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BELCO COMMUNITY CREDIT UNION

v.

R. DONNA HINKLE

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BELCO COMMUNITY CREDIT UNION v. R. DONNA HINKLE

1. Plaintiff avers that a credit card account was opened on or about October 18, 1993, and that the last payment was made by Defendant on June 24, 2022.
2. Attached to Plaintiff's Complaint was an Application for Visa/MAC card dated October 18, 1993, Belco Visa Statements dated August 31, 2022 in the name of R. Donna Hinkle with an address of 421 Lake Meade Driver, East Berlin, PA 17316-9364.
3. On March 13, 2023, Defendant filed Preliminary Objections to Plaintiff's Complaint and Defendant's Brief in Support of Preliminary Objections. Defendant's Preliminary Objections challenge: (1) Demurrer to the Complaint in violation of Pa. R. C. P. 1028(a)(3) for alleging inconsistent averments of fact and (2) insufficient specificity in a pleading in violation of Pa. R.C.P. 1028(a)(3) for failure to attach the cardmember agreement and all agreements between Plaintiff and Defendant to the Complaint.
4. Multiple causes of action which are inconsistent are permitted so long as they are pleaded under separate counts. Therefore, Defendant's first Preliminary Objection is denied.
5. The application coupled with Defendant's attached monthly statement set forth specific allegations to provide Defendant with sufficient information to respond to the averments contained in the Complaint and provided sufficient information to illustrate how Plaintiff arrived at the amount it claims is due from Defendant.
6. Accordingly, Defendant's second Preliminary Objection is overruled.

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY,
PENNSYLVANIA, 2023-SU-0083, BELCO COMMUNITY CREDIT
UNION v. R. DONNA HINKLE

Dru Miller, Esquire, Attorney for Plaintiff
Robert D. Klingensmith, Esquire, Attorney for Defendant

Wagner, J., April 24, 2023

**IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY,
PENNSYLVANIA
CIVIL**

**BELCO COMMUNITY CREDIT UNION,
2023-SU-0083**

Plaintiff

v.

R. DONNA HINKLE,

Defendant

OPINION

Before this Court for disposition are Preliminary Objections filed by R. Donna Hinkle (hereinafter “Defendant”). For reasons set forth herein, said Preliminary Objections are overruled.

BACKGROUND

On January 27, 2023 Belco Community Credit Union (hereinafter “Plaintiff”) filed a Civil Complaint against Defendant which averred that Defendant applied for and received a credit card account which was used by Defendant and accrued a balance of \$10,322.50. Plaintiff avers that the credit card account was opened on or about October 18, 1993 and the last payment was made by Defendant on June 24, 2022. Plaintiff avers that Defendant has failed to make monthly payments as required causing the account to be in default and the entire balance being due immediately. Attached to Plaintiff’s Complaint was an Application for Visa/MAC card dated October 18, 1993, Belco Visa Statement dated August 31, 2022 in the name of R. Donna Hinkle with an address of 421 Lake Meade Drive, East Berlin, PA 17316-9364, with a balance of \$10,322.50 and documents illustrating transactions for Defendant from July 12, 2019 through August 21, 2022. Plaintiff’s Complaint raised three separate causes of action against Defendant: a breach of contract claim, an account stated cause of action and an unjust enrichment claim.

On March 13, 2023 Defendant filed Preliminary Objections to Plaintiff’s Complaint and Defendant’s Brief in Support of Preliminary

Objections. Defendant's Preliminary Objections challenge: (1) Demurrer to the Complaint in violation of Pa. R.Civ.P. 1028(a)(3) for alleging inconsistent averments of fact; and (2) insufficient specificity in a pleading in violation of Pa. R.C.P. 1028(a)(3) for failure to attach the cardmember agreement and all agreements between Plaintiff and Defendant to the Complaint.

On March 13, 2023, this Court entered an Order of Court directing disposition of Defendant's Preliminary Objections in accordance with Pa. R.Civ.P. 1028 and Adams County Local Civil Rule 1028(c). Plaintiff timely filed Plaintiff's Response to Defendant's Preliminary Objections and Brief in Support of Plaintiff's Response to Defendant's Preliminary Objections on March 23, 2023.

