Filing # 74338249 E-Filed 06/29/2018 05:15:35 PM

IN THE COUNTY COURT OF THE 11TH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA

TD BANK USA, N.A., *Plaintiff,*	)	**CIVIL ACTION**
	)	
vs.	)	
	)	CASE NO.
LISSETTE FERNANDEZ, *Defendant.*	)	
	)	
___________________________________/		

COMPLAINT FOR MONEY OWED

Plaintiff, TD Bank USA, N.A., sues Defendant LISSETTE FERNANDEZ and alleges:

JURISDICTIONAL AND FACTUAL ALLEGATIONS

1. This is an action for money damages that do not exceed $5,000.00, exclusive of court costs, for default under a credit account between Plaintiff and Defendant.

2. The Plaintiff is a corporate entity transacting business by and through the instrumentality of interstate commerce by the issuance of credit and is entitled to prosecute this civil action under the laws of the State of Florida. Plaintiff is the owner of the subject account for credit and is entitled to all sums due pursuant to the terms and conditions of the credit agreement.

3. Upon information and belief, the Defendant is a resident of this County, within the jurisdiction and venue of this Court, and is neither a minor, an incompetent person nor in the active military service of the United States.

4. Plaintiff issued credit to the Defendant who agreed and promised to pay all amounts owed on the account, including interest, fees and additional charges in accordance to the terms and conditions of the Agreement provided to the Defendant pursuant to 15 USC 1637(a).

5. The subject account is now in default due to the Defendant's failure to pay the account in accordance with the terms and conditions of the Agreement.

6. Plaintiff has satisfied all conditions precedent to receiving payment on the account.

7. The outstanding amount due and owing on the subject account is $2,428.54. A true and correct copy of the transactions and purchases made by the Defendant are attached and incorporated herein as an exhibit to this complaint.

8. No part of the outstanding debt has been paid. Plaintiff made demand for payment of the debt. Notwithstanding such demand, no part of the debt has been paid by the Defendant. A true and correct copy of the demand for payment is attached and incorporated herein as an exhibit to this complaint.

9. Plaintiff is entitled to court costs pursuant to the terms of the Agreement.

COUNT I - MONEY LENT

10. Plaintiff re-adopts and re-alleges the jurisdictional and factual allegations of this complaint as if fully set forth herewith.

11. Plaintiff lent money to the Defendant in the form of the extension of credit.

12. Defendant accepted and used the credit offered by the Plaintiff for purchases charged to the account subject to the terms and conditions pursuant to the Agreement.

13. Defendant defaulted on the credit issued by failing to pay Plaintiff according to the terms of the Agreement.

14. Defendant is indebted to the Plaintiff in the principal sum of $2,428.54.

WHEREFORE, Plaintiff demands judgment for money damages against Defendant including court costs, pursuant to the Agreement, and post-judgment interest at the statutory rate until the Judgment is satisfied-in-full.

COUNT II - ACCOUNT STATED

15. Plaintiff re-adopts and re-alleges the jurisdictional and factual allegations of this complaint as if fully set forth herewith.

16. At the time Defendant made the subject credit purchases, Defendant was rendered a transaction statement, a copy being attached herein as an exhibit to the complaint and incorporated herein by reference.

17. Defendant agreed and/or did not object to the resulting balance on the transaction statement(s) due at the time the account statement was received.

18. Defendant owes Plaintiff the principal sum of $2,428.54.

WHEREFORE, Plaintiff demands judgment for money damages against Defendant including court costs, pursuant to the Agreement, and post-judgment interest at the statutory rate until the Judgment is satisfied-in-full.

COUNT III - UNJUST ENRICHMENT

19. Plaintiff re-adopts and re-alleges the jurisdictional and factual allegations of this complaint as if fully set forth herewith.

20. This count of equity is plead in the alternative should this Court decide that there is no adequate remedy at law.

21. Plaintiff has conferred upon the Defendant a monetary benefit in the form of credit to the Defendant.

22. Defendant had knowledge of the monetary benefit conferred by the Plaintiff upon Defendant's through the credit issued by the Plaintiff.

23. The Defendant has voluntarily accepted and retained the monetary benefit conferred.

24. Defendant has not compensated Plaintiff for the benefit conferred and Defendant is unjustly enriched at the expense of Plaintiff.

