

STATE OF MICHIGAN
IN 36th DISTRICT COURT

PORTFOLIO RECOVERY, LLC,

Plaintiff/Counter -Defendant,

Case No. 23-157337-GC
HON.

-vs-

TH



Defendant/Counter-Plaintiff.

**DEFENDANT ANSWER AND
AFFIRMATIVE DEFENSES**

PORTFOLIO RECOVERY ASSOC.
Weber & Olcese, P.L.C.
Attorney for Plaintiff

LAW OFFICES OF BRIAN P PARKER PC
BRIAN P. PARKER (P48617)
Attorney for Defendant
4301 Orchard Lake Road, #180-208
West Bloomfield, MI 48323
(248) 342-9583
brianparker@collectionstopper.com

PRELIMINARY STATEMENT AS TO NO STATED CLAIM

In violation of the Fair Debt Collection Practices Act ("FDCPA") and Regulation of Michigan Collection Practices Act ("RMCPA), Plaintiff Portfolio Recovery Associates, LLC ("PRA") is suing Mi _____ with no agreement between the Creditor and Defendant, or Plaintiff and the Creditor attached to the lawsuit. Defendant does not owe Plaintiff as the chain of title in this lawsuit lacks any evidentiary proof of the SPECIFIC DEBT of Mr. _____ being assigned under Michigan law and the *Brownbark, Bassett and Riley* cases below. See Attached Exhibit 1 regarding the many entities being assigned and assigning the debt with no proof or paperwork. The debt is located in a secured trust with no assignment

back to the creditor to sell to PRA as evidenced by the names of the trust entities in Plaintiff's Exhibit Bill of Sale:



4000 Madison Dr NW
Canton OH 44705 U.S.A.

BILL of SALE

PRA (X095) – PLCC 120 MP – July 2020 – g2047260

For value received and in further consideration of the mutual covenants and conditions set forth in the Forward Flow Asset Sale Purchase Agreement (the "Agreement"), dated as of the 10th day of February 2020 by and between Synchrony Bank (hereby known as GS Capital Retail Bank, RFS Holding, L.L.C., Synchrony Card Funding, L.L.C and Retail Finance Credit Services, L.L.C. ("Seller") and Portfolio Recovery Associates, L.L.C. ("Buyer"), Seller hereby transfers, sells, conveys, grants, and delivers to Buyer, its successors and assigns, without recourse except as set forth in the Agreement, to the extent of its ownership, the Accounts as set forth in the Notification Files (as defined in the Agreement), delivered by Seller to Buyer on or about 17th day of July 2020, and as further described in the Agreement.

Synchrony Bank
By Lynne Fisher
Lynne Fisher
Title: SVP Recovery Operations

RFS Holding LLC
By Lynne Fisher
Lynne Fisher
Title: Duty Authorized Signatory

Synchrony Card Funding, LLC
By Lynne Fisher
Lynne Fisher
Title: Duty Authorized Signatory

Retail Finance Credit Services, L.L.C.
By Lynne Fisher
Lynne Fisher
Title: Vice President

This would also mean the account records of the PRA Affiant relies upon in the Affidavit of PRA attached to the lawsuit is incorrect and not complete and therefore the Affiant can't swear under oath she has reviewed everything. None of the entities are in her Affidavit.

In fact, the Affidavit attached to the lawsuit that is signed under oath on July 28, 2023 is signed more than ten days prior to the lawsuit being filed on September 1, 2023. Here is the Affidavit and complaint (Exhibit 1):

AFFIDAVIT

Commonwealth of Virginia
City of Norfolk ss.

Tyree Jones

I, the undersigned, _____, Custodian of Records, for Portfolio Recovery Associates, LLC hereby depose, affirm and state as follows:

