

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

YINESKA ROLLIN,  
*on behalf of herself and all others  
similarly situated,*

Case No.: 8:14-cv-1543-EAK-TGW

Plaintiffs,

v.

CACH, LLC, *a foreign limited liability  
company*, FEDERATED LAW GROUP,  
PLLC, *a Florida professional limited  
liability company*, and BRYAN MANNO,  
*an individual*,

**CLASS  
REPRESENTATION  
(Unlawful Debt  
Collection Practice)**

Defendants.

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**AMENDED COMPLAINT**

COMES NOW, Plaintiff, YINESKA ROLLIN (hereinafter, "Plaintiff"), by and through the undersigned counsel, on behalf of herself and all others similarly situated, and sues Defendants, CACH, LLC, (hereinafter, "CACH"), FEDERATED LAW GROUP, PLLC (hereinafter, "FLG"), and BRYAN MANNO (hereinafter, "Manno") (hereinafter collectively, "Defendants"). In support thereof, Plaintiff alleges:

**PRELIMINARY STATEMENT**

1. This is a class action brought pursuant to Rule 23, Federal Rules of Civil Procedure, against Defendants for their routine and systematic violations of the Fair Debt Collection Practices Act, 15 United States Code, Section 1692, *et seq.* ("FDCPA"). Specifically, Defendants uniformly attempt to collect consumer debts via Court Filings, as defined herein, throughout the State of Florida. These Court Filings convey

information to Florida consumers in Defendants' attempts to collect consumer debts from Plaintiff, Class Members, and Sub-Class Members by improperly and illegally:

- a. making false, deceptive, or misleading representations;
- b. falsely representing the amount due on the Debt by asserting a legal right to contractual interest (e.g., "default interest") by unlawfully including the same in the amount of debt alleged due at the time the court filings were filed and served;
- c. collecting the debt in unfair or unconscionable means; and
- d. attempting to collect an unauthorized amount (e.g., contractual or default interest) included within the Debt.

Defendants' actions unlawfully deceive and mislead consumers when attempting to collect the debts through unfair or unconscionable means, by impermissibly increasing the amount of debts due from already financially strapped Florida consumers without the lawful ability to do so.

### **PARTIES, JURISDICTION & VENUE**

2. At all times material, Plaintiff was and is a resident of the State of Florida, living in Pinellas County. This Court has personal jurisdiction over Plaintiff because she submits to the jurisdiction of this Court.

3. The FDCPA violations at issue in this action occurred in Pinellas County, Florida, thereby conferring jurisdiction on the United States District Court for the Middle District of Florida, pursuant to 15 United States Code, Section 1692k(d), 28 United States Code, Section 1337.

4. Venue in this District is proper because Plaintiff resides here and because Defendants drafted, filed and served Court Filings in an attempt to collect a consumer debt on Plaintiff and on other consumers in this District.

5. This Court has personal jurisdiction over Defendants because Defendants filed Court Filings in a State of Florida court proceeding, and served the Court Filings to an address located in Pinellas County, Florida.

6. Other putative Class Members and Sub-Class Members throughout the State of Florida and Pinellas County also received, and were served with, the Court Filings from Defendants.

7. Defendant CACH is limited liability company existing under the laws of the State of Colorado, that itself buys debts and, through its employees, representatives and third-parties, including but not limited to, law firms like Defendant FLG, regularly collect debts allegedly owed to another within Pinellas County, Florida, and throughout the State of Florida.

8. Defendant FLG is a law firm and professional limited liability company existing under the laws of the State of Florida, with a primary business address in Palm Beach County, Florida that, itself and through its employees and representatives, regularly collects debts allegedly owed to another within Pinellas County, Florida, and throughout the State of Florida.

9. Defendant Manno is an individual, a licensed Florida attorney, and the managing member of Defendant FLG who, as the owner, agent, and representative of Defendant FLG, regularly collects debts allegedly owed to another within Pinellas County, Florida, and throughout the State of Florida.

10. Any necessary conditions precedent to the bringing of this action has either occurred or have been excused by the Defendants.

**REPRESENTATIVE'S ALLEGATIONS**

11. Defendants are each a “debt collector,” as that term is defined by the FDCPA, Section 1692a(6).

12. Defendants each used interstate mail while engaging in a business the principal purpose of which is the collection of consumer debts allegedly due another.

13. Defendants are also entities who regularly collect or attempt to directly or indirectly collect consumer debts owed or due, or asserted to be owed or due, another.

14. Plaintiff is a “consumer,” as that term is defined by the FDCPA, Section 1692a(3).

15. Defendants’ conduct, namely the Court Filings defined and complained of below, qualifies as “communication,” as that term is defined by the FDCPA, Section 1692a(2).

16. Defendants acted by themselves, or through their agents, employees, officers, members, directors, successors, assigns, principals, trustees, sureties, subrogees, representatives, third-party vendors, lawyers, and insurers.

17. At all times material, Defendants attempted to collect a debt, specifically an alleged delinquent credit card debt originally due to Bank of America, N.A. (at all times herein, the “Debt”).

18. At all material times herein, the Debt was consumer debt, an obligation resulting from a transaction or transactions for goods or services and was incurred primarily for personal, household or family use.

19. Defendants routinely and systematically attempted to collect consumer debts from Plaintiff, Class Members, and Sub-Class Members through the use of unlawful Court Filings, which have been more specifically defined herein.

20. Every year, Defendant FLG and Defendant Manno file many hundreds, if not thousands, of debt collection lawsuits in counties throughout the State of Florida on Defendant CACH's behalf.

21. Ninety percent or more of these debt collection lawsuits result in default judgments against consumers. In such cases, there is little to no need for a Defendant FLG attorney to review supporting documents or take any other steps to ensure the truth or accuracy of the affidavits he or she is filing on behalf of its employer, Defendant FLG and Defendant Manno, or its client, Defendant CACH.

22. The benefit to Defendants of insuring that any affidavits filed as part of a Court Filing is true and accurate is far outweighed by the cost of the staff and attorney time inherent in doing so. In fact, upon information and belief, Defendants file debt collection lawsuits without having any access to the documents they would need to support their claim, even assuming that they wanted to review them to ensure the affidavits' accuracy. *See e.g., infra*, the Debt Collection Lawsuit.

23. Nevertheless, Defendant CACH signs affidavits without personal knowledge or competency to swear to the fact contained therein.

24. Further, Defendant FLG and Defendant Manno sign, file and serve Court Filings, alleging that consumer debtors owe precise dollar amounts and attach said Defendant CACH affidavits thereto swearing to the courts and to the consumer debtors that "after being duly sworn, declares under the penalty of perjury" that these precise

amounts are "true and correct" based upon her knowledge as a "custodian of records of [Defendant] CACH, including but not limited to the records of this account sent to [Defendant] CACH by the original creditor . . ."

25. Defendant CACH affidavits further attest, via sworn statements provided under penalties, that the aforementioned books and records are kept in the ordinary course of a regularly conducted business activity and are made either by a person having personal knowledge of the information contained therein or based on information conveyed by a person having personal knowledge of the information contained therein." Such statements, however, are made by a person via an affidavit that, on its face, clearly:

- a. demonstrates the affiant is not an employee of the entity within which such alleged records were made;
- b. demonstrates the affiant does not have personal, first-hand knowledge of how the records were made and maintained;
- c. is facially hearsay; and
- d. does not attach the documents to which the affiant is relying upon to make here "sworn" statement, as required by Florida law.

26. At the time Defendant FLG and Defendant Manno sign the complaint and attach these affidavits for presentation to State of Florida courts and defendant-consumers, Defendants have full knowledge that the affiant has no personal knowledge of the:

- a. amount the defendant-consumers owed at the time of default;
- b. the annual percentage rate at any time during the relationship between the original creditor (e.g., Bank of America, N.A.) and the

debtors, either when the debts were current or when they were in default;

c. whether the contracts between the original creditors and the debtors permitted the original creditors to add late fees after default;

d. whether the contracts between the original creditors and the debtors permitted the original creditors to add over-the-limit charges after default;

e. whether the contracts between the original creditors and the debtors permitted the original creditors to add attorneys' fees and/or costs of collection to the alleged debt; and

f. whether the contracts between the original creditors and the debtors permitted the original creditors to charge a contractual or "default interest rate" after the debts had been charged off and subsequently assigned.

***Defendants' Court Filings Attempt to Collect Unlawful and Impermissible Charges, Namely Contractual or "Default" Interest without Pursuing a Breach of Contract Claim in their Complaint or Statement of Claim***

27. On or about August 29, 2012, Defendants filed a lawsuit against Plaintiff in an attempt to collect the Debt. The lawsuit was filed in the Circuit Court of the Sixth Judicial Circuit in and for Pinellas County, Florida, Case No.: 12-010641-CI (at all times herein, "Debt Collection Lawsuit"). Please see attached a true and correct copy of the Debt Collection Lawsuit and its attached exhibits labeled as **Exhibit A1-A14**.

28. On or after August 12, 2010, Plaintiff's final periodic billing statement was allegedly sent to Plaintiff, showing Plaintiff her charged off balance, \$14,561.32 (at all times herein, "Charge-Off Statement"). Please see attached a true and correct copy of the

Charge-Off Statement, a subset of the Debt Collection Lawsuit, labeled as **Exhibit A7-A12**.

29. On or about August 31, 2010, Plaintiff's Debt was charged off by her original creditor.

30. At all times herein, Defendants' Debt Collection Lawsuit has only two counts: Count I - Unjust Enrichment and Count II - Account Stated.

31. Plaintiff's alleged Debt to Defendant CACH is based upon a written contract, namely a cardmember agreement between Plaintiff and her original creditor, Bank of America, N.A.

32. At no time herein did Defendants' Debt Collection Lawsuit assert a breach of contract count against Plaintiff.

33. Defendants' Debt Collection Lawsuit does assert, however, an entitlement to a "default rate" of interest of 14.24% in both the Unjust Enrichment and Account Stated counts.

34. Defendants assert an entitlement to, and try to collect through Court Filings, the "default rate" of interest (i.e., 14.24%) for an approximate six-month period of time, beginning February 10, 2012 and running through June 10, 2012.<sup>1</sup>

35. More specifically, Defendants attempted to collect \$687.40 of "default rate" interest from Plaintiff, an amount that is included in the alleged \$15,248.72 Debt.

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<sup>1</sup> Indeed, the period of time over which the "default rate" interest is charged is unclear. Defendants' Complaint, on the one hand, asserts that the default interest is calculated through June 10 2012, while the Defendant CACH Affidavit on the other asserts that the default interest is calculated through August 9, 2012. In either circumstance, the default interest is in fact charged and included in Defendants' Debt collection efforts, with calculation commencing almost eighteen (18) months after Plaintiff's original creditor charged off the debt.

36. On or about June 25, 2013, Defendants filed a Motion for Summary Judgment, asking the Circuit Court for judgment on the Debt in an amount of \$15,248.72. Please see attached a true and correct copy of Defendant CACH's Motion for Summary Judgment and its attached exhibits labeled as **Exhibit B1-B28**.

37. Defendants attached to their Motion for Summary Judgment, mentioned immediately above, a document entitled "Affidavit of CACH, LLC Authorized Agent" (at all times herein, "Defendant CACH Affidavit") which set forth facts purporting to establish Plaintiff's alleged indebtedness to Defendant CACH. Please see attached a true and correct copy of the Defendant CACH Affidavit labeled as **Exhibit B7-B8**.

38. On or about June 6, 2014, in response to the Clerk of the Circuit Court's Notice of Lack of Prosecution of the Debt Collection Lawsuit, Defendants filed a Motion of Statement of Good Cause Showing Plaintiff's Debt Collection Lawsuit should not be dismissed (at all times herein, "Statement of Good Cause"). Please see attached a true and correct copy of Defendant CACH's Statement of Good Cause and its attached exhibits labeled as **Exhibit C1-C11**.

39. Defendants' Statement of Good Cause included Defendants' Motion for Summary Judgment and the Defendant CACH Affidavit (at all times herein collectively defined, together with the Statement of Good Cause, as "Court Filing(s)"), and was filed in an attempt to collect the Debt. Defendants' Court Filings expressly included "default interest" of \$687.40, an amount allegedly accrued after Charge-Off and assignment of the Debt to Defendant CACH.

***Defendants' Court Filings Attempt to Collect the Debt through Use of Affidavits Defendants' Know or Should Have Known Were False and Unfair, as They Were Not Based Upon Affiant's Personal Knowledge***

40. Defendants filed their Debt Collection Lawsuit and their Motion for Summary Judgment, Defendant CACH Affidavit and Statement of Good Cause (i.e., Court Filings) in an attempt to collect the Debt from Plaintiff.

41. Defendants, however, knew or should have known from review of the face of the Defendant CACH Affidavit that Defendant CACH's affiant, Shaneka Sonnier, a custodian of records of Defendant CACH, was not currently and was never an employee of Plaintiff's original creditor, Bank of America, N.A., and therefore did not have the personal knowledge requisite to testify as to documents created and maintained over the course of several years at Bank of America, N.A. In other words, Defendant CACH's affiant was wholly incompetent to testify to such matters.

42. Additionally, the documents upon which Defendant CACH's affiant allegedly relied on were hearsay.

43. Finally, Defendants knew or should have known that in the Defendant CACH Affidavit, the affiant averred to records which Defendants neither submitted to the Court with the affidavit (e.g., the cardmember agreement which allegedly provided for "default rate" interest, etc.) nor to which she, as an employee of Defendant CACH, could testify as to their authenticity.

44. Defendants' use of the Court Filings in their effort to collect the Debt, including contractual or default interest, from Plaintiff, as well as their use of the Defendant CACH Affidavit, violates multiple provisions of the FDCPA.

45. By including in the Court Filings the Default Interest as part of the Debt that was allegedly due and owing, Defendants used a false, deceptive, and misleading

representation of the character, amount, or legal status of the Debt in violation of 15 United States Code, Section 1692e(2)(A).

46. By including in the Court Filings the Default Interest as part of the "Debt" that was allegedly due and owing, Defendants used a false representation or deceptive means to collect or attempt to collect the Debt in violation of 15 United States Code, Section 1692e and e(10).

47. By including in the Court Filings the Default Interest as part of the Debt that was allegedly due and owing, Defendants used an unfair or unconscionable means to collect the Debt in violation of 15 United States Code, Section 1692f.