25. It would be inequitable for Defendant to retain the benefit without paying Plaintiff the value thereof.

26. The Defendant has been unjustly enriched at the expense and detriment of the Plaintiff in the sum of $2,428.54.

WHEREFORE, Plaintiff demands judgment for money damages against Defendant including court costs, pursuant to the Agreement, and post-judgment interest at the statutory rate until the Judgment is satisfied-in-full.

DESIGNATION OF PRIMARY E-MAIL ADDRESS

In accordance with Fla. R. Jud. Admin. 2.516(b)(1)(A), the undersigned attorney for the Plaintiff hereby designates flcolservice@brockandscott.com as the primary e-mail address for service..

This 29 day of June, 2018.

__Anson A. Adams, FL Bar #: 0115094
✓Rafael R. Caraballo Vázquez, FL Bar #: 0124632
__Andrea L. Davis, FL Bar #: 1005230
BROCK & SCOTT, PLLC
1315 Westbrook Plaza Drive
Winston-Salem, NC 27103
Telephone: (888) 461-7908
Telefax: (336) 354-1588
flcolservice@brockandscott.com

This communication is from a debt collector. This is an attempt to collect a debt, and any information will be used for that purpose.

c\TAR16723

TD Bank USA, N.A.

PLAINTIFF

vs.

LISSETTE FERNANDEZ

DEFENDANT

AFFIDAVIT

State of Minnesota)
) SS.
County of Hennepin)

I, Janice Loken, being first duly sworn, depose and say:

1. My name is Janice Loken. I serve as a custodian of records for Target Enterprise, Inc. ("TEI") and am duly authorized by Plaintiff TD Bank USA, N.A. ("TD Bank USA") to make the following representations.

2. LISSETTE FERNANDEZ's credit-card account was originated by Plaintiff TD Bank USA. Plaintiff TD Bank USA has not sold, assigned, or otherwise transferred the account, and is the only entity with a right to collect the balance due on the account. TEI services and maintains the business records, including the account information on behalf of Plaintiff TD Bank USA.

3. I make this affidavit in support of Plaintiff TD Bank USA's claim in this matter. I am an adult (having reached the age of majority) and competent to testify to the matters in this affidavit, which I make upon personal knowledge review of the business records.

4. I am familiar with the manner and method by which TEI maintains business records for the credit-card accounts. My responsibilities include researching business records, including electronically stored information relating to credit-card accounts, in connection with collections and collection-related litigation. My testimony in this affidavit is based on that research, which may include a computerized analysis or comparison of electronically stored information by means of a system with which I am familiar.

5. I have reviewed the records relating to LISSETTE FERNANDEZ 's account and, based on that review, the business records reflect that—

A. LISSETTE FERNANDEZ is an adult (having reached the age of majority) and neither Plaintiff TD Bank USA nor TEI has been notified that LISSETTE FERNANDEZ is not competent to enter into a binding contract.

B. On August 28, 2014, LISSETTE FERNANDEZ opened a credit-card account with Plaintiff TD Bank USA, and the account has an account number [redacted];

C. LISSETTE FERNANDEZ charged purchases to that account;

D. LISSETTE FERNANDEZ has breached its contract and the credit-card account is in default. On

April 26, 2018 the credit-card account was charged-off. On the date the credit-card account was charged-off, the account balance was $2,428.54 ; and

E. As of the date of this affidavit, LISSETTE FERNANDEZ is indebted to Plaintiff TD Bank USA owing a balance of $2,428.54 in connection with the credit-card account, which balance is overdue and unpaid. This balance does not consist of any late fees applied after the date the account was charged-off and Plaintiff TD Bank USA is not seeking any attorney's fees. Plaintiff TD Bank USA is the current owner of the credit-card account and has not re-assigned, extinguished, or released the debt. There has been no accord and satisfaction, and there are no credits for unapplied payments or any set-offs which would reduce the balance owed by LISSETTE FERNANDEZ. This claim is not based, directly or indirectly, upon the sale of a chattel which has been repossessed peaceably or by legal process.

I solemnly affirm, under penalty of perjury under applicable law and upon my personal knowledge based on my review of the business records of TEI as servicer for Plaintiff TD Bank USA, that the contents of the foregoing affidavit are true.

Janie Loken

Janice Loken
Custodian of Records
Target Enterprise, Inc.

6-19-18
Date

The foregoing was sworn to before me and subscribed in my presence this 19 day of June, 2018:

CARRIE J POTTER
Notary Public
State of Minnesota
My Commission Expires
January 31, 2021

Seal

Notary Public

My commission expires on 1.31.21.