1. I am competent to testify to the matters contained herein.
2. I am an authorized employee of Portfolio Recovery Associates, LLC ("Account Assignee") which is doing business at Riverside Commerce Center, 120 Corporate Boulevard, Norfolk, Virginia, and I am authorized to make the statements, representations and averments herein, and do so based upon a review of the business records of the Original Creditor SYNCHRONY BANK/SAMS CLUB and those records transferred to Account Assignee from SYNCHRONY BANK ("Account Seller"), which have become a part of and have integrated into Account Assignee's business records, in the ordinary course of business.
3. According to the business records, which are maintained in the ordinary course of business, the account, and all proceeds of the account are now owned by the Account Assignee, all of the Account Seller's interest in such account having been sold, assigned and transferred by the Account Seller on 07/17/2020. Further, the Account Assignee has been assigned all of the Account Seller's power and authority to do and perform all acts necessary for the settlement, satisfaction, compromise, collection or adjustment of said account, and the Account Seller has retained no further interest in said account or the proceeds thereof, for any purpose whatsoever.
4. According to the records transferred to the Account Assignee from Account Seller, and maintained in the ordinary course of business by the Account Assignee, there was due and payable from _____ ("Debtor and Co-Debtor") to the Account Seller the sum of \$5,484.56 with respect to account number ending in 8893, as of the date of 06/30/2019 with there being no known uncredited payments, counterclaims or offsets against the said debt as of the date of the sale.
5. According to the account records of said Account Assignee, after all known payments, counterclaims, and/or setoffs occurring subsequent to the date of sale, Account Assignee claims the sum of \$5,445.56 as due and owing as of the date of this affidavit.
6. Plaintiff believes that the defendant is not a minor or an incompetent individual, and declares that the Defendant is not on active military service of the United States.

Portfolio Recovery Associates, LLC

By: Tyree Jones Custodian of Records

Subscribed and sworn to before me on JUL 28 2023

Victoria J. [Signature]



The Affidavit refers to Mr. _____ as "Defendant" and PRA as a "Plaintiff" when there was no lawsuit filed when the Affidavit was signed so there are no Defendants or Plaintiffs. This is a false representation and signed under oath when it is impossible for that to be true. The signature on the Affidavit from Tyree Jones does not look real and you can clearly see it was cut and pasted on to the document:

not on active military service of the United States.

Portfolio Recovery Associates, LLC

By: Tyree Jones, Custodian of Records

Subscribed and sworn to before me on JUL 28 2023

Vivianica Thomas
Notary Public

As Plaintiff has no standing to sue and is not a Real Party in Interest, this case should be dismissed. Thank you.

ANSWER AND AFFIRMATIVE DEFENSES

WHEREFORE I K ("Defendant"), by and through his attorneys, The Law Offices of Brian P. Parker, P.C., Answers the Plaintiff PRA's Complaint against Defendant as follows:

1. Denied as PRA does not own the debt and Defendant does not owe the debt to PRA to be in this Court.
2. Deny as there is no way to prove this and there is no proof Plaintiff owns this debt. **Please see Exhibit 1.**
3. Defendant Denies as there is no proof SPECIFIC to Defendant owing this debt to PRA.
4. Denied as to this Plaintiff owning the debt to sue in this court. **Please see Exhibit 1.**

5. Denies this allegation as Plaintiff has provided no proof PRA owns the debt or is owed the stated amount by assignment. **Please see Exhibit 1 denying ownership of the debt and the lawsuit.**

6. Denied as to this Plaintiff with no assignment or proof of the Plaintiff obtaining the specific debt of Defendant by assignment under *Midland Funding v Michael Bassett*, Michigan Court of Appeals, No. 338404, April 24, 2018 and *Brownbark II, LP v. Bay Area Floorcovering & Design Inc. et al*, Michigan Court of Appeals Case No. 296660, May 31, 2011, *Weston v Dowty*, 163 Mich App 238, 242; 414 NW2d 165 (1987) and *Unifund CCR Partners v. Nishawn Riley*, Michigan Court of Appeals Case No. 287599, February 18, 2010. **Please see Exhibit 1.**

7. Denied as to this Plaintiff with no assignment or proof of the Plaintiff obtaining the specific debt of Defendant by assignment under *Midland Funding v Michael Bassett*, Michigan Court of Appeals, No. 338404, April 24, 2018 and *Brownbark II, LP v. Bay Area Floorcovering & Design Inc. et al*, Michigan Court of Appeals Case No. 296660, May 31, 2011, *Weston v Dowty*, 163 Mich App 238, 242; 414 NW2d 165 (1987) and *Unifund CCR Partners v. Nishawn Riley*, Michigan Court of Appeals Case No. 287599, February 18, 2010. **Please see Exhibit 1.**

8. Defendant Denies this allegation as Plaintiff has provided no proof PRA owns the debt or is owed the stated amount by assignment. **Please see Exhibit 1 denying ownership of the debt and the lawsuit.**

9. Denied as to this Plaintiff and Defendant has no idea what "admission of correctness" is or what it means.

10. Defendant Denies this allegation as Plaintiff has provided no proof PRA owns the debt or is owed the stated amount by assignment. **Please see Exhibit 1 denying ownership of the debt and the lawsuit.**

11. Denied as to this Plaintiff as the Affidavit is false and not based on the proper, personal knowledge and in violation of MCL 600.2145. **Please see Exhibit 1 and above Preliminary Statement.**

WHEREFORE, Defendant seeks a No Cause against Plaintiff and statutory and actual damages against Plaintiff under the FDCPA and RCPA including attorney fees and other relief this Court deems just and equitable.