48. By including in the Court Filings the Default Interest as part of the Debt that was allegedly due and owing, Defendants collected an unauthorized amount in violation of 15 United States Code, Section 1692f(1).

49. Plaintiff retained Leavengood, Dauval, & Boyle, P.A. (hereinafter, "Undersigned Counsel") to deal with and defend the Debt Collection Lawsuit and Court Filings, and incurred out-of-pocket attorneys' fees and costs as a result.

50. Plaintiff has also retained Undersigned Counsel for the purpose of pursuing this class action against Defendants, and Plaintiff is obligated to pay her attorneys a reasonable fee for their services.

### **CLASS ACTION ALLEGATIONS**

51. Pursuant to 23(a) and 23(b)(3), Federal Rules of Civil Procedure, Plaintiff brings this class action on behalf of herself and all others similarly situated, constituting two classes, defined below as a "Class" and a "Sub-Class."

52. More specifically, Plaintiff defines the Class as follows:

All consumer debtors who were served, directly or indirectly through their counsel, any court filings, in similar form, substance, or improper purpose as the Court Filings attached as Exhibit A1-A14, Exhibit B1-B28 and Exhibit C1-C11, from Defendants, in an attempt to collect a debt through the Florida Courts, that included a contractual based (e.g., default-rate) interest rate when Defendants did not have a breach of contract claim or count pled in their underlying debt collection lawsuit, in violation of the FDCPA within a one-year period of time prior to the filing of the original Complaint up through and including the present date (hereinafter, "Class Members" or "Class").

53. Further, Plaintiff defines the Sub-Class as follows:

All consumer debtors who were part of the Class, as defined immediately above, and who incurred out-of-pocket expense, including but not limited to, attorneys' fees or costs, as a result of hiring an attorney to defend such Debt Collection Lawsuit within a one-year period of time prior to the filing of the original Complaint up through and including the present date (hereinafter, "Sub-Class Members" or "Sub-Class") (hereinafter collectively, together with the Class, "Classes").

54. Excluded from the Classes are all directors, officers, agents, and employees of Defendants and the courts to which this case may be assigned.

55. All recipients of Court Filings or other filings in substantially the same form or for a substantially similar purpose, namely the Class Members and Sub-Class Members, are victims of the same improper and unlawful demands of Defendants.

56. The number of potential Class Members and Sub-Class Members is undetermined at this time, but can readily be determined from Defendants' records. In light of the number of consumer debts Defendants collect in the State of Florida's Sixth Judicial Circuit alone, the Classes most likely possesses thousands of members.<sup>2</sup>

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<sup>2</sup> A quick survey of Sixth Judicial Circuit filings in and for Pinellas and Pasco Counties, Florida, in the year prior to the filing of this lawsuit, indicates that Defendants have filed approximately 433 debt collection lawsuits on defaulted, purchased debt. Given the State of Florida's sixty-seven (67) counties, Defendants'

57. The Court Filings:
- a. use false, deceptive, and misleading representations and means in the collection of Plaintiff's, Class Members', and Sub-Class Members' respective debts by representing the authority to collect contractual (i.e., default rate interest) from Plaintiff, Class Members, and Sub-Class Members absent a breach of contract claim plead in their Florida debt collection lawsuit;
  - b. deceive consumers and misrepresent the amount of debts owed;
  - c. demand payment of an unauthorized amount;
  - d. cause Plaintiff and Class Members to incur unlawful and unauthorized costs; and
  - e. cause Plaintiff and Sub-Class Members to incur and pay, in whole or in part, the unlawful and unauthorized costs, as well as incur attorneys' fees and/or costs in defending the unlawful Debt Collection Lawsuit.

58. This action is properly brought as a class action under Rule 23, Federal Rules of Civil Procedure, for the following reasons:

- a. The Classes each consist of hundreds, if not thousands, of persons so numerous that joinder of all members, whether otherwise required or permitted, is impracticable;
- b. There are questions of law and fact common to all Class Members and Sub-Class Members relating to Defendants' actions relative to the

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lack of proximity to the Tampa Bay area, the presence of three other major metropolitan areas (i.e., Orlando, Jacksonville, and Miami/Ft. Lauderdale), and Defendants systematic method of filing lawsuits to collect debt (e.g., Debt Collection Lawsuit), it is likely that the number of such debt collection lawsuits, with unlawful Court Filings, is in the thousands, if not tens of thousands.

Court Filings, which questions predominate over any question affecting only individual Class Members and Sub-Class Members, including:

i. Whether Defendants' Court Filings falsely represent the nature, character or amount of the debt;

ii. Whether Defendants misrepresent the amount of the debts owed by including in its Court Filings interest which is not legally incurred, due or owed;

iii. Whether Defendants collect debts through unfair or unconscionable means by requiring Class Members and Sub-Class Members to pay interest which is not earned and incurred, and thus not legally due pursuant to contract or law;

iv. Whether Defendants systemically include interest not yet incurred or otherwise authorized by law in the Debts collected from Plaintiff, Class Members, and Sub-Class Members;

v. Whether Defendants asserted contractual or default rate interest due in Court Filings without a breach of contract count plead at the time such contractual interest was asserted due and collected;

vi. Whether Defendants used false, deceptive, or misleading means or representations in its collection of debts from Plaintiff, Class Members, and Sub-Class Members by using affidavits that did not affix the documents which affiant purportedly relied upon in making his or her "sworn" assertions;

vii. Whether Defendants used false, deceptive, or misleading

means or representations in its collection of debts from Plaintiff, Class Members, and Sub-Class Members by using affidavits wherein, on the face of the affidavit, it is apparent that the affiant could not authenticate documents used in making his or her "sworn" statements;

viii. Whether Defendants used false, deceptive, or misleading means or representations in its collection of debts from Plaintiff, Class Members, and Sub-Class Members by using affidavits wherein, on the face of the affidavit, it is apparent that it would be impossible, based on affiants "sworn" statements, for the affiant to have personal knowledge regarding such statements made in furtherance of Defendants' attempts to collect debts;

ix. Whether Plaintiff, Class Members, and Sub Class Members are entitled to statutory damages as a result of Defendants' unlawful debt collection practices described herein and in what amount;

x. Whether Plaintiff and Sub-Class Members are entitled to actual damages, namely incurring out-of-pocket expense as a result of defending or dealing with Defendants' unlawful debt collection practices described herein and, if so, in what amount; and

xi. Whether Plaintiff, Class Members, and Sub-Class Members are entitled to costs and reasonable attorneys' fees for litigating this case and, if so, in what amount.

59. Defendants have acted, or refused to act, on grounds generally applicable to Class Members and Sub-Class Members in that they have engaged in a routine and

systematic course of conduct consisting of their utilization of the Court Filings, which are false, misleading and deceptive; attempt to collect debts through unfair or unconscionable means; and both falsely represent the amount of the Debt and collect an unauthorized amount.

60. Plaintiff's claims are typical of the claims of the proposed Class Members and Sub-Class Members, given the uniform nature and use of the Court Filings and the common legal and factual issues of whether the drafting, filing and serving of the Court Filings violate the FDCPA.

61. More specifically, the Court Filings must be analyzed in part to assess whether Defendants falsely represented the total amount owed, and whether Defendants collected an unauthorized amount.

62. Plaintiff is a member of both Classes and is committed to prosecuting this action. Plaintiff has gathered and reviewed all relevant documents necessary for filing this case, and has, and will continue to proactively participate in this class litigation, thoroughly reviewing documents, asking questions and following the counsel of her lawyers for the benefits of the Classes she seeks to represent. Plaintiff will fairly and adequately protect the interests of Class Members and Sub-Class Members.

63. Adjudication of this case on a class-wide basis is manageable by this Court. The Court Filings were received by Plaintiff, Class Members, and Sub-Class Members throughout the State of Florida.

64. The Court Filings, and Plaintiff's, Class Members', and Sub-Class Members' rights, as they relate to the Court Filings, are the same or are so similar as to be legally and factually indistinguishable in all material aspects. As a result, it will not be

difficult for the Court or jury to objectively determine whether Defendants have violated the FDCPA; whether Plaintiff, Class Members, and Sub-Class Members are entitled to statutory damages, and in what amount, as a result of serving the Court Filings; and whether Sub-Class Members have incurred out-of-pocket expense, and in what amount, as a result of incurring the same defending Defendants' unlawful debt collection lawsuits, which include the Court Filings. This Court is an appropriate forum for this dispute.

65. Plaintiff has retained as counsel attorneys who are competent and experienced in consumer, class action, and complex litigation. More specifically, Plaintiff retained a firm whose members have specific expertise in consumer law, having represented consumers in over six hundred fifty (650) unlawful debt collection cases as lead counsel, as co-lead counsel in five (5) consumer-based class actions, and as sole lead counsel in at least three (3) consumer-based class actions. Plaintiff's counsel has experience in certifying class actions at the trial court level, defending certified classes on appeal, and assisting class representatives with all aspect of class action litigation. Plaintiff's counsel will fairly and adequately represent Plaintiff and the interests of the Class Members and Sub-Class Members.

66. A class action is superior to other available methods for the fair and efficient adjudication of this controversy for at least the following reasons:

- a. given the size of the proposed Classes, individual joinder of each Class Member's and Sub-Class Member's FDCPA claims is impracticable;
- b. given the relatively small damages suffered by individual Class Members and Sub-Class Members, as well as the unlikelihood that many

Class Members and Sub-Class Members will know their federal and state rights have been violated, most Class Members and Sub-Class Members have little ability to prosecute an individual action due to the complexity of issues involved in this litigation and the significant costs attendant to litigation on this scale;

c. when Defendants' liability has been adjudicated, claims of all Class Members and Sub-Class Members can be determined by the Court;

d. this action will cause an orderly and expeditious administration of Class Members' and Sub-Class Members' claims, and economies of time, effort and expense will be fostered and uniformity of decisions will be ensured;

e. other available means of adjudicating the claims of Plaintiff and Class Members and Sub-Class Members—such as thousands of individual actions brought separately and pursued independently in courts throughout the State of Florida—are impracticable and inefficient;

f. without a class action, Class Members and Sub-Class Members will continue to suffer damages and the violations of law by Defendants will proceed without remedy while they continue their unlawful debt collection activities; and

g. this action presents no material difficulties that would preclude management by the Court as a class action.

67. In the case of any action, 15 United States Code, Section 1692k provides for the award of up to \$1,000.00 statutory damages per named Plaintiff, as well as actual damages.

68. In the case of a class action, 15 United States Code, Section 1692k provides such amount of statutory damages as the court may allow for all other Class Members, without regard to minimum individual recovery or actual damages, up to the lesser of \$500,000 or 1 percent of each Defendant's net worth.

69. Finally, 15 United States Code, Section 1692k provides for the award of reasonable attorneys' fees and costs, should Plaintiff prevail in this matter.

**COUNT ONE:  
UNLAWFUL DEBT COLLECTION PRACTICES –  
VIOLATION OF 15 U.S.C., SECTION 1692e, e(2)(A) and e(10)**

70. Plaintiff re-alleges paragraphs one (1) through sixty-nine (69), as if fully restated herein and further states as follows:

71. Defendants are subject to, and have violated the provisions of, 15 United States Code, Section 1692e, e(2)(A) and e(10) by using false, deceptive, or misleading means or representations in attempting to collect the consumer debts.

72. Specifically, the Court Filings falsely represent the total amount of Plaintiff's, Class Members', and Sub-Class Members' respective debts, by including contractual interest not lawfully incurred or earned, in an attempt to deceive and mislead Plaintiff, Class Members, and Sub-Class Members into paying more than is actually owed on their respective debts.

73. The effect of including contractual or default-rate interest not lawfully incurred or earned in the total amount of the Debt was to increase the total amount due,

and thereby increase the debt collected from Plaintiff, Class Members, and Sub-Class Members. For example, inclusion of default-rate interest in Defendants' Debt Collection Lawsuit filed against Plaintiff unlawfully added \$687.40 to the total amount sought and allegedly due on the Debt.

74. Furthermore, the Court Filings make the false, deceptive, and misleading representation that Defendants may rely upon affidavits that neither attached the documents that affiant allegedly relied upon in making her "sworn" statements nor were based upon information that affiant had personal knowledge of or could authenticate.

75. Overall, all of Defendants' above-referenced actions constitute the use of false, deceptive, or misleading representations or means in attempting to collect Plaintiff's, Class Member's and Sub-Class Member's respective debts.

76. As a direct and proximate result of Defendants' actions, Plaintiff, Class Members, and Sub-Class Members have sustained damages as defined by 15 U.S.C., Section 1692k. In addition, Sub-Class Members have incurred actual damages, including but not limited to, attorneys' fees and costs in defending unlawful debt collection lawsuits.

**COUNT TWO:  
FAIR DEBT COLLECTION PRACTICES ACT –  
VIOLATION OF 15 UNITED STATES CODE, SECTION 1692f(1)**

77. Plaintiff re-alleges paragraphs one (1) through sixty-nine (69), as if fully restated herein and further states as follows:

78. Defendants are subject to, and have violated the provisions of, 15 United States Code, Section 1692f(1) by attempting to collect an amount (including interest,

fees, charges, or expenses incidental to the principle obligation) not expressly authorized by the agreement creating the debt or otherwise permitted by law.

79. Specifically, Defendants intentionally included contractual or default-rate interest in the total amount (i.e., the debt) purportedly owed by Plaintiff, Class Members and Sub-Class Members.

80. The effect of including contractual or default-rate interest was to impermissibly increase the total amount of the Debts allegedly due, and thereby increase the Debts collected from Plaintiff, Class Members, and Sub-Class Members.

81. Defendants included such contractual or default interest in the total amount of the Debts allegedly due from Plaintiff, Class Members, and Sub-Class Members despite not pleading a breach of contract claim in their Debt Collection Lawsuit or Court Filings.

82. Defendants are not entitled to contractual or default-rate interest—interest based on the contract with the original creditor—at any time after charge-off and subsequent assignment to Defendant CACH, unless Defendant CACH both demonstrates that it owns the debt and pleads a breach of contract claim.

83. The increase in the Debts collected from Plaintiff, Class Members, and Sub-Class Members—individuals that Defendants knew were already behind on payments and were in financially vulnerable positions—was unlawful and not authorized by contract or law.

84. As a direct and proximate result of Defendants' actions, Plaintiff, Class Members, and Sub-Class Members have sustained damages as defined by 15 U.S.C., Section 1692k. In addition, Sub-Class Members have incurred actual damages, including

but not limited to, attorneys' fees and costs in defending unlawful debt collection lawsuits.

