IN THE COUNTY COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA

SLM PRIVATE EDUCATION LOAN
TRUST 2011-C,
Plaintiff,
vs. Case No.:

[redacted]
Defendant(s)
_____/

COMPLAINT

Plaintiff, SLM PRIVATE EDUCATION LOAN TRUST 2011-C, by and through its undersigned attorney, sues Defendant, [redacted] as grounds therefore states:

1. This is a cause of action for damages, which do not exceed $30,000.00 exclusive of costs, and is within the jurisdictional limits of this Court.
2. Plaintiff, SLM PRIVATE EDUCATION LOAN TRUST 2011-C, is authorized to conduct business in the State of Florida.
3. Venue is properly laid in Hillsborough County, Florida pursuant to Chapter 47, *Florida Statutes* because, upon reasonable belief, Defendant resides in that county.
4. Prior to the commencement of this action, Plainitff acquired the Defendant's account from SLM PRIVATE EDUCATION LOAN TRUST 2011-C and by virtue thereof is entitled to all rights originally bestowed upon the original creditor.
5. The Plaintiff has satisfied any and all conditions precedent to the bringing of this action or such conditions have been waived

COUNT I
BREACH OF CONTRACT

6. The Defendant entered into a contract for a student loan. A copy of which is attached and by reference made a part of this Complaint.
7. Pursuant to the terms of the contract, Defendant obtained a loan/line of credit.
8. Defendant has failed to pay the amount due and owing pursuant to the terms of said contract.
9. Although Plaintiff has made demand upon Defendant for payment, Defendant has refused to make payment in full.
10. The principal balance of $13,880.29, plus accrued interest of $660.35 as of June 7, 2019 remains due and owing to Plaintiff, as the assignee of said contract.

WHEREFORE Plaintiff demands judgment against Defendant for damages, costs, and any other relief this court deems just and proper.

COUNT II
UNJUST ENRICHMENT
(Pled in the Alternative)

11. The Defendant, DOMONIQUE CHAPMAN, received a conferred benefit by opening an account pursuant to the attached contract.

12. The Defendant received and used, or authorized the use of, the account extended while knowing that the Defendant would have to pay for money or services provided in connection with said account.

13. It would be inequitable for Defendant to retain the benefits conferred without paying for the value thereof.

14. Plaintiff is owed the principal balance of $13,880.29, plus accrued interest of $660.35 as of June 7, 2019.

WHEREFORE, Defendant has been unjustly enriched and Plaintiff demands judgment against Defendant for damages, costs, and any other relief this court deems just and proper.

Respectfully submitted, March 21, 2023.

By: _____

Patrick J. Kilburn, Esq., FBN: 95626
Ciara Henderson Stafford, Esq., FBN: 1018051
David Herrera, Esq., FBN: 1002249
Joal Swindells, Esq., FBN: 1031489
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LM/EA2

* 4 5 1 9 5 7 / p f | c p 1 *

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

EXHIBIT I

451957/qexh3

TRUE AND EXACT COPY OF THE ORIGINAL

Signature Student Loan®

Application and Promissory Note

For Loan Applications Received by May 31, 2008

App Code XS
Prom Note Code [redacted]

Section A: Borrower Information Please read instructions before completing this section.

Social Security Number [redacted]	Last Name and Suff	First Name Domonique	MI
Permanent Address (No P.O. Boxes) 9816 Hummingbird Lan		City Upper Marlboro	State MD ZIP Code 20772
Permanent Phone Number [redacted]	Cellular Phone Number [redacted]	Email Address [redacted]	
Prior Address (if you have been at your permanent address less than one year please provide Prior Address)		City	State ZIP Code
Address While in School		City	State ZIP Code
Phone Number While in School	Date of Birth (mm/dd/yy) [redacted]	Have you ever defaulted on a student loan? (check one) Yes ☐ No ☒ If yes, see instructions for required action	

Citizenship (check one)
a) U.S. Citizen ☒ b) Non-Citizen Permanent Resident ☐ c) Foreign Resident ☐ d) Foreign Resident not eligible for a Social Security Number ☐ Note: For options b, c or d see instructions

