. It is denied that Erin is some type of collection
agency. Erin is an investor that purchases distressed receivable portfolios.

3. Admitted.

4. Admitted. By way of further answer, in accordance with the Pa.R.C.P.
1019(i), Plaintiff stated that the application, signed by Defendant, was not presently
accessible as it had not been provided to Plaintiff by Providian Financial Corp or its
assigns.

5. Admitted in part, denied in part. It is admitted that no copy of any statement or cardholder agreement, signed by Defendant was attached to the complaint. By way of further answer, in accordance with the Pa.R.C.P. 1019(i), Plaintiff stated that any statement or cardholder agreement, signed by Defendant, was not presently accessible as it had not been provided to Plaintiff by Providian Financial Corp or its assigns. The balance of this averment is a legal conclusion to which no response is required, and it is therefore denied.

6. Admitted. By way of further answer, in accordance with the Pa.R.C.P. 1019(i), Plaintiff stated that the agreement reflecting the rate of interest was not accessible as it had not been provided to Plaintiff by Providian Financial Corp or its assigns.

7. Admitted. By way of further answer, in accordance with the Pa.R.C.P. 1019(i), Plaintiff stated that the credit card agreement and subsequent statements were not accessible as they had not been provided to Plaintiff by Providian Financial Corp or its assigns.

8. Denied. The Affidavit of Indebtedness attached as Exhibit "A" to the Complaint evidences the chain of title from Providian Financial Corp. to First American Receivables Company, LLC to Erin Capital Management LLC.

9. Denied. It is denied that Erin provided no evidence of debt. See Exhibit "A" attached to the complaint. It is denied that Erin is a collection agency.

10. Admitted in part, denied in part. It is admitted that the claim is based upon a writing. It is admitted that Plaintiff did not attach the writing to the complaint. However,

it is denied that Plaintiff did not state a cause of action upon which relief can be granted. Plaintiff complied with Pa.R.C.P. 1019(i), stating why the writing was not accessible.

11. Denied. It is denied that Plaintiff failed to state facts sufficient to constitute a cause of action and is insufficient as a matter of law to permit Plaintiff's claim to be sustained. On the contrary, Plaintiff complied with Pa.R.C.P. 1019(i), and has stated a cause of action upon which relief can be granted by this Court.

WHEREFORE, Plaintiff requests this Court to dismiss Defendant's Preliminary Objections and order Defendant to answer the Complaint.

COUNT II

12. Paragraphs 1 through 11 are incorporated by reference.

13. Admitted. By way of further answer, averment #3 of the Complaint states that it was a written agreement.

14. Admitted. Pa.R.C.P. 1019(i) states, "When any claim or defense is based upon a writing, the pleader shall attach a copy of the writing, or the material part hereof, **but if the writing or copy is not accessible to the pleader, it is sufficient so to state, together with the reason, and to set forth the substance in writing.**" (emphasis added)

15. Denied. Plaintiff did attach the Affidavit of Indebtedness, Exhibit "A" to the complaint outlining the assignment of the debt.

16. Admitted. Pa.R.C.P. 1019(i) states, "When any claim or defense is based upon a writing, the pleader shall attach a copy of the writing, or the material part hereof, **but if the writing or copy is not accessible to the pleader, it is sufficient so to state, together with the reason, and to set forth the substance in writing.**" (emphasis added)

17. Admitted in part. Denied in part. It is admitted that Plaintiff attached a one page Statement of Transactional History to the complaint. It is admitted that the Statement is not signed by the Defendant. It is denied that Plaintiff is a collection agency.