AFFIRMATIVE DEFENSES

Defendant pleads the following Affirmative Defenses:

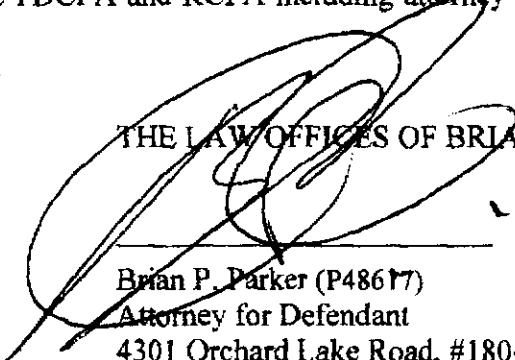
1. Plaintiff fails to state a claim upon which relief can be granted against this Defendant.
2. There is no payment plan or agreement between Plaintiff and Defendant and therefore, no Account Stated Claim.
3. Plaintiff lacks standing to sue because it does not own the alleged debt and is not a Real Party in Interest.
4. Plaintiff lacks capacity to sue as it has no authority to sue upon the debt.
5. Plaintiff is suing Defendant in violation of the FDCPA/RCPA based upon false allegations and misrepresentations in suing upon a debt it has not right to sue.
6. There is no proof supporting the lawsuit in violation of MCL 600.2145 with the false Affidavit that is also being unsupported by MRE 803(6).
7. Plaintiff's suit is barred by the statute of frauds.

8. Plaintiff is barred by the Fair Debt Collection Practices Act (“FDCPA”) from collecting late fees, attorney fees, costs, interest, and other amounts.
9. Plaintiff’s proofs are inadmissible and are hearsay under MRE 911/112.
10. Plaintiff lacks proof of a chain of title and proof of assignment of the SPECIFIC debt.
11. The date forms attached as Exhibits at the Bill of Sale and Sale File don’t match up and are false and lack veracity and reliability.
12. Plaintiff violated 15 USC 1692c(b) by placing the personal debt information of Defendant and proof that Defendant is being pursued by a debt collector on a third-party process server without Defendant’s consent.
13. The debt is located in a secured trust and not owned by PRA.
14. Another Entity or Creditor owns the rights to the debt.
15. Defendant Reserves the right to Amend this list as discovery demands or new information is available.

Please see Exhibit 1 Affidavit of Defendant and the Complaint.

WHEREFORE, Defendant seeks a No Cause against Plaintiff and statutory and actual damages against Plaintiff under the FDCPA and RCPA including attorney fees and other relief this Court deems just and equitable.

THE LAW OFFICES OF BRIAN PARKER PC



Brian P. Parker (P48617)
Attorney for Defendant
4301 Orchard Lake Road, #180-208
West Bloomfield, MI 48323

Dated: September 25, 2023

EXHIBIT #1

AFFIDAVIT OF THOMAS G...

STATE OF MICHIGAN)

COUNTY OF WAYNE) *

Pursuant to 28 U.S.C. 1746, _____ K being duly sworn and upon oath verifies, certifies, and under penalty of perjury declares as follows:

1. Portfolio Recovery Associates, LLC (PRA) and Weber & Olcese have filed a lawsuit in the 36th District Court against me at case number 23-157337-GC. **I dispute I owe this debt to PRA as stated in the lawsuit.**
2. The Plaintiff has attached a "Bill of Sale" to the lawsuit that appears to have many entities claiming ownership of the debt and the "selling" of the debt with no proof of assignments with the subject debt included in each transfer or ownership these entities were somehow part of without my knowledge:

synchrony
 4500 Massachusetts Blvd
 Canton OH 44705 U.S.

BILL of SALE

PRA (XO95)- PLCC 120 MP - July 2020 - g3047201

The value received and in further consideration of the mutual covenants and conditions set forth in the Forward Flow Accounts Purchase Agreement (the "Agreement"), dated as of the 10th day of February 2020 by and between Synchrony Bank (hereby known as GB Capital Retail Bank, RPS Holding, L.L.C. Synchrony Card Funding, LLC and Retail Finance Credit Services, LLC. ("Seller") and Portfolio Recovery Associates, LLC ("Buyer"), Seller hereby transfers, sells, conveys, grants, and delivers to Buyer, its successors and assigns, with their respective except as set forth in the Agreement, in the event of its ownership, the Accounts as set forth in the Non-flexible Files (as defined in the Agreement), delivered by Seller to Buyer on or about 17th day of July 2020, and as further described in the Agreement.