Total Loan Amount Requested $ 25,000.00	We encourage you to borrow conservatively, but try to borrow the full amount you need so you will not have to submit another application. (see instructions)	Enrollment Period for which you want to borrow money (cannot exceed 12 months)	From (mm/yy) 08/07 To (mm/yy) 05/08
School Name UNIV OF MARYLAND EASTERN SHORE		City PRINCESS ANNE	State MD
Grade Level (refer to instructions) 04	Course of Study (refer to instructions) PAS	Current Outstanding Student Loan Education Debt (refer to instructions)	[illegible]

References—You must provide two (2) adult references other than the cosigner. One of them should be a relative.

1) Last Name and Suffix Cl	First Name [illegible]	MI	Relationship to Borrower Relative	
Address (No P.O. Boxes) 10816 United Court	City Waldorf	State MD	Zip Code 20603	Permanent Phone Number [redacted]
2) Last Name and Suffix [illegible]	First [illegible]	MI	Relationship to Borrower Friend	
Address (No P.O. Boxes) 14	City Brandywine	State MD	Zip Code 20613	Permanent Phone Numbe [redacted]

Section B: Cosigner Information Please read instructions before completing this section.

Social Security Number	Last Name and Suffix	First Name	MI
Address (No P.O. Boxes)		City	State ZIP Code
Permanent Phone Number	Cellular Phone Number	Email Address	
Prior Address (No P.O. Boxes)		City	State ZIP Code

Citizenship (check one) a) U.S. Citizen ☐ b) Non-Citizen Permanent Resident ☐ Note: For option b, see instructions		Date of Birth (mm/dd/yy)	Cosigner's Job Title
Present Employer Name	Employer Address (City, State, ZIP Code)		Work Phone Number
Gross Monthly Income (see instructions) **Note: You do not have to reveal alimony, child support or separate maintenance income unless you wish it to be considered as a basis for loan repayment** Salary $ Other $ Source		Monthly Mortgage/Rent Amount (check one) $ Own ☐ Rent ☐	Have you ever defaulted on a student loan? (check one) Yes ☐ No ☐ If yes, see instructions for required action

References—You must provide two (2) adult references other than the borrower. One of them should be a relative.

1) Last Name and Suffix	First Name		MI	Relationship to Cosigner
Address (No P.O. Boxes)	City	State	ZIP Code	Permanent Phone Number
2) Last Name and Suffix	First Name		MI	Relationship to Cosigner
Address (No P.O. Boxes)	City	State	ZIP Code	Permanent Phone Number

Section C: Borrower and Cosigner Signature

CAUTION – IT IS IMPORTANT THAT YOU THOROUGHLY READ THE CONTRACT BEFORE YOU SIGN IT. I, THE COSIGNER, HAVE READ THE APPLICABLE COSIGNER NOTICE(S).

Notice to Customer (a) Do not sign this before you read the Promissory Note even if otherwise advised. (b) Do not sign this if it contains any blank spaces. (c) You are entitled to an exact copy of any agreement you sign. (d) You have the right at any time to pay in advance the unpaid balance due under this agreement and you may be entitled to a partial refund of the finance charge.

I declare that the information provided above is true and complete to the best of my knowledge and belief. I have read the Promissory Note accompanying this application and each applicable Notice to Cosigner and agree to the terms therein. **Promise to pay:** Jointly and severally with the other signers below, I promise to pay the lender or any other holder of this loan all sums disbursed under the terms of the Promissory Note, plus interest and all other fees, charges, and costs that may become due. The terms and conditions set forth in the Promissory Note constitute the entire agreement between us.

Borrower Signature Domonique L Chapman (seal) **Date** 07/24/2007
CBDAD19A86DFDC167235D29EE197D6E8

Cosigner Signature (if applicable) _____ (seal) **Date** _____

Section D: School Certification Must be completed by an authorized school official.