**COUNT THREE:**  
**NEGLIGENT MISREPRESENTATION**

85. Plaintiff re-alleges paragraphs one (1) through sixty-nine (69), as if fully restated herein and further states as follows:

86. At all times material, by virtue of the business relationships between the parties, Defendants owed a duty to the public and to all parties with whom they communicated to accurately and completely convey information in all matters, specifically about the total amount of debt due, despite their own pecuniary interest at stake in their interactions with Plaintiff, Class Members, and Sub-Class Members.

87. Defendant FLG and Defendant Manno, consisting of lawyer members of the Florida Bar, also have a duty under the Rules Regulating the Florida Bar, Rules 4-4.1 and 4-4.4, to refrain from making false or misleading statements of material fact or law to third persons, such as Plaintiff, Class Members, and Sub-Class Members.

88. Defendant FLG and Defendant Manno breached their duties by making untrue, misleading and incorrect material statements in the Court Filings.

89. Given the source of the misinformation, and the manner in which it was delivered, Plaintiff, Class Members, and Sub-Class Members were reasonably justified in relying on the information conveyed in the Court Filings, and the apparent superior knowledge that Defendant FLG and Defendant Manno would have regarding the amounts due under applicable law.

90. As a result of these breaches of duty, Plaintiff, Class Members, and Sub-Class Members have suffered pecuniary losses in the form of payment of amounts

improperly and illegally requested, or having those amounts included in the Debt, as well as having incurred out-of-pocket expense in defending said improper debt collection lawsuits.

**PRAYER FOR RELIEF**

**WHEREFORE**, as a direct and proximate result of the Defendants' actions and conduct, Plaintiff, Class Members, and Sub-Class Members respectfully request relief and a judgment:

- a. Declaring that this lawsuit is properly maintainable as a class action, certifying Plaintiff as representative of the Classes, an order certifying the Classes requested herein, and appointing undersigned counsel as attorneys for the Classes;
- b. Declaring that communications, such as the Court Filings, violate the FDCPA;
- c. Declaring that the Defendant violated the FDCPA;
- d. Awarding maximum statutory damages allowed under the FDCPA;
- e. Awarding actual damages under the FDCPA in an amount to be determined at trial;
- f. Awarding actual damages for Defendants' negligent misrepresentation in an amount to be determined at trial;
- g. Awarding Plaintiff, Class Members, and Sub-Class Members reasonable attorneys' fees and costs; and
- h. Granting such relief the Court may deem just and proper.

**SPOLIATION NOTICE AND DEMAND TO RETAIN EVIDENCE**

Plaintiff and Class Members hereby gives notice to Defendants and demand that Defendants and their affiliates safeguard all relevant evidence—paper, electronic documents, or data—pertaining to this potential litigation as required by law.

**DEMAND FOR JURY TRIAL**

Plaintiff, Class Members, and Sub-Class Members hereby demand a trial by jury on all issues triable by right.

Respectfully submitted,

**LEAVENLAW**

*/s/ Ian R. Leavengood*

**Ian R. Leavengood, Esq., FBN 0010167**

**LEAD TRIAL COUNSEL**

**Aaron M. Swift, Esq., FBN 93088**

**G. Tyler Bannon, Esq., FBN 105718**

Northeast Professional Center

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aswift@leavenlaw.com

tbannon@leavenlaw.com

*Attorneys for Plaintiff, Class Members, and*

*Sub-Class Members*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing *Amended Complaint* has been filed via the Court's CM/ECF system on this 30<sup>th</sup> day of July 2014 and furnished via process server to:

CACH, LLC  
c/o CT Corporation System, Registered Agent  
1200 South Pine Island Road  
Plantation, FL 33324

Federated Law Group, PLLC  
c/o Bryan Manno, Registered Agent  
13205 U.S. Highway One, Suite 555  
Juno Beach, FL 33408

Bryan Manno  
13205 U.S. Highway One, Suite 555  
Juno Beach, FL 33408

*/s/ Ian R. Leavengood*

\_\_\_\_\_  
Attorney

IN THE CIRCUIT COURT OF THE 6TH JUDICIAL CIRCUIT  
IN AND FOR PINELLAS COUNTY, FLORIDA

CASE NO.:

1 2 0 1 0 6 4 1 C I - 0 1 1

CACH, LLC,

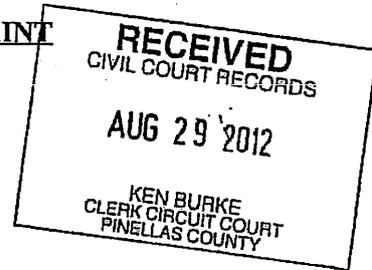
Plaintiff,

vs.

YINESKA M ROLLIN,

Defendant(s).

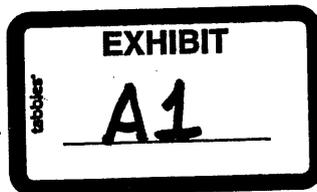
COMPLAINT



COMES NOW the Plaintiff CACH, LLC, by and through its undersigned Counsel, and  
sues Defendant YINESKA M ROLLIN, and states as follows:

**GENERAL ALLEGATIONS**

1. This is an action for damages that exceeds \$15,000.00 and is within the jurisdictional limits of this Honorable Court.
2. Plaintiff has been informed and believes that Defendant YINESKA M ROLLIN is an individual who currently resides within the jurisdictional boundaries of Pinellas county, therefore making this Court the proper venue to bring the instant action.
3. Upon Defendant, YINESKA M ROLLIN's request, Bank of America, N.A. n/k/a FIA CARD SERVICES, N.A., established a credit account in the name of Defendant, YINESKA M ROLLIN, either by application, telephone or internet, and pursuant to the terms of said application issued a credit account bearing the account number XXXXXXXXXXXXXXX1222.
4. Prior to the commencement of this action, Plaintiff, CACH, LLC acquired Defendant's account originated by Bank of America, N.A. n/k/a FIA CARD SERVICES, N.A.. See Affidavit and Bill of Sale attached as Composite Exhibit "A".
5. Although numerous demands have been made by Plaintiff, CACH, LLC upon Defendant, YINESKA M ROLLIN for payment, no part has been paid and is now due and owing together with interest.
6. Plaintiff and its predecessors have duly performed all promises, conditions precedent and agreements as required.
7. Plaintiff CACH, LLC has been forced to retain the law firm Federated Law Group, PLLC, for representation in this action.



8. This is an attempt to collect a debt and any information obtained herein will be used for that purpose.

**COUNT I – UNJUST ENRICHMENT**

Plaintiff readopts and re-alleges allegations one (1) through eight (8) above and further states as follows:

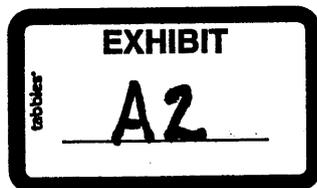
9. Plaintiff, CACH, LLC, conferred a benefit to and rendered valuable services on the Defendant, YINESKA M ROLLIN by opening a credit account and providing credit pursuant to a request made by Defendant, YINESKA M ROLLIN.
10. Defendant, YINESKA M ROLLIN received and used, or authorized the use, of the credit extended by Plaintiff, knowing that Plaintiff expected to be repaid for all charges and advances incurred with said credit, together with interest thereon.
11. By extending the aforementioned benefits and services to Defendant, YINESKA M ROLLIN and by Defendant utilizing said benefits and services, Plaintiff, CACH, LLC is entitled to be compensated for same.
12. With each use of the credit account, Plaintiff paid money on behalf of Defendant, YINESKA M ROLLIN to the merchant or merchants with whom said account was used.
13. Because of the facts and circumstances occurring between the parties to this lawsuit, it would be inequitable for Defendant, YINESKA M ROLLIN, to retain the benefits bestowed upon it, by Plaintiff, without paying the value thereof.
14. Defendant, YINESKA M ROLLIN, has been unjustly enriched at the expense of, and to the detriment of Plaintiff, CACH, LLC in the sum of \$14,561.32 plus interest in the amount of \$687.40 at the default rate of 14.24% beginning on 02/10/2012 through 06/10/2012 for a total amount owed by Defendant, YINESKA M ROLLIN of \$15,248.72 to Plaintiff, CACH, LLC.

WHEREFORE, Plaintiff CACH, LLC respectfully requests this Honorable Court enter Judgment in its favor against Defendant YINESKA M ROLLIN in the sum of \$15,248.72 together with Court costs and interest as described herein and any other just and further relief as this Honorable Court deems just and proper.

**COUNT II – ACCOUNT STATED**

Plaintiff readopts and re-alleges allegations one (1) through eight (8) above and further states as follows:

15. Statements were rendered monthly to Defendant, YINESKA M ROLLIN, and Defendant, YINESKA M ROLLIN at no point objected to the charges incurred or the balance due and failed to dispute the account or any charges thereon within sixty (60) days after

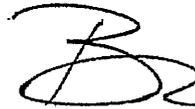


receiving the account statements thereby agreeing to the resulting balance. A copy of the charge off statement and any other available statements is attached hereto and incorporated herein as Composite Exhibit "B".

16. By submitting payments in response to the monthly statements rendered and delivered, the Defendant, YINESKA M ROLLIN, accepted the resulting balance.
17. The Defendant, YINESKA M ROLLIN owes Plaintiff, CACH, LLC the amount of \$15,248.72 which includes the amount owed as of the issuance of the charge off statement plus interest at the default credit agreement rate of 14.24%.

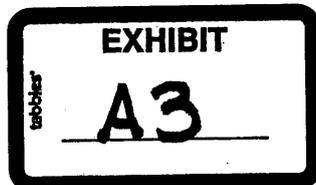
WHEREFORE, Plaintiff CACH, LLC respectfully requests this Honorable Court enter Judgment in its favor against Defendant YINESKA M ROLLIN in the sum of \$15,248.72 together with Court costs and interest as described herein and any other just and further relief as this Honorable Court deems just and proper.

Dated: August 07, 2012



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Bryan Manno, Esq.  
FEDERATED LAW GROUP, PLLC  
13205 U.S. Highway 1, Suite 555  
Juno Beach, Florida 33408  
Tel: (888) 362-7684  
Fax: (800) 391-2178  
Email: bmanno@federatedlaw.com  
Florida Bar No.: 0414573



# EXHIBIT A

File #: 120002924178



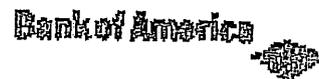


EXHIBIT C

BILL OF SALE AND ASSIGNMENT OF LOANS

The undersigned Assignor ("Assignor") on and as of the date hereof hereby absolutely sells, transfers, assigns, sets-over, quitclaims and conveys to CACH, LLC, a Limited Liability Company organized under the laws of Colorado ("Assignee") without recourse and without representations or warranties of any type, kind, character or nature, express or implied, subject to Buyer's repurchase rights as set forth in Sections 8.1 and 8.2, all of Assignor's right, title and interest in and to each of the loans identified in the loan schedule ("Loan Schedule") attached hereto (the "Loans"), together with the right to all principal, interest or other proceeds of any kind with respect to the Loans remaining due and owing as of the Cut-Off Date applicable to such Loans as set forth in the Loan Sale Agreement pursuant to which the Loans are being sold (including but not limited to proceeds derived from the conversion, voluntary or involuntary, of any of the Loans into cash or other liquidated property).

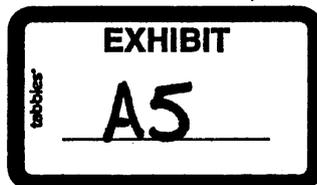
DATED: September 23, 2010.

ASSIGNOR: FIA CARD SERVICES, N.A.

Name: Debra L. Pellicciaro  
Title: Vice President

Fresh Random Sale 4/14/10

21604

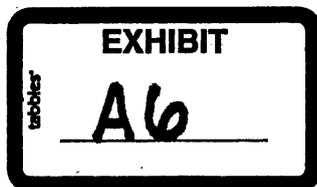


Form 2552-ASS-04/00

Bank of America, Asset Sales  
Deerfield 011, 855 Poplar ME Road, Newark, DE 19711

# EXHIBIT B

File #: 120002924178





YINESKA M ROLLIN  
 Account Number: [REDACTED] 1222  
 July 15 - August 12, 2010

Account Information:  
 www.bankofamerica.com

Mail billing inquiries to:  
 Bank of America  
 P.O. Box 15028  
 Wilmington, DE 19850-5028

Mail payments to:  
 Bank of America  
 P.O. Box 851001  
 Dallas, TX 75285-1001

Customer Service:  
 1.800.421.2110

(1.800.340.3178 TTY)

Payment Information	
New Balance Total .....	\$14,561.32
Current Payment Due .....	\$359.00
Past Due Amount .....	\$2,381.00
<hr/>	
Total Minimum Payment Due.....	\$2,740.00
Payment Due Date .....	9/10/10

Late Payment Warning: If we do not receive your minimum payment by the date listed above, you may have to pay a late fee of up to \$39.00.  
 Minimum Payment Warning: If you make only the minimum payment each period, you will pay more in interest and it will take you longer to pay off your balance. For example:

If you make no additional charges using this card and each month you pay	You will pay off the balance shown on this statement in about	And you will end up paying an estimated total of
Only the minimum payment	31 years	\$32,941.59

If you would like information about credit counseling services, call 1.866.300.5238.

Account Summary	
Previous Balance .....	\$14,344.90
Payments and Other Credits.....	0.00
Purchases and Adjustments.....	0.00
Fees Charged .....	39.00
Interest Charged.....	177.42
<hr/>	
New Balance Total .....	\$14,561.32

Credit Line.....\$15,800.00  
 Statement Closing Date .....8/12/10  
 Days in Billing Cycle .....29

**Transactions**

Transaction Date	Posting Date	Description	Reference Number	Account Number	Amount	Total
08/10	08/10	Fees LATE FEE FOR PAYMENT DUE 08/10 TOTAL FEES FOR THIS PERIOD	4344		39.00	\$39.00
08/12	08/12	Interest Charged			0.00	
08/12	08/12	Interest Charged on Balance Transfers Interest Charged on Cash Advances continued on next page...			54.31	

11 014561320027400000025000000 [REDACTED] 1222

BANK OF AMERICA  
 P.O. BOX 851001  
 DALLAS, TX 75285-1001

Account Number: [REDACTED] 1222

New Balance Total.....\$14,561.32  
 Minimum Payment Due .....2,740.00  
 Payment Due Date .....09/10/10

Enter payment amount \$

Check here for a change of mailing address or phone numbers.  
 Please provide all corrections on the reverse side.  
 Mail this coupon along with your check payable to: Bank of America



125240222501 [REDACTED] 122211

**IMPORTANT INFORMATION ABOUT THIS ACCOUNT**

USE511 Rev. 08/10

**CUSTOMER TIPS FOR DISPUTED ITEMS**

Many times disputed charges are legitimate charges that customers may not recognize or remember. Before disputing a charge, we recommend that you verify a few things and make every effort to resolve the dispute with the merchant. Often the merchant can answer your questions and easily resolve your dispute. The merchant's phone number may be located on your receipt or billing statement.