COUNT III – MOTION FOR MORE SPECIFIC PLEADING

18. Paragraphs 1 through 17 are incorporated by reference.

19. Admitted. Pa.R.C.P. 1019(i) states, “When any claim or defense is based upon a writing, the pleader shall attach a copy of the writing, or the material part hereof, **but if the writing or copy is not accessible to the pleader, it is sufficient so to state, together with the reason, and to set forth the substance in writing.**” (emphasis added)

20. Admitted. Pa.R.C.P. 1019(i) states, “When any claim or defense is based upon a writing, the pleader shall attach a copy of the writing, or the material part hereof, **but if the writing or copy is not accessible to the pleader, it is sufficient so to state, together with the reason, and to set forth the substance in writing.**” (emphasis added)

21. Admitted. Pa.R.C.P. 1019(i) states, “When any claim or defense is based upon a writing, the pleader shall attach a copy of the writing, or the material part hereof, **but if the writing or copy is not accessible to the pleader, it is sufficient so to state, together with the reason, and to set forth the substance in writing.**” (emphasis added)

22. Admitted. Pa.R.C.P. 1019(i) states, “When any claim or defense is based upon a writing, the pleader shall attach a copy of the writing, or the material part hereof, **but if the writing or copy is not accessible to the pleader, it is sufficient so to state, together with the reason, and to set forth the substance in writing.**” (emphasis added)

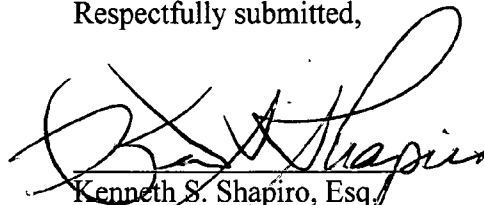
23. Admitted. Pa.R.C.P. 1019(i) states, "When any claim or defense is based upon a writing, the pleader shall attach a copy of the writing, or the material part hereof, **but if the writing or copy is not accessible to the pleader, it is sufficient so to state, together with the reason, and to set forth the substance in writing.**" (emphasis added)

24. Admitted. Pa.R.C.P. 1019(i) states, "When any claim or defense is based upon a writing, the pleader shall attach a copy of the writing, or the material part hereof, **but if the writing or copy is not accessible to the pleader, it is sufficient so to state, together with the reason, and to set forth the substance in writing.**" (emphasis added)

25. Denied. Plaintiff's complaint clearly states the nature of Plaintiff's claim and the extent of said claim, and is capable of being answered by Defendant.

WHEREFORE, Plaintiff request that this Court dismiss Defendant's Preliminary Objections, and order the Defendant to Answer the Complaint in a timely fashion.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kenneth S. Shapiro", is written over a horizontal line.

Kenneth S. Shapiro, Esq.
Attorney for Erin Capital Management LLC

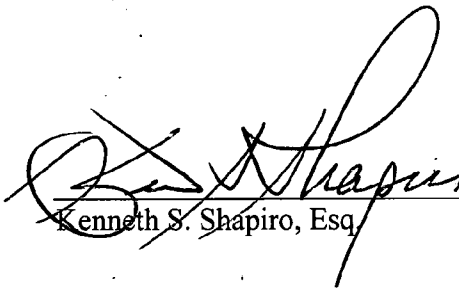
Dated: Oct. 8, 2008

CERTIFICATE OF SERVICE

I, Kenneth S. Shapiro, Esq., do hereby certify that I have served a true and correct copy of the within Plaintiff's Response to Defendant's Preliminary Objections on the Defendant by serving his counsel at the address listed below by United States Postal Service, First Class Regular Mail, Postage Prepaid.

Timothy E. Durant, Esq.
201 North Second Street
Clearfield, PA 16830

DATED: Oct. 8, 2008


Kenneth S. Shapiro, Esq.

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

ERIN CAPITAL MANAGEMENT, LLC

No.: 08-1550-CD

vs.