School Name UNIV OF MARYLAND EASTERN SHORE	School Code/Branch 0021060000	Disbursement Date (mm/dd/yy)	Disbursement Amount
For the Enrollment Period (not to exceed 12 months) From Date (mm/dd/yy) 08/01/2007 To Date (mm/dd/yy) 05/31/2008	Grade Level (check one) Please refer to instructions. Undergraduate ☐ 1 ☐ 2 ☐ 3 ☒ 4 ☐ 5 Graduate ☐ A ☐ B ☐ C ☐ D	1.	1. $
		2.	2. $
Enrollment Status (check one) Full-time ☐ Half-time ☐	Course of Study (refer to instructions) PAS	3.	3. $
	Anticipated Graduation Date (mm/dd/yy)	4.	4. $
		Total Certified Amount: $	

I hereby certify that the borrower is eligible for a Signature Student Loan; that the Total Certified Amount does not exceed the student's cost of attendance minus other financial aid; that the School will, at the request of the lender, provide the lender with subsequent information regarding the borrower's whereabouts; that this School will comply with all applicable loan policies and provisions; and that information provided in Sections A and B is true, complete and correct to the best of my knowledge and belief.

Authorized school [illegible] Sig [illegible]	Print or type name and title:	Phone

Return Application To: Sallie Mae • P.O. Box 147023 • Gainesville, FL 32614-7023 (Copyright © Sallie Mae 2000-2007)

Signature Student Loan Promissory Note 3XSP0701

In this Promissory Note ("Note") the words "I," "me," "my," "mine" and "we" mean the borrower and cosigner(s) who signed the application, unless the language specifically refers to only one or the other. "You," "your," and "yours" mean the lender as listed below and any subsequent holder of this Note. "School" means the school named in Section D of the application.

Lender:

A. PROMISE TO PAY

I promise to pay to your order according to the terms below the sum of: the Loan Amount Requested, to the extent it is advanced to me, or on my behalf, which includes the Supplemental Fees (together, the "Loan Amount"); other interest, fees and charges accrued or capitalized on the Loan Amount as described in this Note; and, in the event of default, reasonable attorney's fees, court costs and collection agency fees to the extent permitted by law.

B. DEFINITIONS

1. Interim Period - The "Interim Period" will begin on the day of my first disbursement and will end on the following applicable date:
   (a) Six months after the student borrower graduates from the School;
   (b) If the School is approved for half-time enrollment only, six months after the student borrower ceases to be enrolled in at least half-time study, unless the student borrower re-enrolls in another school eligible for the Signature Student Loan Program within that six-month period and also meets the enrollment requirements approved for that school; or
   (c) If the School is approved for less than half-time enrollment, six months after the student borrower ceases to be enrolled in at least half-time study, and also ceases to meet the requirements for less than half-time study, unless the student borrower re-enrolls in another school eligible for the Signature Student Loan Program within that six-month period and also meets the enrollment requirements approved for that school.

The portion of the Interim Period while the student borrower is in school is the "School Period" and the remaining portion of the Interim Period is the "Grace Period." Requirements for less than half-time study may include, but are not limited to, a limit on the maximum number of months or the maximum number of sequential terms (quarter, trimester, semester, or academic year) for less than half-time enrollment.

To find out if a school is approved for less than half-time enrollment, and, if so, the requirements for less than half-time study at the school, call 1-800-695-3317.

2. Repayment Period - The "Repayment Period" will begin on the day after the Interim Period ends and, depending on my loan balance, will continue for up to 360 months, not counting any Deferment or Forbearance periods. If my loan is made six months or more after the student borrower graduates, drops below half-time enrollment, if required, or ceases to meet the requirements for less than half-time enrollment, if applicable, then there is no Interim Period and my Repayment Period begins on the day of my first disbursement.
3. Capitalized Interest, Fees and Other Amounts - Interest, fees, charges and costs due and not yet paid may be added, without notice, to the principal amount of the loan, as provided in this Note. This addition is called "capitalizing." **Since interest accrues on the outstanding principal balance, capitalizing increases the total cost of the loan.**
4. Default - You may declare my loan in default following an event described in Section K except as follows: IDAHO, IOWA, KANSAS, MAINE and SOUTH CAROLINA RESIDENTS ONLY: I will be in default if I fail to make a payment as required by this Note (or within 10 days of the time required by this Note, for Iowa residents) or if the prospect of my payment or performance is significantly impaired (for Iowa residents, if, following an event described in Section K, the prospect of my payment is materially impaired). The burden of establishing the prospect of such impairment is on you.