- **Has a credit posted to your account?**  
Please allow up to 30 days from the date on your credit voucher or acknowledgement letter for the merchant credit to post.
- **Is the charge or amount unfamiliar?**  
Check with other persons authorized to use the account to make sure they did not make the charge. It is possible that the merchants' billing names and store names are different or amounts can easily be confused with similar charges or include tips.

One way to check for the credits or to view transaction details is to look at your account statements online. If you are not enrolled in Online Banking, it is easy to enroll using the web address on the front of your statement or give us a call.

Please remember: Once you receive your statement with a transaction you wish to dispute, you only have 60 days to dispute the charge.



**ONLINE**

Online Banking is available 24 hours a day, 7 days a week and allows you to view the most recent activity on your account.



**PHONE**

1.866.266.0212

For prompt service, please have the merchant reference number(s) available for the charge(s) in question.



**MAIL**

Attn: Billing Inquiries PO Box 15026, Wilmington, DE 19850-5020

When writing, please include Your Name, Account Number, the reference number of the disputed item and specific details regarding your dispute, including dates of contact with the merchant and the merchant's response in each instance. Please include all supporting documentation, including sales and credit vouchers, contract and postage return receipts as proof of any returns.

**GRACE PERIOD/PAYING INTEREST**

"Grace Period" means the period of time during a billing cycle when you will not accrue interest on certain transactions or balances. There is no Grace Period for Balance Transfers or Cash Advances; we begin charging interest on Balance Transfers and Cash Advances on the transaction date. We will not charge interest on Purchases on the next statement if you pay the New Balance Total in full by the Payment Due Date, and you had paid in full by the previous Payment Due Date.

**CALCULATION OF BALANCES SUBJECT TO INTEREST RATE**

**Average Balance Method (including new Balance Transfers and new Cash Advances):**

We calculate separate Balances Subject to an Interest Rate for Balance Transfers, Cash Advances, and for each Promotional Offer balance consisting of Balance Transfers or Cash Advances. We do this by: (1) calculating a daily balance for each day in this statement's billing cycle; (2) calculating a daily balance for each day prior to this statement's billing cycle that had a "Pre-Cycle balance" - a Pre-Cycle balance is a Balance Transfer or a Cash Advance with a transaction date prior to this statement's billing cycle but with a posting date within this statement's billing cycle; (3) adding all the daily balances together; and (4) dividing the sum of the daily balances by the number of days in this statement's billing cycle.

To calculate the daily balance for each day in this statement's billing cycle, we take the beginning balance, add an amount equal to the applicable Daily Periodic Rate multiplied by the previous day's daily balance, add new Balance Transfers, new Cash Advances and Transaction Fees, and subtract applicable payments and credits. If any daily balance is less than zero we treat it as zero.

To calculate a daily balance for each day prior to this statement's billing cycle that had a Pre-Cycle balance, we take the beginning balance attributable solely to Pre-Cycle balance (which will be zero on the transaction date of the first Pre-Cycle balance), add an amount equal to the applicable Daily Periodic Rate multiplied by the previous day's daily balance, and add only the applicable Pre-Cycle balances, and their related Transaction Fees. We exclude from this calculation all transactions posted in previous billing cycles.

**Average Daily Balance Method (including new Purchases):**

We calculate separate Balances Subject to an Interest Rate for Purchases and for each Promotional Offer balance consisting of Purchases. We do this by: (1) calculating a daily balance for each day in the billing cycle; (2) adding all the daily balances together; and (3) dividing the sum of the daily balances by the number of days in the billing cycle.

To calculate the daily balance for each day in this statement's billing cycle, we take the beginning balance, add an amount equal to the applicable Daily Periodic Rate multiplied by the previous day's daily balance, add new Purchases, new Account Fees, and new Transaction Fees, and subtract applicable payments and credits. If any daily balance is

**PAYMENTS**

We credit mailed payments as of the date received, if the payment is: (1) received by 5 p.m. local time at the address shown on the remittance slip on the front of your monthly statement; (2) paid with a check drawn in U.S. dollars on a U.S. financial institution or a U.S. dollar money order; and (3) sent in the return envelope with only the remittance portion of your statement accompanying it. Payments received by mail after 5 p.m. local time at the remittance address on any day including the Payment Due Date, but that otherwise meet the above requirements, will be credited as of the next day. Payments made online or by phone will be credited as of the date of receipt if made by 5 p.m. Central time. Credit for any other payments may be delayed up to five days.

No payment shall operate as an accord and satisfaction without the prior written approval of one of our Senior Officers.

We process most payment checks electronically by using the information found on your check. Each check authorizes us to create a one-time electronic funds transfer (or process it as a check or paper draft). Funds may be withdrawn from your account as soon as the same day we receive your payment. Checks are not returned to you. For more information or to stop the electronic funds transfers, call us at the number listed on the front.

If you have authorized us to pay your credit card bill automatically from your savings or checking account with us, you can stop the payment on any amount you think is wrong. To stop payment, your letter must reach us at least three business days before the automatic payment is scheduled to occur.

less than zero we treat it as zero.

We include the fees for credit card debt cancellation or credit insurance purchased through us in calculating the beginning balance for the first day of the billing cycle after the billing cycle in which such fees are billed.

**TOTAL INTEREST CHARGE COMPUTATION**

Interest Charges accrue and are compounded on a daily basis. To determine the Interest Charges we multiply each Balance Subject to Interest Rate by its applicable Daily Periodic Rate and that result by the number of days in the billing cycle. To determine the total Interest Charge for the billing cycle, we add the Periodic Rate Interest Charges together. A Daily Periodic Rate is calculated by dividing an Annual Percentage Rate by 365.

**HOW WE ALLOCATE YOUR PAYMENTS**

If your account has balances with different APRs, we will allocate the amount of your payment equal to the Total Minimum Payment Due to the lowest APR balances first (including transactions made after this statement). Payment accounts in excess of your Total Minimum Payment Due will be applied to balances with higher APRs before balances with lower APRs.

**IMPORTANT INFORMATION ABOUT PAYMENTS BY PHONE**

When using the optional Pay-by-Phone service, you authorize us to initiate an electronic payment from your account at the financial institution you designate. You must authorize the amount and timing of each payment. For your protection, we will ask for security information. A fee may apply for expedited service. To cancel, call us before the scheduled payment date. Same-day payments cannot be edited or canceled.

**MISCELLANEOUS**

For the complete terms and conditions of your account, consult your Credit Card Agreement. FIA Card Services is a trademark of FIA Card Services, N.A. This account is issued and administered by FIA Card Services, N.A.

If your billing address or contact information has changed, or if your address is incorrect as it appears on this bill, please provide all corrections here.

Address 1 \_\_\_\_\_

Address 2 \_\_\_\_\_

City \_\_\_\_\_

State \_\_\_\_\_ Zip \_\_\_\_\_

Area Code & Home Phone \_\_\_\_\_

Area Code & \_\_\_\_\_





1222  
 July 15 - August 12, 2010  
 Page 3 of 4

**Transactions continued**

Transaction Date	Posting Date	Description	Reference Number	Account Number	Amount	Total
08/12	08/12	Interest Charged				
		Interest Charged on Purchases			123.11	
		TOTAL INTEREST FOR THIS PERIOD				\$177.42

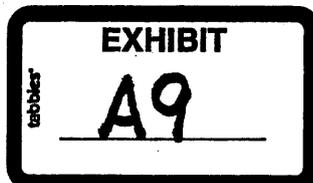
2010 Totals Year-to-Date	
Total fees charged in 2010	\$273.00
Total interest charged in 2010	\$1,394.14

**Interest Charge Calculation**

Your Annual Percentage Rate (APR) is the annual interest rate on your account.

	Annual Percentage Rate	Promotional Transaction Type	Promotional Offer ID	Balance Subject to Interest Rate	Interest Charges by Transaction Type
Balance Transfers	14.24%V			\$ 0.00	\$ 0.00
Cash Advances	19.24%V			\$ 3,552.81	\$ 54.31
Purchases	14.24%V			\$10,881.57	\$123.11

APR Type Definitions: Daily Interest Rate Type: V= Variable Rate (rate may vary)





YINESKA M ROLLIN  
 Account Number: [REDACTED] 1222  
 July 15 - August 12, 2010

Account Information:  
 www.bankofamerica.com  
 Mail billing inquiries to:  
 Bank of America  
 P.O. Box 15026  
 Wilmington, DE 19850-5026  
 Mail payments to:  
 Bank of America  
 P.O. Box 851001  
 Dallas, TX 75285-1001  
 Customer Service:  
 1.800.421.2110  
 (1.800.340.3178 TTY)

Payment Information							
New Balance Total .....	\$14,561.32						
Current Payment Due .....	\$359.00						
Past Due Amount .....	\$2,381.00						
<hr/>							
Total Minimum Payment Due.....	\$2,740.00						
Payment Due Date .....	9/10/10						
<p>Late Payment Warning: If we do not receive your minimum payment by the date listed above, you may have to pay a late fee of up to \$39.00.</p> <p>Minimum Payment Warning: If you make only the minimum payment each period, you will pay more in interest and it will take you longer to pay off your balance. For example:</p> <table border="1"> <thead> <tr> <th>If you make no additional charges using this card and each month you pay</th> <th>You will pay off the balance shown on this statement in about</th> <th>And you will end up paying an estimated total of</th> </tr> </thead> <tbody> <tr> <td>Only the minimum payment</td> <td>31 years</td> <td>\$32,941.59</td> </tr> </tbody> </table> <p>If you would like information about credit counseling services, call 1-866-300-5238.</p>		If you make no additional charges using this card and each month you pay	You will pay off the balance shown on this statement in about	And you will end up paying an estimated total of	Only the minimum payment	31 years	\$32,941.59
If you make no additional charges using this card and each month you pay	You will pay off the balance shown on this statement in about	And you will end up paying an estimated total of					
Only the minimum payment	31 years	\$32,941.59					

Account Summary	
Previous Balance .....	\$14,344.90
Payments and Other Credits.....	0.00
Purchases and Adjustments .....	0.00
Fees Charged .....	39.00
Interest Charged.....	177.42
<hr/>	
New Balance Total .....	\$14,561.32
<hr/>	
Credit Line.....	\$15,800.00
Statement Closing Date .....	8/12/10
Days in Billing Cycle .....	29

Transactions						
Transaction Date	Posting Date	Description	Reference Number	Account Number	Amount	Total
08/10	08/10	Fees LATE FEE FOR PAYMENT DUE 08/10 TOTAL FEES FOR THIS PERIOD	4344		39.00	\$39.00
08/12	08/12	Interest Charged Interest Charged on Balance Transfers			0.00	
08/12	08/12	Interest Charged on Cash Advances continued on next page...			54.31	

11 014561320027400000025000000 [REDACTED] 1222

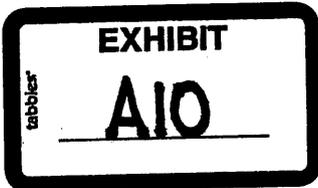
BANK OF AMERICA  
 P.O. BOX 851001  
 DALLAS, TX 75285-1001

Account Number: [REDACTED] 1222

New Balance Total.....\$14,561.32  
 Minimum Payment Due .....2,740.00  
 Payment Due Date .....09/10/10

Enter payment amount \$

Check here for a change of mailing address or phone numbers.  
 Please provide all corrections on the reverse side.  
 Mail this coupon along with your check payable to: Bank of America



1: 4 2 4 0 2 2 2 5 0 : [REDACTED] 1 2 2 2 1 1 P

**IMPORTANT INFORMATION ABOUT THIS ACCOUNT**

USE511 Rev. 08/10

**CUSTOMER TIPS FOR DISPUTED ITEMS**

Many times disputed charges are legitimate charges that customers may not recognize or remember. Before disputing a charge, we recommend that you verify a few things and make every effort to resolve the dispute with the merchant. Often the merchant can answer your questions and easily resolve your dispute. The merchant's phone number may be located on your receipt or billing statement.

- **Has a credit posted to your account?**  
Please allow up to 30 days from the date on your credit voucher or acknowledgement letter for the merchant credit to post.
- **Is the charge or amount unfamiliar?**  
Check with other persons authorized to use the account to make sure they did not make the charge. It is possible that the merchants' billing names and store names are different or amounts can easily be confused with similar charges or include tips.

One way to check for the credits or to view transaction details is to look at your account statements online. If you are not enrolled in Online Banking, it is easy to enroll using the web address on the front of your statement or give us a call.

Please remember: Once you receive your statement with a transaction you wish to dispute, you only have 60 days to dispute the charge.

**GRACE PERIOD/PAYING INTEREST**

"Grace Period" means the period of time during a billing cycle when you will not accrue interest on certain transactions or balances. There is no Grace Period for Balance Transfers or Cash Advances; we begin charging interest on Balance Transfers and Cash Advances on the transaction date. We will not charge interest on Purchases on the next statement if you pay the New Balance Total in full by the Payment Due Date, and you had paid in full by the previous Payment Due Date.

**CALCULATION OF BALANCES SUBJECT TO INTEREST RATE**

**Average Balance Method (including new Balance Transfers and new Cash Advances):**  
We calculate separate Balances Subject to an Interest Rate for Balance Transfers, Cash Advances, and for each Promotional Offer balance consisting of Balance Transfers or Cash Advances. We do this by: (1) calculating a daily balance for each day in this statement's billing cycle; (2) calculating a daily balance for each day prior to this statement's billing cycle that had a "Pre-Cycle balance" - a Pre-Cycle balance is a Balance Transfer or a Cash Advance with a transaction date prior to this statement's billing cycle but with a posting date within this statement's billing cycle; (3) adding all the daily balances together; and (4) dividing the sum of the daily balances by the number of days in this statement's billing cycle.