SHIRLEY BELGIN

FILED

APR 21 2009

William A. Shaw
Prothonotary/Clerk of Courts

cfmt to

*ATTY'S
DUPERT
L
FRIDAY*

O R D E R

AND NOW this 21st day of April 2009, upon consideration of Defendant's Preliminary Objections in the above matter, and Plaintiff's response hereto, it is the Order of the Court that argument shall and is hereby scheduled for the 30th day of June 2009 at 1:30 ~~AM~~ P.M. in Courtroom No. 1, Clearfield County Courthouse, Clearfield, PA.

It is the responsibility of the moving parties Counsel to serve certified copy of said scheduling Order on opposing parties Counsel.

BY THE COURT:

President Judge

UA

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

ERIN CAPITAL MANAGEMENT,
Plaintiff

vs.

SHIRLEY BELGIN,
Defendant

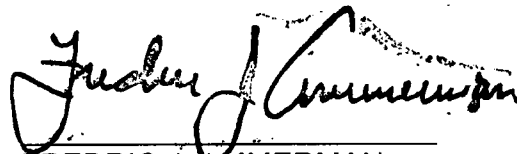
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NO. 08-1550-CD

ORDER

NOW, this 5th day of May, 2009, it is the ORDER of this Court that the argument on the Defendant's Preliminary Objections be and is hereby **rescheduled** from the 30th day of June, 2009, at 1:30 p.m. to the **18th day of June, 2009 at 1:30 p.m.** in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT,



FREDRIC J. AMMERMAN
President Judge

FILED
02:40 PM
MAY 06 2009
William A. Shaw
Prothonotary/Clerk of Courts
2 cc Attys:
Shapiro
Dewart

WILLIAM A. SHAW
PROTHONOTARY
and CLERK of COURTS
P.O. BOX 549
CLEARFIELD, PENNSYLVANIA 16830

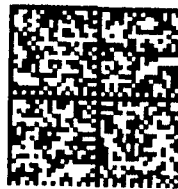
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MAY 15 2009

William A. Shaw
Prothonotary/Clerk of Courts

remailed to
PO Box 1050
33 Rock Hill Rd
Suite 150
Bala Cynwyd PA
19004

Kenneth S. Shapiro, Esq.
One Belmont Ave.
Suite 202
Bala Cynwyd



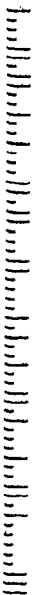
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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

ERIN CAPITAL MANAGEMENT,
Plaintiff

vs.

SHIRLEY BELGIN,
Defendant

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NO. 08-1550-CD

ORDER

NOW, this 5th day of May, 2009, it is the ORDER of this Court that the argument on the Defendant's Preliminary Objections be and is hereby **rescheduled** from the 30th day of June, 2009, at 1:30 p.m. to the **18th day of June, 2009 at 1:30 p.m.** in Courtroom No. 1 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT,

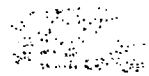
/S/ Fredric J Ammerman

FREDRIC J. AMMERMAN
President Judge

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

MAY 06 2009

Attest.


William L. Ben
Prothonotary/
Clerk of Courts

UA

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

ERIN CAPITAL MANAGEMENT, LLC	*	
Plaintiff	*	
vs.	*	NO. 08-1550-CD
SHIRLEY BELGIN,	*	
Defendant	*	

ORDER

NOW, this 18th day of June, 2009, it is the ORDER of this Court that the Defendant's Preliminary Objections to the Plaintiff's Complaint be granted to the extent that the Plaintiff shall have no more than 45 days from this date to file an Amended Complaint which shall plead any assignment and contain a copy of the assignment(s) document. In addition, a verification from an appropriate employee/officer of the Plaintiff shall be attached. The Amended Complaint shall contain a detailed statement of the account showing purchases made, the name the account was in and calculation of all interest charges, late fees, attorney's fees and any other costs or charges which are part of the demand for payment. A copy of the credit card agreement which covered the issuance and use of the credit card shall also be attached.