   WISCONSIN RESIDENTS ONLY: I will be in default:
   (a) if I permit to be outstanding an amount exceeding 1 full payment which has remained unpaid for more than 10 days after its scheduled due date or deferred due date, or I fail to pay the first payment or the last payment within 40 days of its scheduled due date or deferred due date; or
   (b) if I fail to observe any other provision of this Note, the breach of which materially impairs my ability to pay the amounts due under the Note.
5. Disbursement Date - The date shown on the loan check or the date the loan funds are electronically transferred to the School.
6. Disclosure - The Truth in Lending Disclosure that will be sent at the time of my first disbursement and which is hereby incorporated into this Note.
7. Additional Terms - The terms "Interest," "Forbearance Fee," "Deferment Fee," "Late Charge," "Supplemental Fee," "Payment Return Fee," and "Collection Costs" are defined in the Note sections so titled. "Variable Rate," "Index," and "Margin" are defined under Section C, Interest, of this Note.

C. INTEREST

1. Accrual of Interest - Interest on this Note will accrue at the Variable Rate (as defined below), beginning on the first Disbursement Date, on the principal balance advanced and Capitalized Interest, Fees and Other Amounts, until the principal balance and all accrued interest are paid in full.
2. Variable Rate - I will pay interest at a Variable Rate equal to the "Index", plus or minus the percentage identified on my Disclosure (the "Margin") for the School Period, Grace Period, or Repayment Period, as applicable, rounded to the nearest one-eighth of one percent (0.125%). The Variable Rate may change monthly on the first day of each month if the Index changes, the Margin changes, or both change. The Index is the highest U.S. Prime Rate published in *The Wall Street Journal* "Money Rates" section, or any successor section or table for the purposes of displaying such rate, on the next to the last New York business day before the end of the prior month. A New York business day is defined as any day that is not a Saturday, Sunday, holiday or other day on which banking institutions in New York are authorized or ordered to close by law or executive order. For example, the Index for January will be determined by the highest U.S. Prime Rate published in *The Wall Street Journal* on the preceding December 30th if both the 30th and 31st are New York business days.
3. Substitute Index - If *The Wall Street Journal* is not published on the date to be used for the Index, then the Index will be determined by using the immediately preceding published U.S. Prime Rate. If the Index ceases to be available, you will choose a comparable substitute.

D. TERMS OF REPAYMENT

1. No Required Payments During Interim Period - I am not required to make payments during the Interim Period. However, unpaid accrued interest will be capitalized at the beginning of the Repayment Period. Statements that show the unpaid accrued interest on the loan will be sent to the student borrower on at least a quarterly basis and to the cosigner on at least an annual basis. Information about the unpaid accrued interest on the loan will also be available online at www.manageyourloans.com.
2. Repayment Schedule - You and I agree that the repayment schedule will be established as follows: Subject to paragraph 4 of this Section, prior to the start of the Repayment Period you will send me a statement setting forth an initial repayment schedule that provides for consecutive monthly payments of principal and interest in the amounts necessary to repay the unpaid principal and interest at the Variable Rate then in effect over a Repayment Period of up to 180 months. You will also send me statements showing the amounts and payment due dates of my monthly payments.

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IN THE CIRCUIT/COUNTY OF THE THIRTEENTH JUDICIAL CIRCUIT,
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA

CASE NO.: 2023-CC-061879-Division V

SLM PRIVATE EDUCATION LOAN TRUST 2011-C

Plaintiff/Counter Defendant,

DEFENDANT
(NOT REAL NAME)
ANSWER, AFFIRMATIVE DEFENSES AND COUNTER CLAIM

vs.