To calculate the daily balance for each day in this statement's billing cycle, we take the beginning balance, add an amount equal to the applicable Daily Periodic Rate multiplied by the previous day's daily balance, add new Balance Transfers, new Cash Advances and Transaction Fees, and subtract applicable payments and credits. If any daily balance is less than zero we treat it as zero.

To calculate a daily balance for each day prior to this statement's billing cycle that had a Pre-Cycle balance, we take the beginning balance attributable solely to Pre-Cycle balance (which will be zero on the transaction date of the first Pre-Cycle balance), add an amount equal to the applicable Daily Periodic Rate multiplied by the previous day's daily balance, and add only the applicable Pre-Cycle balances, and their related Transaction Fees. We exclude from this calculation all transactions posted in previous billing cycles.

**Average Daily Balance Method (including new Purchases):**

We calculate separate Balances Subject to an Interest Rate for Purchases and for each Promotional Offer balance consisting of Purchases. We do this by: (1) calculating a daily balance for each day in the billing cycle; (2) adding all the daily balances together; and (3) dividing the sum of the daily balances by the number of days in the billing cycle.

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**PAYMENTS**

We credit mailed payments as of the date received, if the payment is: (1) received by 5 p.m. local time at the address shown on the remittance slip on the front of your monthly statement; (2) paid with a check drawn in U.S. dollars on a U.S. financial institution or a U.S. dollar money order; and (3) sent in the return envelope with only the remittance portion of your statement accompanying it. Payments received by mail after 5 p.m. local time at the remittance address on any day including the Payment Due Date, but that otherwise meet the above requirements, will be credited as of the next day. Payments made online or by phone will be credited as of the date of receipt if made by 5 p.m. Central time. Credit for any other payments may be delayed up to five days.

No payment shall operate as an accord and satisfaction without the prior written approval of one of our Senior Officers.

We process most payment checks electronically by using the information found on your check. Each check authorizes us to create a one-time electronic funds transfer (or process it as a check or paper draft). Funds may be withdrawn from your account as soon as the same day we receive your payment. Checks are not returned to you. For more information or to stop the electronic funds transfers, call us at the number listed on the front.

If you have authorized us to pay your credit card bill automatically from your savings or checking account with us, you can stop the payment on any amount you think is wrong. To stop payment, your letter must reach us at least three business days before the automatic payment is scheduled to occur.



**ONLINE**

Online Banking is available 24 hours a day, 7 days a week and allows you to view the most recent activity on your account.



**PHONE**

1.866.268.0212

For prompt service, please have the merchant reference number(s) available for the charge(s) in question.



**MAIL**

Attn: Billing Inquiries PO Box 15028, Wilmington, DE 19850-5028

When writing, please include Your Name, Account Number, the reference number of the disputed item and specific details regarding your dispute, including dates of contact with the merchant and the merchant's response in each instance. Please include all supporting documentation, including sales and credit vouchers, contract and postage return receipts as proof of any returns.

less than zero we treat it as zero.

We include the fees for credit card debt cancellation or credit insurance purchased through us in calculating the beginning balance for the first day of the billing cycle after the billing cycle in which such fees are billed.

**TOTAL INTEREST CHARGE COMPUTATION**

Interest Charges accrue and are compounded on a daily basis. To determine the Interest Charges we multiply each Balance Subject to Interest Rate by its applicable Daily Periodic Rate and that result by the number of days in the billing cycle. To determine the total Interest Charge for the billing cycle, we add the Periodic Rate Interest Charges together. A Daily Periodic Rate is calculated by dividing an Annual Percentage Rate by 365.

**HOW WE ALLOCATE YOUR PAYMENTS**

If your account has balances with different APRs, we will allocate the amount of your payment equal to the Total Minimum Payment Due to the lowest APR balances first (including transactions made after this statement). Payment amounts in excess of your Total Minimum Payment Due will be applied to balances with higher APRs before balances with lower APRs.

**IMPORTANT INFORMATION ABOUT PAYMENTS BY PHONE**

When using the optional Pay-by-Phone service, you authorize us to initiate an electronic payment from your account at the financial institution you designate. You must authorize the amount and timing of each payment. For your protection, we will ask for security information. A fee may apply for expedited service. To cancel, call us before the scheduled payment date. Same-day payments cannot be edited or canceled.

**MISCELLANEOUS**

For the complete terms and conditions of your account, consult your Credit Card Agreement. FIA Card Services is a trademark of FIA Card Services, N.A. This account is issued and administered by FIA Card Services, N.A.

If your billing address or contact information has changed, or if your address is incorrect as it appears on this bill, please provide all corrections here.

Address 1 \_\_\_\_\_

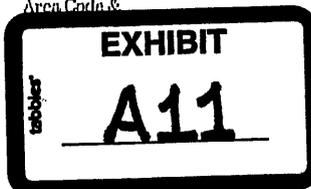
Address 2 \_\_\_\_\_

City \_\_\_\_\_

State \_\_\_\_\_ Zip \_\_\_\_\_

Area Code & Home Phone \_\_\_\_\_

Area Code & \_\_\_\_\_





1222  
 July 15 - August 12, 2010  
 Page 3 of 4

**Transactions**

Transaction Date	Posting Date	Description	Reference Number	Account Number	Amount	Total
08/12	08/12	Interest Charged Interest Charged on Purchases TOTAL INTEREST FOR THIS PERIOD			123.11	\$177.42

2010 Total Year-to-Date	
Total fees charged in 2010	\$273.00
Total interest charged in 2010	\$1,394.14

**Interest Charge Calculation**

Your Annual Percentage Rate (APR) is the annual interest rate on your account.

	Annual Percentage Rate	Promotional Transaction Type	Promotional Offer ID	Balance Subject to Interest Rate	Interest Charges by Transaction Type
Balance Transfers	14.24%V			\$ 0.00	\$ 0.00
Cash Advances	19.24%V			\$ 3,552.81	\$ 54.31
Purchases	14.24%V			\$10,881.57	\$123.11

APR Type Definitions: Daily Interest Rate Type: V= Variable Rate (rate may vary)



IN THE CIRCUIT COURT OF THE 6TH JUDICIAL CIRCUIT  
IN AND FOR PINELLAS COUNTY, FLORIDA

CACH, LLC,

Plaintiff,

vs.

YINESKA M ROLLIN,

Defendant(s).

CASE NO.: 1 2 0 1 0 6 4 1 C1-011

SUMMONS

9-11-12 6:10 PM  
DT AA 2774

THE STATE OF FLORIDA:  
To each Sheriff of the State:

YOU ARE COMMANDED to serve this Summons and a copy of the Complaint or Petition in this action on the following Defendant:

YINESKA M ROLLIN, Golden Gate Apts, 4450 40th Ave N Unit D14, Saint Petersburg, FL 33714-4302

Each Defendant is required to serve written defenses to the Complaint or petition on Plaintiff's attorney and with this Court whose addresses are as follows:

BRYAN MANNO, ESQ.  
FEDERATED LAW GROUP, PLLC  
13205 U.S. Highway 1, Suite 555  
Juno Beach, Florida 33408  
1-888-362-7684

PINELLAS COUNTY COURTHOUSE  
315 COURT STREET ROOM 170  
CLEARWATER, FLORIDA 33756

A lawsuit has been filed against you. You have twenty (20) calendar days after this summons is served on you to file a written response to the attached Complaint in this Court. A phone call will not protect you; your written response including the above case number and named parties, must be filed if you want the Court to hear your case. If you do not file your response on time, you may lose the case, and your wages, money and property may thereafter be taken without warning from the Court. There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may call an attorney referral service or a legal aid office (listed in the phone book).

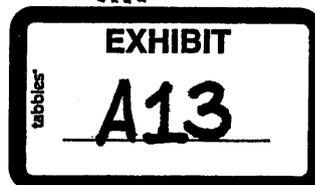
If you choose to file a written response yourself, at the same time you file your written response to the Court you must also mail, or take a copy of your written response to the Plaintiff's Attorney named above.

DATED ON AUG 29 2012



Ken Burke, Clerk of the Court

*[Signature]*  
Deputy Clerk  
COURT SEAL



**IMPORTANT**

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Within two (2) working days of your receipt of this Summons please contact the Human Rights Office, 400 S. Ft. Harrison Ave., Ste. 300, Clearwater, FL 33756, (727) 464-4062 (V/TDD). The court does not provide transportation and cannot accommodate for this service. Persons with disabilities needing transportation to court should contact their local public transportation providers for information regarding disabled transportation services.



Mr. Swift:

This email is sent to you and to your designated email address as counsel of record in the case referenced above and by case-style below, pursuant to Florida Rule of Judicial Administration 2.516.

The attached document(s) being served upon you with originals being filed with the Court on this date include(s) only those marked by "X" below, and is/are served under the case-style appearing below.

ATTACHED DOCUMENTS

- Proposal for Settlement
- Response to Motion
- Request for Production
- Interrogatories
- Request for Admissions
- Motion for Telephonic Appearance
- Other [If checked, specify here]: Plaintiff's Motion for Summary Judgment

CASE STYLE:

IN THE CIRCUIT COURT OF THE 6TH JUDICIAL CIRCUIT  
IN AND FOR PINELLAS COUNTY, FLORIDA

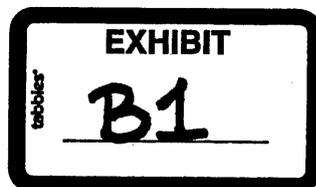
CASE NO.: 12010641CI

CACH, LLC,  
Plaintiff

vs.

YINESKA M ROLLIN,  
Defendant

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IN THE CIRCUIT COURT OF THE 6TH JUDICIAL CIRCUIT  
IN AND FOR PINELLAS COUNTY, FLORIDA

CACH, LLC,

CASE NO.: 12010641CI

Plaintiff,

vs.

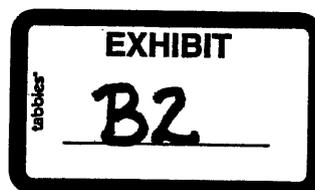
YINESKA M ROLLIN,

Defendant.

PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

COMES NOW the Plaintiff, CACH, LLC, by and through its undersigned Counsel, and moves this Honorable Court pursuant to Rule 1.510, Fla. R. Civ. P., for the entry of a Summary Judgment in its favor and against Defendant, YINESKA M ROLLIN, on the grounds that there is no genuine issue as to any material fact, and that Plaintiff is entitled to judgment as a matter of law. In support thereof, Plaintiff states the following:

- 1) There are no genuine issues as to any material fact and Plaintiff, CACH, LLC, is entitled to a Judgment as a matter of law based upon the pleadings, affidavits and discovery on file herein
- 2) More specifically, Plaintiff, CACH, LLC, would show unto this Court that all of the factual allegations contained in Plaintiff's Complaint are undisputed as a result of the pleadings, affidavits and discovery on file herein. In addition, please see the Affidavit of the CACH, LLC, Authorized Agent in Support of Motion for Summary Judgment filed by Plaintiff, attached hereto as Exhibit A.
- 3) On or about October 28, 2003, Defendant entered into an agreement with the original creditor by accepting and using the credit account issued to Defendant, therefore being bound by any terms associated with the credit account. Defendant's periodic payments further established an admission of liability of the debt owed.
- 4) Plaintiff purchased the debt incurred by Defendant from the original creditor, and now owns and holds all rights relative thereto. Accordingly, Plaintiff is lawfully entitled to enforce that agreement and receive the benefit thereof. True and correct copies of the Bill of Sale and the redacted Loan Schedule to the Bill of Sale are attached hereto as Composite Exhibit B.
- 5) Defendant has failed to repay either the full balance due or the minimum monthly payment as promised since December 31, 2009.



- 6) Plaintiff filed a Complaint against Defendant based upon the unpaid balance, which forms the basis of the instant suit. Defendant was duly served with process and Plaintiff's Complaint on or about September 11, 2012.
- 7) Defendant responded to Plaintiff's Complaint on or about October 25, 2012. Defendant denied the debt. However, a mere denial of allegations contained in the complaint, unsupported by evidence, does not create triable issues of fact. Edgewater Drugs, Inc. v. Jax Drugs, Inc., 138 So. 2d 525, 528 (Fla. 1st DCA 1962) (criticized on other grounds). In her Amended Answer, Defendant raised four (4) affirmative defenses. Moreover, even affirmative defenses on which there are no material issues of fact may be eliminated on a motion for summary judgment. Garris v. Robeison, 146 So. 2d 388 (Fla. 2d DCA 1962). A true and correct copy of Defendant's Amended Answer is attached hereto as Exhibit C.
- 8) On or about April 4, 2013, this Court entered an Order on Plaintiff's Motion to Strike where the Court struck the Defendant's Second and Third Affirmative Defenses. A true and correct copy of the April 4, 2013 Order is attached hereto as Exhibit D.
- 9) Defendant's First Affirmative Defense raises the defense of lack of capacity for failure to plead such within the Complaint. Plaintiff is a foreign corporation that is registered with the Florida Secretary of State and conducts continuous business operations within the State of Florida. Plaintiff has capacity to sue and the Court has jurisdiction over the parties involved. Alternatively, Defendant's First Affirmative Defense is not an affirmative defense. An affirmative defense is a defense where a party admits liability to a claim against such party, but proffers evidence as to why the party should be excused or was justified. In the present case, Defendant First Affirmative Defense does not admit liability to either of Plaintiff's causes of action, nor does it state grounds as to why Defendant was justified or should be excused from liability. Specifically, Defendant's First Affirmative Defense is a defense of failure to plead a cause of action; the proper procedure of which would be to file a Motion to Dismiss.
- 10) Defendant's Fourth Affirmative Defense raises the defense of failure to provide notice of assignment pursuant to Fla.Stat. §559.715. Plaintiff provided Defendant with a notice of assignment in the form of a Demand Letter on May 12, 2012 and again on June 19, 2012 in compliance with Fla.Stat. §559.715. True and correct copies of the Demand Letters are attached hereto as Composite Exhibit E.
- 11) Attached to Plaintiff's Complaint is a copy of Defendant's charge off statement.
- 12) Defendant at no time filed a claim or raised a dispute regarding ownership of the account, the balance stated, or the interest rate listed upon the monthly billing statements Defendant received prior to the filing of the instant suit. Case law in Florida has long established that "an account stated comes into being when a creditor periodically bills a debtor for a certain amount, which amount is not objected to within a reasonable time." Dudas v. Dade County, 385 So.2d 1144 (Fla. 3rd DCA 1980); Daytona Bridge Company v. Bond, 47 Fla. 136, 36 So. 445 (1904). See also Levy v. Stephen L. Geller, Inc., 444 So.2d 568 (Fla. 3rd DCA 1984). In order to prevail in an action for an account stated, two conditions must be present: 1) there must be an agreement between the parties that a certain balance is correct and due, and 2) there must be a promise, either express or implied, to repay this balance. Everett v. Webb Furniture Co., Inc., 124 So. 278 (1929).