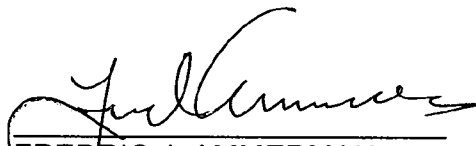
FILED

014:00B01
JUN 18 2009

S William A. Shaw
Prothonotary/Clerk of Courts

2cc Atty Durant
2cc Atty Shapiro

BY THE COURT,


FREDRIC J. AMMERMAN
President Judge

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

ERIN CAPITAL MANAGEMENT, LLC

Plaintiff

vs.

SHIRLEY BELGIN

Defendant

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*

No. 08-1550-CD

MOTION TO DISMISS COMPLAINT

FILED ON BEHALF OF
Defendant, Shirley Belgin

COUNSEL OF RECORD FOR
THIS PARTY:

TIMOTHY E. DURANT, ESQ.
Pa. I.D. No. 21352
201 North Second Street
Clearfield, PA 16830
(814) 765-1711 Telephone

OPPOSING COUNSEL: for plaintiff

KENNETH S. SHAPIRO
Pa. I.D. No. 26850
SHAPIRO LAW OFFICE, P.C.
P.O. Box 1050
33 Rock Hill Rd., Suite 150
Bala Cynwyd, PA 19004
(610) 668-0707 Telephone
(610) 668-1815 Facsimile

FILED 3cc
013:48/67
AUG 13 2009
Atty Durant
William A. Shaw
Prothonotary/Clerk of Courts
(64)

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

ERIN CAPITAL MANAGEMENT, LLC	*	
Plaintiff	*	No. 08-1550-CD
vs.	*	
	*	
SHIRLEY BELGIN	*	
Defendant	*	

MOTION TO DISMISS COMPLAINT

Defendant, SHIRLEY BELGIN by her counsel, Timothy E. Durant, files this Motion following the provisional granting of her Preliminary Objections to the Plaintiff's Complaint by order of June 18, 2009.

1. Defendant requests that this Honorable Court dismiss/strike the complaint filed in this matter for failure to prosecute this action in compliance with court order requiring the filing of an Amended Complaint no more than 45 days from the Order of June 18, 2009.

2. Pursuant to said Order the Amended Complaint was required to contain:

- a) A pleading and copy of any assignment documents with a verification from an appropriate employee/officer of the Plaintiff, and
- b) A detailed statement of the account showing purchases made, the name the account was in and calculation of all interest charges, late fees, attorney's fees and any other costs or charges which are part of the demand for payment, and
- c) A copy of the credit card agreement which covered the issuance and use of the credit card.

3. The deadline for compliance, i.e. the 45th day after June 18, 2009, was August 3, 2009 at 4:00 p.m.

4. A copy of the Order of June 18, 2009 was sent to counsel for Plaintiff by the Prothonotary and noted in the docket on June 18, 2009.

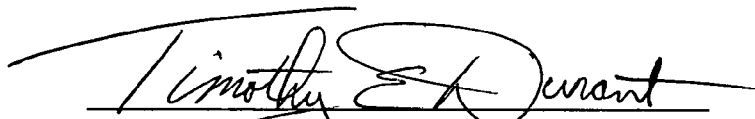
5. As of August 12, 2009 a review of the docket entries at the Clearfield County Prothonotary's Office listed no Amended Complaint and no filing more recent than the Order of June 18, 2009.

6. As of the date of this Motion, counsel for Defendant has received no Amended Complaint nor any correspondence, phone calls or facsimile messages from counsel for Plaintiff that an Amended Complaint had been or would be sent.

7. Defendant, by her counsel, hereby requests that this Court Dismiss the Complaint filed in this matter with prejudice for Plaintiff's failure to file an Amended Complaint in compliance with the Order of June 18, 2009.

WHEREFORE Defendant requests this Court dismiss the Complaint with prejudice for failure to comply with the Order of June 18, 2009.