D ME)

Defendant/Counter Plaintiff.
_____/

DEFENDANT/COUNTER PLAINTIFF ANSWER, AFFIRMATIVE DEFENSES AND COUNTER CLAIM

Defendant, D[ ]e Real Name but Hereinafter named "Defendant" or "Chapman"), hereby files the Answer and Affirmative Defenses to Plaintiff SLM PRIVATE EDUCATION LOAN TRUST 2011-C ("SLM") through the Law Offices of Brian P. Parker, PC and Brian P. Parker (FL. Bar No. 0980668) against SLM complaint and states as follows:

1. Deny in that Defendant does not owe the debt to Plaintiff as there is no proof of ownership of the debt by SLM. **Please see Affidavit at Exhibit 1**.
2. Deny but Defendant does not owe the debt to Plaintiff and further, Plaintiff is not a real party in interest to sue as a Trust and the lawsuit (as does the purported Bill of Sale in the documents attached to the lawsuit states, must come from the beneficiary or trustee of the Trust in the State of UT (location and governing law of the original creditor, Sallie Mae))

ATTACHMENT B

INITIAL BILL OF SALE
DATED NOVEMBER 29, 2011

The undersigned SLM Education Credit Funding LLC (the "***Seller***") and The Bank of New York Mellon Trust Company, National Association as Interim Trustee for the benefit of the Seller (in such capacity, the "***Interim Trustee***"), for value received and pursuant to the terms and conditions of Initial Sale Agreement Number 1 (the "***Initial Sale Agreement***") among the Seller, the Interim Trustee, SLM Private Education Loan Trust 2011-C (the "***Purchaser***") and The Bank of New York Mellon Trust Company, National Association as Trustee for the benefit of the Purchaser (in such capacity, the "***Trustee***"), do hereby sell, assign and convey to the Purchaser and the Trustee for the benefit of the Purchaser, and their assignees, without recourse except as provided in the Initial Sale Agreement, all right, title and interest of the Seller and the Interim Trustee in the Initial Loans identified on Annex I hereto. The portfolio of Initial Loans accepted for purchase by the Purchaser and the Trustee for the benefit of the Purchaser (the "***Initial Loans***") are listed on Annex I attached hereto (the "***Loan Transmittal Summary Form***").

3. Denied that Defendant owes the debt to Plaintiff and further, the lawsuit should be filed in the State of Utah and not Florida. **Please see Exhibit 1 and Plaintiff's own documents regarding the Note attached to the lawsuit**.

4. Denied as Defendant does not owe the debt to SLM as Plaintiff is stating in Paragraph 4 of its Complaint that it acquired "Defendant's Account" from itself and makes no sense to properly Answer:

> 4. Prior to the commencement of this action, Plainitff acquired the Defendant's account from SLM PRIVATE EDUCATION LOAN TRUST 2011-C and by virtue thereof is entitled to all rights originally bestowed upon the original creditor.

5. Denied, and demand specific proof as currently the lawsuit is without proof of specific assignment or credit agreement assignment to the Plaintiff and Plaintiff has no standing to pursue the lawsuit under Florida and Utah law. **Please see Exhibit 1 and Plaintiff's own documents attached to the lawsuit**.

6. Denied as to this "Plaintiff" where there is no chain of title from the Original Creditor in this case to whomever the Plaintiff is purported to be and separate from the issues with Florida and Utah law regarding a "Trust" being a party in in this case. **See Exhibit 1 and Plaintiff complaint "Sale" documents**.

7. Denied, and demand strict proof thereof as to what the case is based upon to sue Ms. "Chapman." **Please see Exhibit 1**.

8. Denied as to Ms. "Chapman" owing the debt by lawsuit to SLM without any proof of proper ownership of the debt. **Please see Exhibit 1**.

9. Denied, and demand strict proof thereof as there exists no proof of the any assignment or amount owed in this case or that the Note Disclosure was sent to Ms. "Chapman." **Please see Exhibit 1**.