An example of a situation where an account stated was proven through implication occurred in Dudas. In Dudas, the debtors opened an account and received their first statement in 1971. The debtors continued to receive statements without raising an objection to the balances listed therein until suit was filed on February 9, 1997. The Court held an objection made at this point in time was not made within reasonable time; and therefore, the creditor prevailed on its claim for an account stated.

- 13) In the present case, Defendant has failed to provide evidence that they filed a dispute with regard to the principal amounts stated, or the interest rate listed upon the statements received at any time between October 28, 2003 and December 31, 2009. Accordingly, Defendant is deemed to have received these statements for the period of time reflected upon the statements. The facts of this case are similar to Dudas, in that both debtors received statements from a creditor for an extended period of time without objection. Thus, it would intuitively follow that, once the holding in Dudas is applied to the case at bar, an account stated through implication is established.
- 14) Pursuant to Florida Rules of Civil Procedure 1.510(c), a judge shall enter summary judgment in favor of the moving party if there is no genuine, triable issue of fact and if the party is guaranteed a judgment as a matter of law. Summary Judgment may be granted when the moving party has sustained its burden of showing the absence of a genuine issue as to any material fact with all evidence being viewed in the light most favorable to the non-moving party. Holl v. Talcott, 191 So. 2d 40 (Fla. 1966); see Lauck v. Publix Market, Inc., 335 So. 2d 589 (Fla. 3d DCA 1976); Fla. R. Civ. P. 1.510 (2002).
- 15) Additionally, when a denial of a claim is not made specifically and with particularity, entry of summary judgment may be proper. See United Bonding Ins. Co. vs. Dura Stress, Inc., 243 So.2d 244 (Fla. 2nd DCA 1971).
- 16) Defendant owes the Plaintiff \$15,248.72 plus interest and Court costs.
- 17) Based on the aforementioned case law, a general denial raises no genuine issues of fact, is not sufficient to sustain a defense and thus Summary Judgment should be granted against Defendant, YINESKA M ROLLIN.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter Summary Judgment in its favor and against Defendant YINESKA M ROLLIN for the amount of \$15,248.72 plus interest and Court costs.

[Signature on the following page]



**CERTIFICATE OF SERVICE**

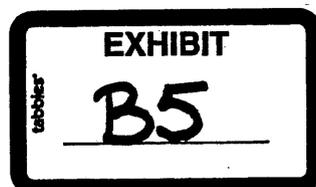
**I HEREBY CERTIFY** that, pursuant to Florida Rule of Judicial Administration 2.516, a true and correct copy of the foregoing has been furnished via electronic mail to Aaron Swift, Esq. at that attorney's designated email address(es).

Dated: June 25, 2013

/s



Bryan Manno, Esq.  
Florida Bar No.: 0414573  
Jeremy A. Soffler, Esq.  
Florida Bar No.: 92059  
J. Matthew Thorstad, Esq.  
Florida Bar No.: 93469  
FEDERATED LAW GROUP, PLLC  
13205 U.S. Highway 1, Suite 555  
Juno Beach, Florida 33408  
Tel: (888) 362-7684  
Fax: (800) 391-2178  
Document service e-mail:  
bmanno@federatedlaw.com



# EXHIBIT A



IN THE CIRCUIT COURT OF THE 6TH JUDICIAL CIRCUIT  
IN AND FOR PINELLAS COUNTY, FLORIDA

CASE NO.: 12010641CI

CACH, LLC,

Plaintiff,

vs.

YINESKA M ROLLIN,

Defendant(s).

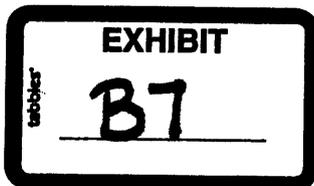
AFFIDAVIT OF CACH, LLC AUTHORIZED AGENT

STATE OF COLORADO     )  
  )  
COUNTY OF DENVER     )

Before me the undersigned authority, duly authorized to administer oaths, personally appeared SHANEKA SONNIER, to me personally known or who confirmed his/her identity by showing photo identification and who, after being duly sworn, declares under penalty of perjury under the laws of the State that the following is true and correct, and if called as a witness could completely testify to the matters stated herein as follows:

SHANEKA SONNIER

1. My name is SHANEKA SONNIER.
2. I am the authorized agent and custodian of records of Plaintiff, CACH, LLC, including, but not limited to the records of this account sent to Plaintiff, CACH, LLC, by the original creditor Bank of America, N.A.. I have personally reviewed the books and records of Plaintiff, CACH, LLC, and am familiar with the account of Defendant, YINESKA M ROLLIN.
3. The aforementioned books and records are kept in the ordinary course of a regularly conducted business activity and are made either by a person having personal knowledge of the information contained therein or based on information conveyed by a person having personal knowledge of the information contained therein, and I know from my experience in reviewing such records and from common knowledge of how credit cards work that those records are made and maintained by individuals who have a business duty to make entries in the records accurately at or near the time of the event that they record.
4. The records consist of both hard copy information and electronic information that is generated, stored and maintained in accordance with generally accepted standards in retail and financial industries by individuals that possess the knowledge and training necessary to insure the accuracy and reliability of said records.
5. In such capacity as authorized agent and custodian of records, and based upon my inspection of the books and records of Plaintiff, CACH, LLC maintained in the ordinary course of its business, I have personally reviewed the account records for this specific matter along with each of the



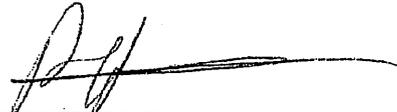
documents attached to Plaintiff's Complaint and I hereby attest that said documents are true and correct copies of the records received from the original creditor in this matter.

- 6. The business records furnished to Plaintiff CACH, LLC show that Defendant, YINESKA M ROLLIN, opened a credit account with the original creditor, Bank of America, N.A. and that Defendant, YINESKA M ROLLIN defaulted in its payments to the original creditor on the aforementioned credit account which caused said debt to be charged off on August 31, 2010.
- 7. For good and valuable consideration, Plaintiff, CACH, LLC purchased Defendant's, YINESKA M ROLLIN, account from the original creditor Bank of America, N.A. and therefore Plaintiff, CACH, LLC is thus the current creditor in the instant action.
- 8. All credits and payments have been properly applied to the account, Defendant, YINESKA M ROLLIN, is not entitled to any additional credits or offsets on the account of any kind, and the balance set forth below is currently due and owing.
- 9. There is now, due and payable from the Defendant, YINESKA M ROLLIN, the sum of \$15,248.72 plus interest calculated on the advice of counsel at the default interest rate of 14.240% per annum from February 10, 2012 through the last interest date calculated of August 09, 2012, plus costs as permitted by law.

FURTHER AFFIANT SAYETH NAUGHT.

Sign Name:   
 Print Name: SHANEKA SONNIER  
CACH, LLC

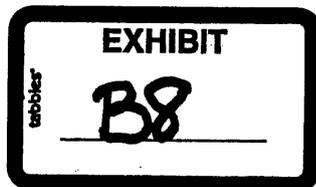
SWORN TO AND SUBSCRIBED before me this      day of   OCT 01 2012  ,  
20 by either providing picture identification or by personally knowing said individual.

Sign Name:   
 NOTARY PUBLIC

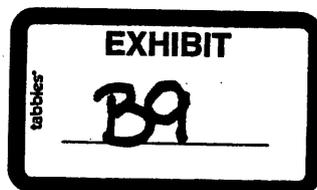
My Commission Expires:



My Commission Expires 02 03 2014



# COMPOSITE EXHIBIT B



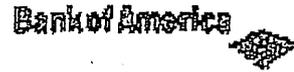


EXHIBIT C

BILL OF SALE AND ASSIGNMENT OF LOANS

The undersigned Assignor ("Assignor") on and as of the date hereof hereby absolutely sells, transfers, assigns, sets-over, quitclaims and conveys to CACH, LLC, a Limited Liability Company organized under the laws of Colorado ("Assignee") without recourse and without representations or warranties of any type, kind, character or nature, express or implied, subject to Buyer's repurchase rights as set forth in Sections 3.1 and 3.2, all of Assignor's right, title and interest in and to each of the loans identified in the loan schedule ("Loan Schedule") attached hereto (the "Loans"), together with the right to all principal, interest or other proceeds of any kind with respect to the Loans remaining due and owing as of the Cut-Off Date applicable to such Loans as set forth in the Loan Sale Agreement pursuant to which the Loans are being sold (including but not limited to proceeds derived from the conversion, voluntary or involuntary, of any of the Loans into cash or other liquidated property).

DATED: September 23, 2010.

ASSIGNOR: FIA CARD SERVICES, N.A.

Name: Debra L. Pellicciaro  
Title: Vice President

Fresh Random Sale 4/14/10

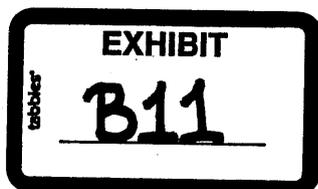
21504



Fax: 302.458.0438

Bank of America Asset Sales  
Dearfield 11, 845 Poppe Mill Road, Newark, DE 19711

# LOAN SCHEDULE



Cut Off Date Charge Off Account Number Charge Off Date Original Account Number Primary Name - Title First Middle\*Last\$Suffix

9/16/2010 [REDACTED] 2729

31-AUG-10 [REDACTED] 41222

INESKA M ROLLIN



Secondary Name - Title First Middle\*Last\$Suffix      Secondary Name - Social Security Number      Address Line 1      Address Line 2      City

915 SANDPIPER WAY S      SAINT PETERSBURG



State or Country Code Zip or Postal Code Social Security Number Home Phone Work Phone Current (Sale) Balance Charge Off Balance Last Pay Amount Last Pay Date

FL

33707

xxxxx1633

9934

\$14,561.32

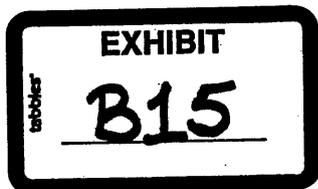
14561.32

250

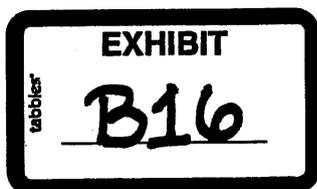
31-Dec-09



Open Date	Interest Rate	First Delq Date	Birth Date	Affinity	Conversion Account Number	Fee Portion of C/O Balance	Interest Portion of C/O Balance	Legacy
28-Oct-03	14.24	12-Mar-10	28-Sep-57	BANK OF AMERICA	[REDACTED] 4003	273	1394.14	BAC



# EXHIBIT C



IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT,  
IN AND FOR PINELLAS COUNTY, FLORIDA  
CIVIL DIVISION

CACH, LLC,

Plaintiff,

Case No.: 12-010641-CI

vs.

YINESKA M ROLLIN,

Defendant(s).

AMENDED ANSWER AND AFFIRMATIVE DEFENSES

COME NOW, the Defendant, Yineska M. Rollin (hereinafter "Defendant"), and answers and asserts affirmative defenses as follows:

ANSWER

1. Admitted for jurisdictional purposes only.
2. Admitted.
3. Admitted.
4. Without knowledge and therefore denied.
5. Denied.
6. Denied.
7. Without knowledge and therefore denied.
8. Admitted.

COUNT I: ACCOUNT STATED

Defendant re-alleges paragraphs one (1) through eight (8) as if fully restated herein and further states as follows:

9. Denied.



- 10. Denied.
- 11. Denied.
- 12. Denied.
- 13. Denied.
- 14. Denied.

**COUNT II : UNJUST ENRICHMENT**

Defendant re-alleges paragraphs one (1) through eight (8) as if fully restated herein and further states as follows:

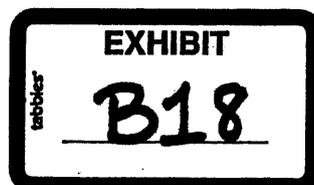
- 15. Denied.
- 16. Denied.
- 17. Denied.

**AFFIRMATIVE DEFENSES**

As and for affirmative defenses, Defendant asserts and states as follows:

**FIRST AFFIRMATIVE DEFENSE:  
Lack of Capacity**

Plaintiff has wholly failed to plead any facts that identify Plaintiff, its legal status, or its capacity. Capacity to sue is an absence of any disability that would deprive a party of its right to come into court. 59 Am.Jur.2d *Parties* § 31 (1971). This distinguishes capacity from "standing," which relates to the party's legally sufficient interest in the outcome. See *Keelm v. Joseph C. Mackey and Co.*, 420 So.2d 398 (Fla. Dist. Ct. App. 4th Dist. 1982). See also *Asociacion de Perjudicados v. Citibank*, 770 So.2d 1267 (Fla. Dist. Ct. App. 3rd Dist. 2000) (dismissing case for lack of capacity as distinguished from standing). The Florida Rules of Civil Procedure require the Plaintiff to allege "capacity to sue or be sued," only "to the extent required to show the jurisdiction of the court."



Rule 1.120(a), Fla. R. Civ.P. Plaintiff has not plead any facts relating to its legal status. Plaintiff does not provide *any* description to explain the legal nature of the entity. The Florida Rules of Civil Procedure require that a Complaint include “a short and plain statement of the grounds upon which the court’s jurisdiction depends...” Rule 1.110(b), Fla. R. Civ. P. Plaintiff has failed to plead or specify in what capacity the Plaintiff brings suit. Plaintiff has also failed to identify or define in any way the nature of its legal entity or its legal status and has not plead that it has the capacity to maintain suit before this Court. As such, Defendant is unable to determine whether Plaintiff has capacity to sue. Without such capacity, Plaintiff may not pursue this litigation. *Asociacion de Perjudiacados, supra*. In a recent ruling in the Sixth Judicial Circuit, Pinellas County, Judge Anthony Rondolino granted defendant’s Motion to Dismiss based on a similar legal argument regarding capacity. *See Wachovia Mortgage, FSB F/K/A World Savings Bank v. Matachiero*, 17 Fla. L. Weekly Supp. 101a (Fla. 6th Cir. Ct. 2010).