Respectfully submitted,



Timothy E. Durant, Esquire, Attorney for
Defendant Shirley Belgin

DATE: August 12, 2009

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

ERIN CAPITAL MANAGEMENT, LLC

Plaintiff

vs.

SHIRLEY BELGIN

Defendant

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No. 08-1550-CD

FILED

AUG 14 2009

William A. Shaw
Prothonotary/Clerk of Courts

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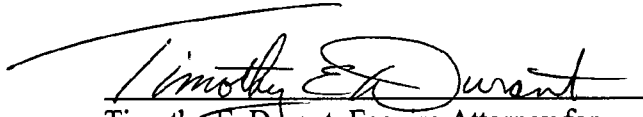
AFFIDAVIT OF SERVICE

TIMOTHY E. DURANT, certifies that on August 13, 2009 he did deposit in the United States mail a true and correct copy of the Motion To Dismiss Complaint in the above captioned matter.

The said Motion was sent to ERIN CAPITAL MANAGEMENT, LLC, Plaintiff, in care of its counsel:

KENNETH S. SHAPIRO, ESQ.
SHAPIRO LAW OFFICE, P.C.
P.O. Box 1050
33 Rock Hill Rd., Suite 150
Bala Cynwyd, PA 19004

Affiant understands that false statements herein are made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.


Timothy E. Durant, Esquire Attorney for
Shirley Belgin

Dated: August 13, 2009

CA

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

ERIN CAPITAL MANAGEMENT, LLC *

*

No. 08-1550-CD

Plaintiff *

*

vs.

*

SHIRLEY BELGIN *

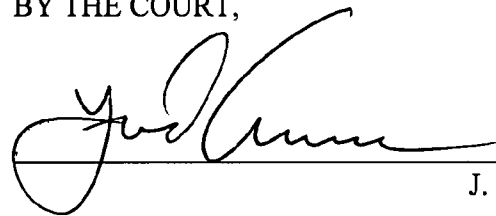
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Defendant *

ORDER OF COURT

AND NOW, this 17 day of August, 2009, upon consideration of the Motion filed by Timothy E. Durant, Esquire on behalf of Defendant Shirley Belgin this Court finds that the motion is proper and supported by the record and it is therefore the Order of this Court that the Complaint filed to the above captioned matter is hereby dismissed with prejudice for failure to comply with the previous order of Court in that no Amended Complaint has been timely filed.

BY THE COURT,


J.

5 **FILED** 3cc
014:00/51 Amy Durant
AUG 17 2009
William A. Shaw
Prothonotary/Clerk of Courts

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

ERIN CAPITAL MANAGEMENT, LLC

Plaintiff

vs.

SHIRLEY BELGIN

Defendant

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No. 08-1550-CD

⁵ FILED No CC.
9/1/33 am
AUG 19 2009

William A. Shaw
Prothonotary/Clerk of Courts

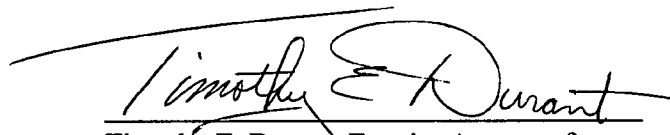
AFFIDAVIT OF SERVICE

TIMOTHY E. DURANT, certifies that on August 18, 2009 he did deposit in the United States mail, postage pre-paid, a true and correct copy of the Order of August 17, 2009 granting Defendant's motion and Dismissing the Complaint in the above captioned matter, with prejudice.

The said Order was sent to ERIN CAPITAL MANAGEMENT, LLC, Plaintiff, in care of its counsel:

KENNETH S. SHAPIRO, ESQ.
SHAPIRO LAW OFFICE, P.C.
P.O. Box 1050
33 Rock Hill Rd., Suite 150
Bala Cynwyd, PA 19004

Affiant understands that false statements herein are made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.


Timothy E. Durant, Esquire Attorney for
Shirley Belgin

Dated: August 18, 2009