BrockandScott-aff

TARGET®

REDcard Ending in: [redacted]
Account Identification Number:
LISSETTE FERNANDEZ

Statement Closing Date: **April 26, 2018**

Summary of Account Activity

Previous Balance	$2,390.54
Payments and Other Credits	-$0.00
Purchases and Other Debits	+$0.00
Past Due Amount	$635.00
Fees Charged	**+$38.00**
Interest Charged	**+$0.00**
New Balance	$2,428.54
Credit Limit	$0.00
Available Credit	$0.00
Statement Closing Date	4/26/2018
Days in Billing Cycle	31

Payment Information

New Balance	$2,428.54
Minimum Payment Due	$2,428.54
Payment Due Date	5/26/2018

If you would like information about credit counseling services, call 1-800-991-8433.

For questions, an address change or to report a lost or stolen card, go online or call us:

Manage My REDcard	Target.com/redcard
Target Card Services	1-800-659-2396
TDD/TDY	1-800-347-5842
Outside the U.S.	1-612-307-8622 (Call Collect)

Calling will not preserve your billing-error rights

Important Messages

Your account has been charged off. This is your final statement.

Transactions

Trans Date	Description of Transaction or Credit	Location	Amount
	Payments And Other Credits		
	No payments or credits were received last month.		
	Fees		
Apr. 23	LATE PAYMENT FEE		$38.00
		TOTAL FEES FOR THIS PERIOD	$38.00

(transactions continued on next page)

NOTICE: SEE REVERSE SIDE FOR IMPORTANT INFORMATION

INCLUDE THIS PORTION WITH YOUR PAYMENT MADE PAYABLE TO TARGET CARD SERVICES

TARGET®

Account Number Ending in	[redacted]
Account Identification Number	
New Balance	$2,428.54
Minimum Payment Due	$2,428.54
Payment Due Date	May 26, 2018
Amount Enclosed	$

NEW PHONE, HOME OR E-MAIL ADDRESS? PLEASE UPDATE ON REVERSE SIDE.

OFFICE COPY

TARGET CARD SERVICES
P.O. BOX 660170
DALLAS TX 75266-0170

LISSETTE FERNANDEZ
10350 SW 52ND ST
MIAMI FL 33165-6237

EXHIBIT A

[redacted]

TARGET

REDcard Ending in: [redacted]
Account Identification Number:
LISSETTE FERNANDEZ

Statement Closing Date: **April 26, 2018**

Transactions (cont.)

2018 Totals Year-to-Date	
Total fees charged in 2018	$152.00
Total interest charged in 2018	$133.47

Interest Charge Calculation

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

Type of Balance	Annual Percentage Rate (APR)	Balance Subject to Interest Rate	Interest Charge
Purchases	0.00%	$0.00	$0.00

There is a Minimum Charge of $1.00 for any billing period in which an interest charge is imposed.

Special Announcements and Exclusive Offers

Go Paperless
Go paperless, easily make payments, and set up alerts for your account with REDcard Account Management! Enroll today at Target.com/redcard.

BROCK & SCOTT, PLLC

THOMAS E. BROCK*
GREGORY A. SCOTT*

1315 WESTBROOK PLAZA DRIVE
WINSTON-SALEM, NC 27103
336-354-0110, 888-461-7908
FAX 336-354-1588
MON-FRI 8:30AM - 5:30PM ET

ROCKVILLE, MD
VIRGINIA BEACH, VA
WINSTON-SALEM, NC
COLUMBIA, SC
ATLANTA, GA
FRANKLIN, TN
FT LAUDERDALE, FL
FARMINGTON HILLS, MI

*Licensed in NC

May 1, 2018

LISSETTE FERNANDEZ
10350 SW 52ND ST
MIAMI FL 33165-6237

Creditor: TD Bank USA, N.A.
Your Target Credit Card
Account Number: [redacted]
Our Reference Number: TAR16723
Amount Owed: $2,428.54

Dear LISSETTE FERNANDEZ:

This account has been placed with our office for collection.

Unless, within 30 days after receipt of this notice, you dispute the validity of this debt, or any portion thereof, the debt will be assumed to be valid by this office. If you notify us in writing within 30 days after receipt of this notice, that you dispute all or a portion of this debt, our office will obtain verification of the debt or a copy of a judgment and send to you. Upon written request within 30 days after receipt of this notice, we will provide you with the name and address of the original creditor if different from the creditor named above.