**SECOND AFFIRMATIVE DEFENSE:**  
**Failure to State a Cause of Action for Account Stated**

Plaintiff’s claims against Defendant must fail because Plaintiff has failed to state a cause of action for which relief might be granted for Account Stated. Specifically, Plaintiff has failed to show that Plaintiff and Defendant have ever engaged in a contractual relationship or business transaction. Further, Plaintiff has failed to show that Defendant ever agreed to a resulting balance owed to Plaintiff or its purported predecessor, FIA Card Services, N.A., and Plaintiff has failed to show an express or implied promise by Defendant to pay any balance to Plaintiff. Finally, Defendant denies any balance exists on the subject account as the account has been charged off by the Issuer.



**THIRD AFFIRMATIVE DEFENSE:**

**Failure to State a Cause of Action for Unjust Enrichment**

Plaintiff's claims against Defendant must fail because Plaintiff has failed to state a cause of action for which relief might be granted for unjust enrichment. Specifically, Plaintiff has failed to show that Plaintiff conferred any benefit on Defendant. Further, Plaintiff has failed to show that Defendant voluntarily made an express or implicit promise to pay Defendant any alleged balance of any debt allegedly owed.

**FOURTH AFFIRMATIVE DEFENSE:**

**Lack of Subject Matter Jurisdiction for Failure to Satisfy a Condition Precedent**

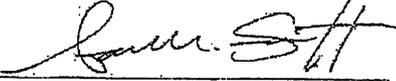
Plaintiff's claims against Defendant must fail because this Court lacks subject matter jurisdiction as Plaintiff failed to satisfy a condition precedent. As of the date of the purported sale of the Debt to Plaintiff, Florida Statute § 559.715 stated, "This part does not prohibit the assignment, by a creditor, of the right to bill and collect a consumer debt. However, the assignee must give the debtor written notice of such assignment within 30 days after the assignment." (Emphasis added). Plaintiff failed to notify Defendant of such assignment within 30 days after the assignment.

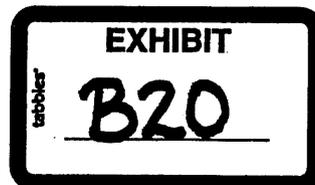
**REQUEST FOR RELIEF**

WHEREFORE, Defendant, based upon the *Amended Answer and Affirmative Defenses* provided herein, respectfully requests this Court to enter a Judgment in favor of Defendant, denying Plaintiff's Complaint for relief in its entirety, on the merits, with prejudice, and for such other relief as is equitable and just.

Respectfully Submitted,

LEAVENGOOD & NASH

  
\_\_\_\_\_  
Ian R. Leavengood, Esq. FBN 10167

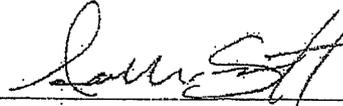


Christopher C. Nash, Esq., FBN 0135046  
Aaron M. Swift, Esq. FBN 93088  
3900 First Avenue North, Suite 100  
St. Petersburg, FL 33703  
Phone: (727) 327-3328  
Fax: (727) 327-3305  
ileavengood@leavenlaw.com  
cnash@leavenlaw.com  
aswift@leavenlaw.com  
*Attorneys for Defendant*

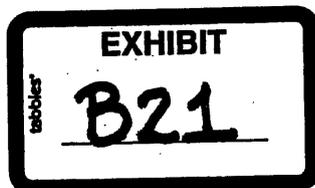
**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing *Amended Answer and Affirmative Defenses* has been furnished via facsimile and electronic mail on this 12th day of October 2012 to:

Bryan Manno, Esq.  
FEDERATED LAW GROUP, PLLC  
13205 US Highway 1, Suite 555  
Juno Beach, FL 33408  
Fax: 800-391-2178  
E-mail: bmanno@federatedlaw.com



Attorney



# EXHIBIT D





# COMPOSITE EXHIBIT E





**FEDERATED LAW GROUP, PLLC**  
Attorneys at Law

13205 US Highway 1, Suite 555  
Juno Beach, FL 33408  
Toll Free: (888) 362-3797  
Telefax: (800) 391-2178

Bryan Manno, Esq.

May 12, 2012



36304-12A/120002924178/53451/DM1P 5103  
YINESKA M ROLLIN  
4450 40TH AVE N  
ST PETERSBURG, FL 33714-4333

204148

17

204148



<b>Creditor:</b>	CACH, LLC
<b>Account No.:</b>	[REDACTED] 4178
<b>Original Creditor:</b>	Bank of America, N.A.
<b>Original Creditor Account No.:</b>	[REDACTED] 1222
<b>Current Balance Due:</b>	\$15,072.61

**THIS COMMUNICATION IS FROM DEBT COLLECTOR. WE ARE ATTEMPTING TO COLLECT A DEBT, AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.**

Dear Yineska Rollin:

This office has been retained by CACH, LLC, to collect the above balance that you owe our client. This is a demand for payment of your outstanding obligation. As of date of this letter, you owe \$15,072.61. Because of interest, late charges, and other charges that may vary from day to day, the amount due on the day you pay may be greater. Hence, if you pay the amount shown above, an adjustment may be necessary after we receive your check, in which event we will inform you before depositing the check for collection. For further information, write the undersigned, or call.

In making this demand, this office is relying entirely on information provided by our client. At this time, this firm is acting in its capacity as a debt collector and no attorney with our law firm has personally reviewed the particular circumstances of your account or determined what action, if any, this office will take to collect the amount due.

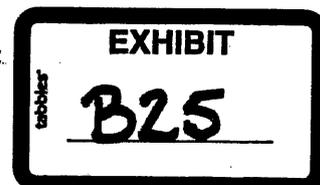
Unless you, within 30 days after receipt of this notice, dispute the validity of the debt, or any portion thereof, we will assume this debt is valid. If you notify this office in writing within the thirty-day period that you dispute the debt, or any portion thereof, is disputed, this office will obtain verification of the debt by our client or a copy of the judgment against you and a copy of such verification or judgment will be mailed to you. Upon your written request, within the thirty-day period, this office will provide you with the name and address of the original creditor, if different from the current creditor.

Please be advised that the law does not require us to wait until the end of the thirty-day period before attempting to enforce our client's rights to collect this debt through litigation or otherwise. If, however, you request proof of the debt or the name and address of the original creditor within the thirty-day period that begins with your receipt of this letter, the law requires us to suspend our efforts (through litigation or otherwise) to collect the debt until we mail the requested information to you.

If you would like to make arrangements to pay the debt, please call this office at (888) 362-3797.

Sincerely,

Federated Law Group, PLLC



204148

**IMPORTANT NOTICE OF RIGHTS**

We are required under state and/or federal law(s) to notify consumers of certain rights. This list does not include a complete list of rights consumers may have under state or federal laws or regulations.

**In California:** The State Rosenthal Fair Debt Collection Practices Act and The Federal Fair Debt Collection Act require that, except under unusual circumstances, collector may not contact you before 8:00 a.m. or after 9:00 p.m. They may not harass you by using threats or violence or arrest or by using obscene language. Collectors may not use false or misleading statements or call you at work if they know or have reason to know that you may not receive personal calls at work. For the most part, collectors may not tell another person, other than your attorney or spouse, about your debt. Collectors may contact another person to confirm your location or enforce a judgment. For more information about debt collection activities, you may contact The Federal Trade Commission at 1-877-FTC-HELP or [www.ftc.gov](http://www.ftc.gov). As required by law, you are hereby notified that a negative credit report reflecting on your credit record may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit obligations.

**In Colorado:** For information about the Colorado Fair Debt Collection Practices Act, see <http://www.coloradoattorneygeneral.gov>. A consumer has the right to request in writing that a debt collector or collection agency cease further communication with the consumer. A written request to cease communication will not prohibit the debt collector or collection agency from taking any other action authorized by law to collect the debt.

**In Kansas:** An investigative consumer report, which includes information as to your character, general reputation, personal characteristics and mode of living whichever are applicable, may be made or obtained. Within a reasonable period of time after your receipt of this letter, upon your written request for additional information regarding the scope and nature of our investigation, complete and accurate disclosure of the nature and scope of the investigation requested will be provided.

**In Maine:** Office Location: 13205 US Highway One, Suite 555, Juno Beach, FL 33408 Phone (888) 362-3797 Business Hours: 8:30 a.m. to 6:00 p.m. Monday through Friday Eastern Time.

**In Massachusetts:** Office Location: 13205 US Highway One, Suite 555, Juno Beach, FL 33408 Phone (888) 362-3797 Business Hours: 8:30 a.m. to 6:00 p.m. Monday through Friday Eastern Time. Massachusetts law requires that we inform you:

**NOTICE OF IMPORTANT RIGHTS**

YOU HAVE THE RIGHT TO MAKE A WRITTEN OR ORAL REQUEST THAT TELEPHONE CALLS REGARDING YOUR DEBT NOT BE MADE TO YOU AT YOUR PLACE OF EMPLOYMENT. ANY SUCH ORAL REQUEST WILL BE VALID FOR ONLY 10 DAYS UNLESS YOU PROVIDE WRITTEN CONFIRMATION OF THE REQUEST POSTMARKED OR DELIVERED WITHIN SEVEN DAYS OF SUCH REQUEST. YOU MAY TERMINATE THIS REQUEST BY WRITING TO THE DEBT COLLECTOR.

**In Texas:** Office Location: 13205 US Highway One, Suite 555, Juno Beach, FL 33408 Phone (888) 362-3797 Business Hours: 8:30 a.m. to 6:00 p.m. Monday through Friday Eastern Time.

**In Utah:** As required by Utah law, you are hereby notified that a negative credit report reflecting your credit record may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit obligations.

Federal Law or other state laws may also provide you with similar or even greater rights.

**IMPORTANT INFORMATION ABOUT CREDIT REPORTING**

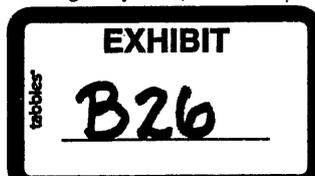
Our clients may report information about your account to credit bureaus. Federated Law Group, PLLC reserves the right to monitor and/or record telephone calls for training, quality, and compliance purposes including calls originated by, or made to, Federated Law Group, PLLC. Calling into Federated Law Group, PLLC or accepting a call from Federated Law Group, PLLC constitutes permission to record the telephone conversation.

**Payment Instructions For Western Union Quick Collect**

For your convenience in paying by Western Union, Please note the following instructions, if applicable:

- 1 Call Western Union at (800) 325-6000 to locate the Western Union agent closest to you.
- 2 Obtain Quick Collect payment form from your Western Union agent. Fill out the Quick Collect payment form completely. Make it payable to Square Two Financial. The code city is CALAND, the state is COLORADO and the account number will be your account number found on the front of this letter.
- 3 Give the agent the completed Quick Collect form, the payment amount, and the transaction fee (presently \$12.95) required and payable to Western Union in cash.

You will receive a receipt from Western Union agent with a ten-digit control number. This number is proof that the money was sent. Please retain that receipt for your records.





**FEDERATEDLAWGROUP, PLLC**

ATTORNEYS AT LAW

13205 US Highway 1, Suite 555  
Juno Beach, FL 33408  
Toll Free: 888.362.7264  
Telefax: 800.391.2178  
www.federatedlaw.com

Bryan Manno, Esq

June 19, 2012



36951-20A/120002924178/53649/AC01 5103  
YINESKA M ROLLIN  
4450 40TH AVE N  
ST PETERSBURG, FL 33714-4333

44078

47

44078



<b>Creditor:</b>	CACH, LLC
<b>Federated Account No.:</b>	██████████4178
<b>Original Creditor:</b>	Bank of America, N.A.
<b>Original Creditor Account No.:</b>	██████████1222
<b>Current Balance Due:</b>	\$15,248.72

Dear Yineska Rollin:

As you should know from previous correspondence, this office represents the above-named creditor. A review of your current financial situation and/or identified assets indicates you have the ability to promptly and amicably resolve this account and for this reason our client has approved your account for legal action.

Because of your failure to give this matter the attention it deserves, we may have no option but to take any and all measures available to collect the claimed indebtedness. Our client has authorized this law firm to file a legal action against you in the county in which you reside.

If you wish to try to resolve this matter amicably and avoid legal action being taken you should immediately call our office at (888) 362-7264 within 10 days of receipt of this letter.

**TAKE NOTICE AND ACT ACCORDINGLY**

Sincerely,

Federated Law Group, PLLC

**THIS COMMUNICATION IS FROM A DEBT COLLECTOR. WE ARE ATTEMPTING TO COLLECT A DEBT, AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.**

FOR IMMEDIATE ASSISTANCE CALL

**(888) 362-7264**

Para español llame al  
**(888) 930-3447**



44078

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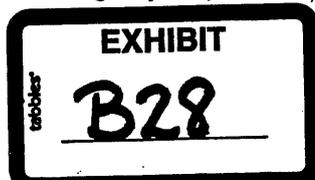
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Federated Law Group, PLLC 13205 US Highway One, Suite 555, Juno Beach, FL 33408 Phone: (888) 362-7264



IN THE CIRCUIT COURT OF THE 6TH JUDICIAL CIRCUIT  
IN AND FOR PINELLAS COUNTY, FLORIDA

CASE NO.: 12010641CI

CACH, LLC,

Plaintiff,

vs.

YINESKA M ROLLIN,

Defendant.

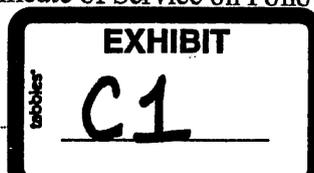
**MOTION AND STATEMENT OF GOOD CAUSE SHOWING  
PLAINTIFF'S CAUSE OF ACTION SHOULD NOT BE DISMISSED**

COMES NOW the Plaintiff, CACH, LLC, by and through its undersigned Counsel, and hereby files this Motion and Statement of Good Cause Showing Plaintiff's Cause of Action Should Not Be Dismissed and hereby states as follows:

1. On or about June 25, 2013, Plaintiff filed its Motion for Summary Judgment with the Court and upon counsel for Defendant. A copy of said Motion is attached hereto as Composite Exhibit "A".
2. However, due to clerical mistake and calendaring error, counsel for Plaintiff failed to set Plaintiff's Motion for Summary Judgment for hearing.
3. As a result, this Honorable Court entered its Notice of Lack of Prosecution on or about May 28, 2014.
4. Under Fla. R. Civ. P. 7.190(b)(1) the court may relieve a party from final judgment, order, or proceeding due to a party's mistake, inadvertence, surprise, or excusable neglect.
5. Plaintiff respectfully submits that said clerical mistake was excusable neglect and Plaintiff would be unjustly prejudiced if required to re-file this action.
6. Plaintiff hereby timely files this Motion and Statement of Good Cause in good faith and therefore requests this Honorable Court to allow Plaintiff's cause of action to stand.

