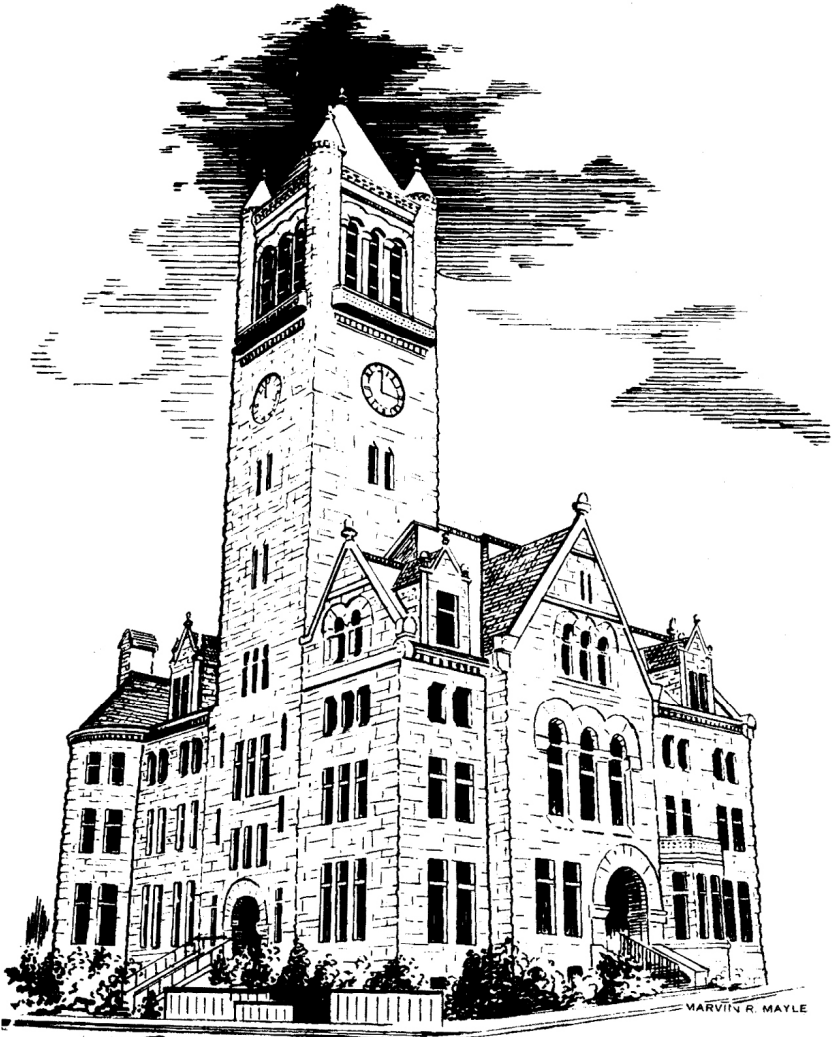


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Notice is hereby given that letters testamentary or of administration have been granted to the following estates. All persons indebted to said estates are required to make payment, and those having claims or demands to present the same without delay to the administrators or executors named.

Third Publication

CORA GILMORE, late of Uniontown, Fayette County, PA (3)

Administratrix: Debra Downs
62 Alderman Drive
Morgantown, WV 26508
c/o Mears, Smith, Houser & Boyle, P.C.
127 North Main Street
Greensburg, PA 15601
Attorney: Jon M. Lewis

CATHERINE M. KELLY, late of Redstone Township, Fayette County, PA (3)

Executrix: Jennifer Kovach
c/o Davis & Davis
107 East Main Street
Uniontown, PA 15401
Attorney: Jeremy J. Davis

JOSEPH F. SCHUBERT, JR., late of Luzerne Township, Fayette County, PA (3)

Administrator: Bruce Davis
200 Krepps Lane
East Millsboro, PA 15433
c/o Logan & Gatten Law Offices
54 North Richhill Street
Waynesburg, PA 15370
Attorney: Lukas B. Gatten

KATHLEEN SHROPSHIRE, late of Bullskin Township, Fayette County, PA (3)