If you do not dispute this account, and wish to make a payment for the full balance, please visit us at www.legaldebtpayment.com, or by mail at the mailing address listed above, or you may call us toll free at 888-461-7908.

Cordially,

__Anson A. Adams
✓Rafael R. Caraballo Vazquez
__Jessica L. Montes
__Andrea L. Davis
Attorney-at-Law
BROCK & SCOTT, PLLC

This communication is from a debt collector.
This is an attempt to collect a debt, and any information obtained will be used for that purpose.

EXHIBIT B

DEMANDL1

Department of Defense Manpower Data Center

Results as of : Jun-28-2018 12:02:27 AM

SCRA 4.5

Status Report
Pursuant to Servicemembers Civil Relief Act

SSN: XXX-XX-XXXX
Birth Date:
Last Name: FERNANDEZ
First Name: LISSETTE
Middle Name:
Status As Of: Jun-28-2018
Certificate ID: R5PNF5FFLDC56G7

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects the individuals' active duty status based on the Active Duty Status Date			

Left Active Duty Within 367 Days of Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects where the individual left active duty status within 367 days preceding the Active Duty Status Date			

The Member or His/Her Unit Was Notified of a Future Call-Up to Active Duty on Active Duty Status Date			
Order Notification Start Date	Order Notification End Date	Status	Service Component
NA	NA	No	NA
This response reflects whether the individual or his/her unit has received early notification to report for active duty			

Upon searching the data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the status of the individual on the active duty status date as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard). This status includes information on a Servicemember or his/her unit receiving notification of future orders to report for Active Duty.

Michael V. Sorrento

Michael V. Sorrento, Director
Department of Defense - Manpower Data Center
400 Gigling Rd.
Seaside, CA 93955

EXHIBIT C

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense (DoD) that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Servicemembers Civil Relief Act (50 USC App. ? 501 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced only a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual was on active duty for the active duty status date, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service. Service contact information can be found on the SCRA website's FAQ page (Q33) via this URL: https://scra.dmdc.osd.mil/faq.xhtml#Q33. If you have evidence the person was on active duty for the active duty status date and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. ? 521(c).

This response reflects the following information: (1) The individual's Active Duty status on the Active Duty Status Date (2) Whether the individual left Active Duty status within 367 days preceding the Active Duty Status Date (3) Whether the individual or his/her unit received early notification to report for active duty on the Active Duty Status Date.

More information on "Active Duty Status"

Active duty status as reported in this certificate is defined in accordance with 10 USC ? 101(d) (1). Prior to 2010 only some of the active duty periods less than 30 consecutive days in length were available. In the case of a member of the National Guard, this includes service under a call to active service authorized by the President or the Secretary of Defense under 32 USC ? 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy Training and Administration of the Reserves (TARs), Marine Corps Active Reserve (ARs) and Coast Guard Reserve Program Administrator (RPAs). Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps).

Coverage Under the SCRA is Broader in Some Cases

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate. SCRA protections are for Title 10 and Title 14 active duty records for all the Uniformed Services periods. Title 32 periods of Active Duty are not covered by SCRA, as defined in accordance with 10 USC ? 101(d)(1).

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of the SCRA extend beyond the last dates of active duty.

Those who could rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected

WARNING: This certificate was provided based on a last name, SSN/date of birth, and active duty status date provided by the requester. Providing erroneous information will cause an erroneous certificate to be provided.

ZIP Code™ by Address (/zip-code-lookup.htm?byaddress)

ZIP Code™ by City and State (/zip-code-lookup.htm?bycitystate)

Cities by ZIP Code™ (/zip-code-lookup.htm?citybyzipcode)

FAQs (http://faq.usps.com/ searchString=zip% 20code)

Look Up a ZIP Code™

FAQs (http://faq.usps.com/ searchString=zip% 20code)

Go to

ZIP Code™ by Address

You entered:

10350 SW 52ND ST
MIAMI FL

If more than one address matches the information provided, try narrowing your search by entering a street address and, if applicable, a unit number. Edit and search again. (zip-code-lookup.htm?byaddress)

10350 SW 52ND ST
MIAMI FL 33165-6237

CARRIER ROUTE	C018
COUNTY	MIAMI-DADE
DELIVERY POINT CODE	50
CHECK DIGIT	9
COMMERCIAL MAIL RECEIVING AGENCY	N
LAC™	-
eLOT™	0014
eLOT ASCENDING/DESCENDING INDICATOR	D
RECORD TYPE CODE	S
PMB DESIGNATOR	-