LEGAL STANDARD

Preliminary objections are limited to the grounds listed in Pa.R.C.P. 1028(a). It is well established that in ruling on preliminary objections, this Court must accept as true all well-pleaded allegations of material fact as well as all inferences reasonably deductible from those facts. **Ballroom, LLC v. Commonwealth**, 984 A.2d 582, 586 (Pa. Commw. Ct. 2009). Preliminary Objections will be sustained where the case is clear and free from doubt. **Rambo v. Greene**, 906 A.2d 1232, 1235 (Pa. Super. Ct. 2006).

DISCUSSION

Plaintiff's Complaint alleges three causes of action – count one is a breach of contract claim, count two is an account stated cause of action and count three is an unjust enrichment claim. Such causes of action are permitted so long as they are pleaded in separate counts, as Plaintiff has done. The plaintiff may raise more than one cause of action against a defendant within the same complaint so long as each cause of action is in a separate count containing a demand for relief. Pa. R.C.P. 1020(a). "Causes of action.....may be pleaded in the alternative." Pa. R.C.P. 1020(c). Multiple causes of action which are inconsistent are permitted so long as they are pleaded under separate counts. **Standard Pennsylvania Practice §16:59**. Therefore, Defendant's first Preliminary Objection is denied.

Defendant's second Preliminary Objections to Plaintiff's Complaint alleges that Plaintiff had a legal obligation to attach the original contract and all contracts (cardmember agreements) to the

Complaint and failure to do so prevents Defendant from having the ability to form a defense.

Pennsylvania Rule of Civil Procedure 1019(h)(i) provides that “when any claim is based upon an agreement, the pleading shall state specifically if the agreement is oral or written” and if written “the pleader shall attach a copy of the writing, or the material part thereof”, or explain why it is not accessible. Compliance with Rule 1019(i) can be obtained by attaching a copy of the cardholder agreement between the issuer and the cardholder. ***Atlantic Credit and Finance, Inc. v. Giuliana***, 829 A.2d. 340 (Pa. Super. 2003). “In determining whether a particular paragraph in a complaint has been stated with necessary specificity, such paragraph must be read in context with all other allegations in that complaint.” ***Yacoub v. Lehigh Valley Medical Associate, Inc.***, 805 A.2d. 579, 589 (Pa. Super. 2002).

The application coupled with Defendant’s attached monthly statement set forth specific allegations to provide Defendant with sufficient information to respond to the averments contained in the Complaint and provided sufficient information to illustrate how Plaintiff arrived at the amount it claims is due from Defendant. Plaintiff’s position is supported by ***Discover Bank v. Stucka***, 33 A.3d. 82 (Pa. Super. 2011). Accordingly, Defendant’s second Preliminary Objection is overruled.

BY THE COURT,

SHAWN C. WAGNER

Judge

ESTATE NOTICES

NOTICE IS HEREBY GIVEN that in the estates of the decedents set forth below, the Register of Wills has granted letters, testamentary or of administration to the persons named. All persons having claims or demands against said estates are requested to make known the same, and all persons indebted to said estates are requested to make payment without delay to the executors or administrators or their attorneys named below.

FIRST PUBLICATION**ESTATE OF JOHN ANDREW CLEMENS, DEC'D**

Late of Gettysburg Borough, Adams County, Pennsylvania
 Executor: Barry G. Simon, 171 S. Hay Street, Gettysburg, PA 17325
 Attorney: Puhl & Thrasher, 220 Baltimore Street, Gettysburg, PA 17325

ESTATE OF DOROTHY A. CORBIN, DEC'D

Late of Carroll Valley Borough, Adams County, Pennsylvania
 Co-Executors: Gregory David Corbin & Ruth Ann Morningstar, c/o Strausbaugh Law, PLLC, 1201 West Elm Avenue, Suite #2, Hanover, Pennsylvania 17331
 Attorney: Scott J. Strausbaugh, Esq., Strausbaugh law, PLLC, 1201 West Elm Avenue, Suite #2, Hanover, Pennsylvania 17331