10. Denied, and demand specific proof as currently the lawsuit is without proof of specific assignment, credit agreement assignment or the amount owed or that the Note Disclosure was assigned to SLM to sue Ms. "Chapman." **Please see Exhibit 1**.

11. Denied as to SLM having any right to seek payment on the debt, account or contract without proof from Ms. "Chapman." **Please see Exhibit 1**.

12. Denied as to SLM as non-hearsay and reliable proof does not exist to prove this allegation by SLM and further, there is no evidence of the debt being assigned to SLM and the Paragraph at #12 is indiscernible to properly Answer:

> 12. The Defendant received and used, or authorized the use of, the account extended while knowing that the Defendant would have to pay for money or services provided in connection with said account.

Please see Exhibit 1 and complaint exhibits.

13. Denied as to SLM's right to seek payment on the debt or account as the lawsuit is based upon as non-hearsay and unreliable proof to prove this allegation by SLM and there is no assignment of the debt to SLM. **Please see Exhibit 1**.

14. Denied as to SLM and no proof as to Ms. "Chapman" owing the debt to "Plaintiff" as either a real party in interest under Florida and Utah law or Plaintiff's legal right to sue without proof of ownership of the debt and lastly, further and *also* Denied as to SLM under the Statute of Limitations under both Utah law and Florida law and Plaintiff's lawsuit is untimely, wrongful and in violation of the Fair Debt Collection Practices Act (FDCPA) and the Florida Consumer Collection Practices Act (FCCPA). **Please see Exhibit1 and Plaintiff's Complaint and Exhibits**.

WHEREFORE, Defendant respectfully prays that a No-Cause of Action and Dismissal be entered against Plaintiff and for such other and further relief as justice may require under Ms. "Chapman's Counter Claim.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE
Failure to Attach Sufficient Documents

Plaintiff has styled its complaint as a Breach of Agreement that Plaintiff was assigned from the Original Creditor with the underlying claim in Plaintiff's Complaint appearing to be for a

breach of contract however, the documents which Plaintiff has attached to the complaint do not show or prove ownership or assignment of the specific Bernal debt. Florida Rule of Civil Procedure 1.130 provides in part that "All bonds, notes, bills of exchange, contracts, accounts, or documents upon which action maybe brought or defense made, or a copy thereof or a copy of the portions thereof material to the pleadings, shall be incorporated in or attached to the pleading." Even if Plaintiff is seeking recovery upon a theory of Account Stated to escape the evidentiary burden associatedwith filing a claim for breach of contract, the fact remains that Plaintiff has taken the positionthat a contract existed and thus Plaintiff's complaint is "brought" upon a contract under the meaning of Fla. R. Civ. P. 1.130. Plaintiff cannot escape Florida Rule of Civil Procedure 1.130 by filing a complaint based upon a contract but not including proof of why the contract is owned by Plaintiff. **Please see Exhibit 1 and the complaint.**

SECOND AFFIRMATIVE DEFENSE
Account Stated

In promulgating the Florida Rules of Civil Procedure, the Florida Supreme Court provided that for an action of Account Stated to be properly plead, "A copy of the account showing items, time of accrual of each, and amount of each must be attached." See Florida Rules of Civil Procedure 1.933. Plaintiff has failed to attach sufficient documents to Plaintiff's Complaint which show how each item in the account was accrued.

Further, no burden has been shifted to Defendant to rebut the alleged statement(s) attached by Plaintiff in this case. While some courts have in limited circumstances allowed for a cause of action for Account Stated to proceed without all the underlying statements, those same courts have widely held that "the presumption of correctness which attaches in an account stated stems from the statements themselves." *Nants v. F.D.I.C.*, 864 F. Supp. 1211, 1221 (S.D. Fla., Aug. 12, 1994). Until Plaintiff properly authenticates the alleged statements provided, they cannot be considered as evidence and no presumption of correctness can attach to them.