Synchrony Bank
 By: Lynne Fisher
 Lynne Fisher
 Title: SVP Recovery Operations

RPS Holding LLC
 By: Lynne Fisher
 Lynne Fisher
 Title: Duty Authorized Signatory

Synchrony Card Funding, LLC
 By: Lynne Fisher
 Lynne Fisher
 Title: Duty Authorized Signatory

Retail Finance Credit Services, LLC
 By: Lynne Fisher
 Lynne Fisher
 Title: Vice President

3. There are no assignments attached to the lawsuit from Synchrony Bank to or from any of these entities in the Bill of Sale and prior to any sale or transfer to PRA.
 4. Also, the Bill of Sale references that the whole thing is bought and sold pursuant to a Forward Flow Accounts Purchase Agreement (The Agreement) that does not appear anywhere in the lawsuit or attached to it.
 5. This is an Account Stated lawsuit that I have not paid anything to PRA on or come to any agreement to pay PRA or their law firm.
 6. There is an Affidavit attached to the lawsuit that is signed under oath on July 28, 2023 and more than ten days prior to the lawsuit being filed on September 1, 2023.
 7. Further, the Affidavit mentions nothing about the entities in the Bill of Sale being owners or assignees yet the signor of the document claims to have personal knowledge of the books and records attached to this debt:
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AFFIDAVIT

Commonwealth of Virginia
City of Norfolk, ss

I, the undersigned, Tyree Jones, Custodian of Records, for Portfolio Recovery Associates, LLC
heretby depose, affirm and swear as follows:

- I am competent to testify to the matters contained herein.
- I am an authorized employee of Portfolio Recovery Associates, LLC ("Account Assignee") which is doing business at Riverside Commerce Center, 120 Corporate Boulevard, Norfolk, Virginia, and I am authorized to make the statements, representations and admissions herein, and do so based upon a review of the business records of the Original Creditor SYNCHRONY BANK/SAMS CLUB and those records transferred to Account Assignee from SYNCHRONY BANK ("Account Seller"), which have become a part of and have integrated into Account Assignee's business records, in the ordinary course of business.
- According to the business records, which are maintained in the ordinary course of business, the account, and all proceeds of the account are now owned by the Account Assignee, all of the Account Seller's interest in such account having been sold, assigned and transferred by the Account Seller on 07/17/2020. Further, the Account Assignee has been assigned all of the Account Seller's power and authority to do and perform all acts necessary for the settlement, satisfaction, compromise, collection or adjustment of said account, and the Account Seller has retained no further interest in said account or the proceeds thereof, for any purpose whatsoever.
- According to the records transferred to the Account Assignee from Account Seller and maintained in the ordinary course of business by the Account Assignee, there was due and payable from X ("Debtor and Co-Debtor") to the Account Seller the sum of **\$5,484.56** with respect to account number ending in **8893**, as of the date of **08/30/2019** with there being no known uncredited payments, counterclaims or offsets against the said debt as of the date of the sale.
- According to the account records of said Account Assignee, after all known payments, counterclaims and/or setoffs occurring subsequent to the date of sale, Account Assignee claims the sum of **\$5,445.56** as due and owing as of the date of this affidavit.
- Plaintiff believes that the defendant is not a minor or an incompetent individual, and declares that the Defendant is not on active military service of the United States.

Portfolio Recovery Associates, LLC
By Tyree Jones Custodian of Records
Subscribed and sworn to before me on Jul 28 2023



Vicki...

- The Affidavit refers to me as a "Defendant" and PRA as a "Plaintiff" when there was no lawsuit filed when the Affidavit was signed so there are no Defendants or Plaintiffs. This was be a false representation and signed under oath when it is impossible for that to be true.
- The signature on the Affidavit from Tyree Jones does not look real and you can clearly see it was cut and pasted on to the document:

not on active military service of the United States.

Portfolio Recovery Associates, LLC

Tyree Jones
By: Tyree Jones Custodian of Records

Subscribed and sworn to before me on JUL 28 2023

Veronica Thomas
Notary Public

10. I dispute I owe this debt to PRA as stated in the lawsuit with the obvious lack of proof to prove I owe the debt to PRA and I have had to hire an attorney to fight this because it is causing me stress and anxiety with PRA's paperwork that shows they do not own the debt but sued me anyway and I fear being defaulted if I do not answer the lawsuit.

DATED: 9-21-23