ESTATE OF MARGARET W. KUGLER a/k/a MARGARET LOUISE KUGLER, DEC'D

Late of Latimore Township, Adams County, Pennsylvania
 Executrix: Margaret E. Rhodes, c/o Sharon E. Myers, Esq., CGA Law Firm, PC, PO Box 606, East Berlin, PA 17316
 Attorney: Sharon E. Myers, Esq., CGA Law Firm, PC, PO Box 606, East Berlin, PA 17316

ESTATE OF LEWIS C. LEINBACH, DEC'D

Late of Franklin Township, Adams County, Pennsylvania 17222
 Administratrix: Robin J. Kimple, 70 Miltonberger Road, Orttanna, PA 17353
 Attorney: John A. Wolfe, Esq., Wolfe, Rice & Quinn, LLC, 47 West High Street, Gettysburg, PA 17325

ESTATE OF SUE ANN OSTERMAN, DEC'D

Late of Franklin Township, Adams County, Pennsylvania 17353
 Executor: Richard T. Hartsough, 1028 Hanover Road, York, PA 17408
 Attorney: John A. Wolfe, Esq., Wolfe, Rice & Quinn, LLC, 47 West High Street, Gettysburg, PA 17325

SECOND PUBLICATION**ESTATE OF DORIS BAUGHER BROUGH, DEC'D**

Late of Menallen Township, Adams County, Pennsylvania
 Executor: Steven A. Brough, 28 Holly Estate Drive, Gardners, PA 17324
 Attorney: Robert E. Campbell, Salzmman Hughes, P.C., 112 Baltimore Street, Gettysburg, PA 17325

ESTATE OF WILLIAM H. BUSHMAN a/k/a WILLIAM HOWARD BUSHMAN, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania
 Executors: Jay A. Bushman, 44670 Collingdale Terrace, Ashburn, VA 20147; Joy L. Taylor, 399 Brysonia-Wenksville Road, Biglerville, PA 17307
 Attorney: Puhl & Thrasher, 220 Baltimore Street, Gettysburg, PA 17325

ESTATE OF JOYCE Y. DYE, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania
 Personal Representative: Lawrence W. Dye, 10510 Woodlawn Blvd., Largo, MD 20774
 Attorney: Teeter Law Office, 108 West Middle Street, Gettysburg, PA 17325

ESTATE OF ELAINE M. GALUSHA, DEC'D

Late of the Borough of Arendtsville, Adams County, Pennsylvania
 Co-Executrices: Aimee M. Stambaugh, 1288 Potato Road, Aspers, PA 17304; Julianne S. Thompson, 104 Moul Avenue, Hanover, PA 17331
 Attorney: Adam R. Deluca, Esq., Stone LaFaver & Shekletski, P.O. Box E, New Cumberland, PA 17070

ESTATE OF SHELBY LOU HAVENSTRITE a/k/a SHELBY L. HAVENSTRITE, DEC'D

Late of Reading Township, Adams County, Pennsylvania
 Executor: Richard A. Havenstrite, 138 Schofield Drive, East Berlin, PA 17316
 Attorney: Adam D. Boyer, Esq., Barley Snyder, LLP, 123 Baltimore Street, Suite 101, Gettysburg, PA 17325

ESTATE OF GARY R. LEER, DEC'D

Late of Latimore Township, Adams County, Pennsylvania
 Executrix: Linda L. Leer, 174 Latimore Creek Road, York Springs, PA 17372
 Attorney: Jennifer Denchak Wetzell, Esquire, Mette, Evans & Woodside, 3401 North Front Street, Harrisburg, PA 17110-0950; Telephone: (717-232-5000)

ESTATE OF JANET E. STARR, a/k/a JANET ELWIN STARR, DEC'D

Late of Berwick Township, Adams County, Pennsylvania
 Thomas E. Starr, 1147 Eichelberger Street, Hanover, PA 17331
 Attorney: Ann C. Shultis, Salzmman Hughes, P.C., 1147 Eichelberger Street, Suite F, Hanover, PA 17331