Although the failure to object to a creditor's periodic billing may establish an account stated, there can be no liability if there has been no mutual agreement. See *Recreation Corp of America v. Jack Drury & Associates, Inc.*, 235 So.2d 49 (Fla. 4th DCA 1970). In *Recreation*, the defendant did not dispute that the statements were sent but did dispute that there was any agreement. In the instant case, Plaintiff cannot prevail unless it proves that there was an agreement between Defendants and SLM Investments, LLC and/or the original lender or creditor. See F.D.I.C. v. Brodie, 602 So. 2d 1358 (Fla. 3d DCA 1992). "In the absence of such an agreement, no recovery upon an account stated theory is permitted." *Dutch Inns of Am., Inc. v. Jenkins*, 301

So. 2d 119, 120 (Fla.3d DCA 1974). Despite Plaintiff's allegation that there is a debt owed, Plaintiff has failed to provide any non-hearsay and proper proof that the Plaintiff owns the Specific "Chapman" debt. **Please see Exhibit 1.**

THIRD AFFIRMATIVE DEFENSE
Lack of Standing / No Valid Assignment

Plaintiff lacks standing to bring this action as the Plaintiff "Trust" is not a real party in interest under Florida and Utah law, and Plaintiff does not have a right to sue based upon (1) as Plaintiff's own pleadings show a failure of ownership and standing:

> 4. Prior to the commencement of this action, Plainitff acquired the Defendant's account from SLM PRIVATE EDUCATION LOAN TRUST 2011-C and by virtue thereof is entitled to all rights originally bestowed upon the original creditor.

and (2) Plaintiff has failed to attach sufficient documents to the complaint to establish the assignment of the debt allegedly owed by Defendant,which is now allegedly owned by "Plaintiff," a "Trust." **Please see Exhibit 1 and Plaintiff's complaint and exhibits.**

FORTH AFFIRMATIVE DEFENSE
Statute of Limitations (See Florida Statutes § 95.11)

Due to financial hardship, no payment has been made on the debt such that the debt was not sued upon within Florida and Utah Statute of Limitations and the time to file a lawsuit has long since passed and is time barred and should not be resurrected by a new "assignee" with no proof of ownership of the debt from the original creditor. **Please see Exhibit 1 and Complaint.**

FIFTH AFFIRMATIVE DEFENSE

(UNDER UTAH LAW)

Lack of Standing / No Valid Assignment under Florida Law

Plaintiff lacks standing to bring this action and is NOT A REAL PARTY IN INTEREST and further and under Utah law, Plaintiff has also failed to attach sufficient documents to the complaint to establish the assignment of the debt allegedly owed by Defendant,which is now allegedly and falsely owned by Plaintiff. **See Exhibit 1 and Complaint.**

SIXTH AFFIRMATIVE DEFENSE

(CLAIM TO BE A DEBT COLLECTOR AND CREDITOR AND NO VALIDATION NOTICE UNDER THE FDCPA)

Lack of Standing / No Valid Assignment under California Law

Plaintiff is suing Ms. "Chapman" and notifying her that Plaintiff is a debt collector collecting a debt in pleading as the single party Plaintiff in the lawsuit with a ***mini-Miranda*** Notice:

> * 4 5 1 9 5 7 / p f l c p 1 *
> This is an attempt to collect a debt and any information obtained will be used for that purpose.

when under 15 USC 1692e (11), Federal mandates a party plaintiff collector shall not provide a mini-Miranda Notice in a pleading:

(11) The failure to disclose in the initial written communication with the consumer and, in addition, if the initial communication with the consumer is oral, in that initial oral communication, that the debt collector is attempting to collect a debt and that any information obtained will be used for that purpose, and the failure to disclose in subsequent communications that the communication is from a debt collector, ***except that this paragraph shall not apply to a formal pleading made in connection with a legal action.***

and so appropriately, as Plaintiff is notifying Defendant they are a debt collector collecting a debt in the lawsuit in a collection communication while also alleging to be an original creditor in Paragraph #4 of the lawsuit, Plaintiff SLM is also legally bound to provide 15 USC 1692g notice of the Federal Validation and Verification Rights under the FDCPA and has failed to honor Validation and Verification rules and violated both Federal and Florida and Utah law in continuing to collect upon the debt. **See Exhibit 1 and Complaint**.