WHEREFORE, Plaintiff, CACH, LLC, respectfully requests that this Honorable Court grant Plaintiff's Motion and Statement of Good Cause Showing Plaintiff's Cause of Action Should Not Be Dismissed and grant any such further relief as it deems just and proper.

(Certificate of Service on Following Page)

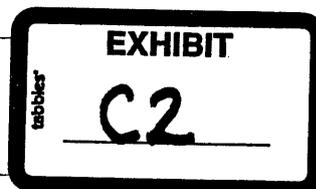


**CERTIFICATE OF SERVICE**

I **HEREBY CERTIFY** that, pursuant to Florida Rule of Judicial Administration 2.516, a true and correct copy of the foregoing has been furnished via electronic mail to Aaron Swift, Esq. at that attorney's designated email address(es).

Dated: June 06, 2014

/s \_\_\_\_\_ *M*  
Bryan Manno, Esq.- 0414573  
Jeremy A. Soffler, Esq. - 92059  
Marc Canzio, Esq. - 106306  
Tina Gayle, Esq. - 0636606  
FEDERATED LAW GROUP, PLLC  
13205 U.S. Highway 1, Suite 555  
Juno Beach, Florida 33408  
Tel: (888) 362-7684  
Fax: (800) 391-2178  
Document service e-mail:  
bmanno@federatedlaw.com





# FEDERATEDLAWGROUP, PLLC

**Attorneys for Federated  
Law Group, PLLC.**

•••

**ATTORNEYS:**

Bryan Manno, Esq.  
\*Licensed in FL  
Jeremy A. Soffler, Esq.  
\*Licensed in FL  
Marc T. Canzio, Esq.  
\*Licensed in FL  
Tina D. Gayle, Esq.  
\*Licensed in FL

Miguel A. Maza, Esq.  
DBA Maza & Associates  
\*Licensed in PR  
\*\*Of Counsel

**MAIN OFFICE:**

13205 U.S. Highway 1 #555  
Juno Beach, FL 33408  
**p. 877.304.0148**  
**f. 800.391.2178**

**PUERTO RICO OFFICE:**

33 Bolivia St Suite 203  
San Juan, PR 00917  
**p. 877.304.0148**  
**f. 800.391.2178**

**email:**  
**info@federatedlaw.com**

**website:**  
**www.federatedlaw.com**

Agents of the Firm speak  
English, Spanish, and Creole

June 06, 2014

Clerk of the Court  
Pinellas County Courthouse  
315 Court Street  
Clearwater, FL 33756

**RE: CACH, LLC vs. YINESKA M ROLLIN**  
**Case Number: 12010641CI**

Dear Clerk of the Court:

Pursuant to Court's Notice of Lack of Prosecution entered on May 28, 2014, enclosed please find the Motion and Statement of Good Cause Showing Plaintiff's Cause of Action Should Not Be Dismissed, and one (1) original and two (2) copies of a proposed Order with regards to the above-referenced matter.

Should you approve of the attached, we ask that you execute and send a copy to our office in the self-addressed, stamped envelope bearing our law firm's address. We would also kindly ask that you forward a copy of the executed Order to the Attorney for Defendant in the attached stamped envelope bearing his address.

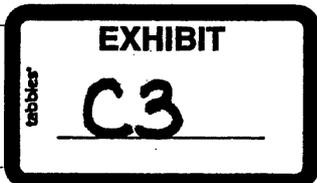
Should you need anything further or have any additional questions, we ask that you contact us at the number above.

Thank you.

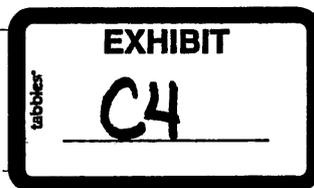
Respectfully,

Bryan Manno, Esq.  
FEDERATED LAW GROUP, PLLC

cc: Aaron Swift, Esq.



# COMPOSITE EXHIBIT A



IN THE CIRCUIT COURT OF THE 6TH JUDICIAL CIRCUIT  
IN AND FOR PINELLAS COUNTY, FLORIDA

CACH, LLC,

CASE NO.: 12010641CI

Plaintiff,

vs.

YINESKA M ROLLIN,

Defendant.

---

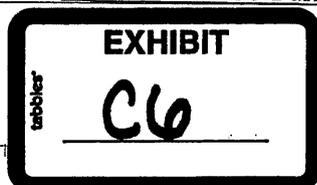
**PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**

COMES NOW the Plaintiff, CACH, LLC, by and through its undersigned Counsel, and moves this Honorable Court pursuant to Rule 1.510, Fla. R. Civ. P., for the entry of a Summary Judgment in its favor and against Defendant, YINESKA M ROLLIN, on the grounds that there is no genuine issue as to any material fact, and that Plaintiff is entitled to judgment as a matter of law. In support thereof, Plaintiff states the following:

- 1) There are no genuine issues as to any material fact and Plaintiff CACH LLC is entitled to a Judgment as a matter of law based upon the pleadings, affidavits and discovery on file herein.
- 2) More specifically, Plaintiff, CACH, LLC, would show unto this Court that all of the factual allegations contained in Plaintiff's Complaint are undisputed as a result of the pleadings, affidavits and discovery on file herein. In addition, please see the Affidavit of the CACH, LLC, Authorized Agent in Support of Motion for Summary Judgment filed by Plaintiff, attached hereto as Exhibit A.
- 3) On or about October 28, 2003, Defendant entered into an agreement with the original creditor by accepting and using the credit account issued to Defendant, therefore being bound by any terms associated with the credit account. Defendant's periodic payments further established an admission of liability of the debt owed.
- 4) Plaintiff purchased the debt incurred by Defendant from the original creditor, and now owns and holds all rights relative thereto. Accordingly, Plaintiff is lawfully entitled to enforce that agreement and receive the benefit thereof. True and correct copies of the Bill of Sale and the redacted Loan Schedule to the Bill of Sale are attached hereto as Composite Exhibit B.
- 5) Defendant has failed to repay either the full balance due or the minimum monthly payment as promised since December 31, 2009.



- 6) Plaintiff filed a Complaint against Defendant based upon the unpaid balance, which forms the basis of the instant suit. Defendant was duly served with process and Plaintiff's Complaint on or about September 11, 2012.
- 7) Defendant responded to Plaintiff's Complaint on or about October 25, 2012. Defendant denied the debt. However, a mere denial of allegations contained in the complaint, unsupported by evidence, does not create triable issues of fact. Edgewater Drugs, Inc. v. Jax Drugs, Inc., 138 So. 2d 525, 528 (Fla. 1st DCA 1962) (criticized on other grounds). In her Amended Answer, Defendant raised four (4) affirmative defenses. Moreover, even affirmative defenses on which there are no material issues of fact may be eliminated on a motion for summary judgment. Garris v. Robeison, 146 So. 2d 388 (Fla. 2d DCA 1962). A true and correct copy of Defendant's Amended Answer is attached hereto as Exhibit C.
- 8) On or about April 4, 2013, this Court entered an Order on Plaintiff's Motion to Strike where the Court struck the Defendant's Second and Third Affirmative Defenses. A true and correct copy of the April 4, 2013 Order is attached hereto as Exhibit D.
- 9) Defendant's First Affirmative Defense raises the defense of lack of capacity for failure to plead such within the Complaint. Plaintiff is a foreign corporation that is registered with the Florida Secretary of State and conducts continuous business operations within the State of Florida. Plaintiff has capacity to sue and the Court has jurisdiction over the parties involved. Alternatively, Defendant's First Affirmative Defense is not an affirmative defense. An affirmative defense is a defense where a party admits liability to a claim against such party, but proffers evidence as to why the party should be excused or was justified. In the present case, Defendant First Affirmative Defense does not admit liability to either of Plaintiff's causes of action, nor does it state grounds as to why Defendant was justified or should be excused from liability. Specifically, Defendant's First Affirmative Defense is a defense of failure to plead a cause of action; the proper procedure of which would be to file a Motion to Dismiss.
- 10) Defendant's Fourth Affirmative Defense raises the defense of failure to provide notice of assignment pursuant to Fla.Stat. §559.715. Plaintiff provided Defendant with a notice of assignment in the form of a Demand Letter on May 12, 2012 and again on June 19, 2012 in compliance with Fla.Stat. §559.715. True and correct copies of the Demand Letters are attached hereto as Composite Exhibit E.
- 11) Attached to Plaintiff's Complaint is a copy of Defendant's charge off statement.
- 12) Defendant at no time filed a claim or raised a dispute regarding ownership of the account, the balance stated, or the interest rate listed upon the monthly billing statements Defendant received prior to the filing of the instant suit. Case law in Florida has long established that "an account stated comes into being when a creditor periodically bills a debtor for a certain amount, which amount is not objected to within a reasonable time." Dudas v. Dade County, 385 So.2d 1144 (Fla. 3rd DCA 1980); Daytona Bridge Company v. Bond, 47 Fla. 136, 36 So. 445 (1904). See also Levy v. Stephen L. Geller, Inc., 444 So.2d 568 (Fla. 3rd DCA 1984). In order to prevail in an action for an account stated, two conditions must be present: 1) there must be an agreement between the parties that a certain balance is correct and due, and 2) there must be a promise, either express or implied, to repay this balance. Everett v. Webb Furniture Co., Inc., 124 So. 278 (1929).

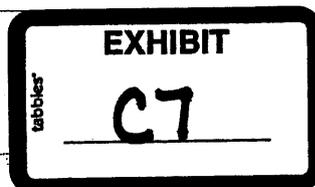


An example of a situation where an account stated was proven through implication occurred in Dudas. In Dudas, the debtors opened an account and received their first statement in 1971. The debtors continued to receive statements without raising an objection to the balances listed therein until suit was filed on February 9, 1997. The Court held an objection made at this point in time was not made within reasonable time; and therefore, the creditor prevailed on its claim for an account stated.

- 13) In the present case, Defendant has failed to provide evidence that they filed a dispute with regard to the principal amounts stated, or the interest rate listed upon the statements received at any time between October 28, 2003 and December 31, 2009. Accordingly, Defendant is deemed to have received these statements for the period of time reflected upon the statements. The facts of this case are similar to Dudas, in that both debtors received statements from a creditor for an extended period of time without objection. Thus, it would intuitively follow that, once the holding in Dudas is applied to the case at bar, an account stated through implication is established.
- 14) Pursuant to Florida Rules of Civil Procedure 1.510(c), a judge shall enter summary judgment in favor of the moving party if there is no genuine, triable issue of fact and if the party is guaranteed a judgment as a matter of law. Summary Judgment may be granted when the moving party has sustained its burden of showing the absence of a genuine issue as to any material fact with all evidence being viewed in the light most favorable to the non-moving party. Holl v. Talcott, 191 So. 2d 40 (Fla. 1966); see Lauck v. Publix Market, Inc., 335 So. 2d 589 (Fla. 3d DCA 1976); Fla. R. Civ. P. 1.510 (2002).
- 15) Additionally, when a denial of a claim is not made specifically and with particularity, entry of summary judgment may be proper. See United Bonding Ins. Co. vs. Dura Stress, Inc., 243 So.2d 244 (Fla. 2nd DCA 1971).
- 16) Defendant owes the Plaintiff \$15,248.72 plus interest and Court costs.
- 17) Based on the aforementioned case law, a general denial raises no genuine issues of fact, is not sufficient to sustain a defense and thus Summary Judgment should be granted against Defendant, YINESKA M ROLLIN.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter Summary Judgment in its favor and against Defendant YINESKA M ROLLIN for the amount of \$15,248.72 plus interest and Court costs.

[Signature on the following page]



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that, pursuant to Florida Rule of Judicial Administration 2.516, a true and correct copy of the foregoing has been furnished via electronic mail to Aaron Swift, Esq. at that attorney's designated email address(es).

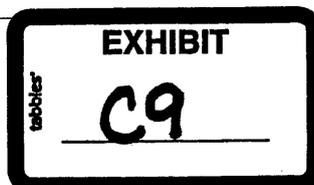
Dated: June 25, 2013

/s \_\_\_\_\_  
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# EXHIBIT A

File #: 120002924178





documents attached to Plaintiff's Complaint and I hereby attest that said documents are true and correct copies of the records received from the original creditor in this matter.

- 6. The business records furnished to Plaintiff CACH, LLC show that Defendant, YINESKA M ROLLIN, opened a credit account with the original creditor, Bank of America, N.A. and that Defendant, YINESKA M ROLLIN defaulted in its payments to the original creditor on the aforementioned credit account which caused said debt to be charged off on August 31, 2010 .
- 7. For good and valuable consideration, Plaintiff, CACH, LLC purchased Defendant's, YINESKA M ROLLIN, account from the original creditor Bank of America, N.A. and therefore Plaintiff, CACH, LLC is thus the current creditor in the instant action.
- 8. All credits and payments have been properly applied to the account, Defendant, YINESKA M ROLLIN, is not entitled to any additional credits or offsets on the account of any kind, and the balance set forth below is currently due and owing.
- 9. There is now, due and payable from the Defendant, YINESKA M ROLLIN, the sum of \$15,248.72 plus interest calculated on the advice of counsel at the default interest rate of 14.240% per annum from February 10, 2012 through the last interest date calculated of August 09, 2012 , plus costs as permitted by law.

FURTHER AFFIANT SAYETH NAUGHT.

Sign Name:

Print Name:

SHANEKA SONNIER  
CACH, LLC

SWORN TO AND SUBSCRIBED before me this \_\_\_\_\_ day of OCT 01 2012, 20\_\_\_\_ by either providing picture identification or by personally knowing said individual.

Sign Name:

  
NOTARY PUBLIC

My Commission Expires:



My Commission Expires 02 03 2014