ESTATE OF BONNIE L. STICK a/k/a BONNIE LEE STICK, DEC'D

Late of Oxford Township, Adams County, Pennsylvania
 Michael Lawrence DeHaven Stick, Jr., 70 Sydney Court, Hanover, PA 17331
 Attorney: Becker Law Group, P.C., Arthur J. Becker, Jr., Esquire, 529 Carlisle Street, Hanover, PA 17331

THIRD PUBLICATION**ESTATE OF ROBERT C. HOLLAND, II, DEC'D**

Late of Franklin Township, Adams County, Pennsylvania
 Personal Representative: Constance M. Cullison, 217 Pine Drive, Fayetteville, PA 17222
 Attorney: TeeterLawOffice, 108 West Middle Street, Gettysburg, PA 17325

THIRD PUBLICATION CONTINUED

ESTATE OF MICHAEL G.

JACKOWSKI, DEC'D

Late of Mount Pleasant Township,
Adams County, Pennsylvania
Heather J. Jackowski, 164 Linda
Drive, New Oxford, PA 17350
Attorney: Arthur J. Becker, Jr., Esq.,
Becker Law Group, P.C., 529
Carlisle Street, Hanover, PA 17331

ESTATE OF JOHN SAMUEL KOHLER,
DEC'D

Late of Oxford Township, Adams
County, Pennsylvania
Administratrix: Karen G. Kohler, 765
Kohler Mill Road, New Oxford, PA
17350
Attorney: Matthew L. Guthrie, Esq.,
Barley Snyder LLP, 14 Center
Square, Hanover, PA 17331

ESTATE OF GENEVIEVE LOOKENBILL
a/k/a GENEVIEVE L. SMITH a/k/a
GENEVIEVE B. LOOKENBILL a/k/a
GENEVIEVE M. LOOKENBILL, DEC'D

Late of Conewago Township, Adams
County, Pennsylvania
Administratrix CTA: Jody A.
Boardman, c/o Jared S. Childers,
Esq., R. Thomas Murphy &
Associates, P.C., 237 East Queen
Street, Chambersburg, PA 17201
Attorney: Jared S. Childers, Esq., R.
Thomas Murphy & Associates, P.C.,
237 East Queen Street,
Chambersburg, PA 17201

ESTATE OF PAMELA V. MILLER a/k/a
PAMELA HELENE MILLER, DEC'D

Late of Mount Joy Township, Adams
County, Pennsylvania
Executor: Norman Thomas Miller Jr.,
c/o Stacey W. Betts, Esq., 75 East
Main Street, Mount Joy, PA 17552
Attorney: Stacey W. Betts, Esq., 75
East Main Street, Mount Joy, PA
17552

ESTATE OF TIMOTHY WAYNE
NEIDERER, DEC'D

Late of Mt. Pleasant Township, Adams
County, Pennsylvania
Co-Administrators: Joan Theresa
Hagarman and Gregory Allen
Hagarman, c/o Jennifer M. Stetter,
Esq., Barley Snyder, LLP, 14 Center
Square, Hanover, PA 17331
Attorney: Jennifer M. Stetter, Esq.,
Barley Snyder, LLP, 14 Center
Square, Hanover, PA 17331

ESTATE OF HILDA M. OUSSOREN,
DEC'D

Late of Oxford Township, Adams
County, Pennsylvania
Administratrix: Elaine Oussoren, 14
Hathaway Lane, Montville, NJ 07045
Attorney: Bernard A. Yannetti, Esq.,
Hartman & Yannetti, Inc. Law Office,
126 Baltimore Street, Gettysburg, PA
17325

ESTATE OF LIESEL L. SOUTHERLY,
DEC'D

Late of Butler Township, Adams
County, Pennsylvania
Executors: Linda C. Wilkinson, 1999
Table Rock Road, Biglerville, PA
17307; Jeffrey M. Southerly, 825
Low Dutch Road, Gettysburg, PA
17325
Attorney: Adam D. Boyer, Esq., Barley
Snyder, Suite 101, 123 Baltimore
Street, Gettysburg, PA 17325