WHEREFORE, Defendant respectfully prays that a No-Cause of Action and Dismissal be entered against Plaintiffs and for such other and further relief as justice may require under the Counter Claim.

Respectfully Submitted,

/s/ Brian P. Parker
Brian P. Parker, Esq. (FL. Bar No. 0980668)
120 SW 130th Way, Suite D
Tioga, Fl. 32669
(248) 342-9583
Attorney for Defendant and Counter Plaintiff

EXHIBIT #1

AFFIDAVIT OF

STATE OF FLORIDA)

COUNTY OF HILLSBOROUGH) *

Pursuant to 28 U.S.C § 1746, having been duly

Sworn and upon oath, verifies, certifies, and declares as follows:

1. SLM PRIVATE EDUCATION LOAN TRUST 2011-C (SLM) and Lloyd & McDaniel PLC, have filed a lawsuit against me in the Hillsborough County Judicial Circuit at Case #22-CC- Division V, titled *SLM Private Education Loan Trust 2011- C v.* .

2. I have looked over the paperwork with this lawsuit. It appears to be a mess of trusts and entities I never heard of, and I don't know any of these companies that claim to own or signed off on the debt. I see no evidence that SLM obtained or was assigned my specific debt or that I owe the amount they claim I do.

3. I have gone by the name d since the marriage to my husband in 2010. Clearly, using a name I have not used in almost 13 years shows how SLM has no real interest or ownership in this debt to sue upon this debt.

4. The promissory note is unusual in that it states in the Governing Law Section:

3. Governing Law - I understand that the Lender is located in the State listed in the introductory paragraph of this Note and this Note will be entered into in the same State. Consequently, the provisions of this Note will be governed by federal laws and the laws of that State to the extent not preempted, without regard to conflict of law rules.

5. The Introductory Paragraph has nothing in the space where Lender should be written.

Signature Sti

In this Promissory Note ("Note") the words "I," "me," "my," "mine" and "we" mean the borrower and cosigner(s) who signed the application, unless the language specifically refers to only one or the other. "You," "your," and "yours" mean the lender as listed below and any subsequent holder of this Note. "School" means the school named in Section D of the application.

Lender:

2.

3.

A PROMISE TO PAY

6. I am suspicious of this whole thing especially the representation that Sallie Mae Bank is the original creditor when the original creditor is Sallie Mae, a separate entity.

7. After reading the paperwork attached to the lawsuit purporting to show a chain of title, it is clear that the chain of title is a mess and there is nothing perfected or correct about SLM having any ownership to the debt as there are too many breaks and entities without assignments for SLM to have the right to sue upon this specific debt.

8. This wrongful lawsuit from SLM is causing me emotional distress and fears of damage to my financial reputation because SLM has filed a lawsuit against me with no proof they have the right to sue upon the obligation.

9. Also, the Plaintiff SLM is claiming in the lawsuit to have the rights of an original creditor:

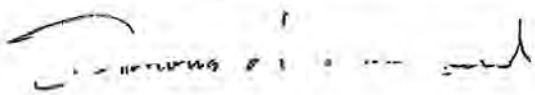
> 4. Prior to the commencement of this action, Plainitff acquired the Defendant's account from SLM PRIVATE EDUCATION LOAN TRUST 2011-C and by virtue thereof is entitled to all rights originally bestowed upon the original creditor.

10. Yet, the same lawsuit and Plaintiff is claiming to be a debt collector, collecting a debt and notifying anyone that sees the lawsuit that I am being pursed for a debt *by a debt collector*:

> * 4 5 1 9 5 7 / p f l c p 1 *
> This is an attempt to collect a debt and any information obtained will be used for that purpose.

11. I did not grant anyone permission to notify the public I am being pursued for a debt by a debt collector.

12. I dispute I owe this debt to SLM as stated in the lawsuit that has false chain of title documents attached to the complaint from a company that claims to be a debt collector and a creditor while referring to me by the wrong name that I have not used in thirteen years.



DATED: 4/26/2023