Administratrix: Robin G. Villi
238 Horse Shoe Bend Road
Acme, PA 15610
c/o Henderson Law Offices, PC
319 Pittsburgh Street
Scottdale, PA 15683
Attorney: Kevin Henderson

MARIE A. TONARELLI, a/k/a MARIE TONARELLI, late of Washington Township, Fayette County, PA (3)

Executor: Dennis Tonarelli
927 Conway Avenue
Belle Vernon, PA 15012
c/o 823 Broad Avenue
Belle Vernon, PA 15012
Attorney: Mark E. Ramsier

Second Publication

FRANCES A. ANTOLIK, late of Uniontown, Fayette County, PA (2)

Administrator: James Antolik
64 Euclid Avenue
Uniontown, PA 15401
c/o Tiberi Law
84 East Main Street
Uniontown, PA 15401
Attorney: Vincent M. Tiberi

CLIFFORD BOWERS, late of Farmington, Fayette County, PA (2)

Executor: George Spencer
185 Smith Street
Canonsburg, PA 15317
c/o 17 North Diamond Street
Mount Pleasant, PA 15666
Attorney: Marvin D. Snyder

FRANCES D. CICONI, a/k/a FRANCES CICONI, late of Smock, Franklin Township, Fayette County, PA (2)

Administrator: Gary D. Cicconi
c/o P.O. Box 953
Uniontown, PA 15401
Attorney: Ricardo J. Cicconi

WILLIAM CONWAY, late of Nicholson Township, Fayette County, PA (2)

Administrator: William Conway, Jr.
162 Holbert Stretch
Dilliner, PA 15327

**ALBERT EUGENE CORE, SR, a/k/a
ALBERT E. CORE, a/k/a ALBERT E.
CORE SR.**, late of Fairchance Borough, Fayette
County, PA (2)

Administratrix dbncta: Rhonda Core
c/o 9 Court Street
Uniontown, PA 15401
Attorney: Vincent J. Roskovensky, II

**DARLENE MAE DOMINICK, a/k/a
DARLENE M. DOMINICK, a/k/a
DARLENE DOMINICK**, late of North Union
Township, Fayette County, PA (2)

Co-Executors: Renee Custer and
James Custer
c/o 9 Court Street
Uniontown, PA 15401
Attorney: Vincent J. Roskovensky, II

**LEONA LEA GALLOWAY, a/k/a LEA
GALLOWAY**, late of Masontown, Fayette
County, PA (2)

Executrix: Heidi S. Ezzi
c/o Tiberi Law
84 East Main Street
Uniontown, PA 15401
Attorney: Vincent M. Tiberi

LAWRENCE S. GEORGIANA, late of South
Union Township, Fayette County, PA (2)

Executrix: Harriet J. Georgiana
c/o 51 East South Street
Uniontown, PA 15401
Attorney: Webster & Webster

JAMES A. HILEMAN, late of Washington
Township, Fayette County, PA (2)

Co-Executrix: Laurel Colelli
924 Lynn Avenue
Belle Vernon, PA 15012
Jamie Hileman Butz
105 Kimberly Court
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Belle Vernon, PA 15012
Attorney: Megan Kerns

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KEYSER**, late of North Union Township,
Fayette County, PA (2)

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Pittsburgh, PA 15213

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Somerset, PA 15501
Attorney: Carolann A. Young

**JOHN D. MAY, a/k/a JOHN DEWAYNE
MAY**, late of Springfield Township, Fayette
County, PA (2)

Administratrix: Judith A. May
c/o 51 East South Street
Uniontown, PA 15401
Attorney: Webster & Webster

MELVA RATH, a/k/a MELVA J. RATH, late
of Upper Tyrone Township, Fayette County, PA

Personal Representative: Krista J. Loucks
c/o Watson Mundorff, LLP (2)
720 Vanderbilt Road
Connellsville, PA 15425
Attorney: Timothy J. Witt

ANN SANTA, a/k/a ANN A. SANTA, late of
Uniontown, Fayette County, PA (2)

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Uniontown, PA 15401
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834 Main Street
P.O. Box 108
Keisterville, PA 15449
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STEWART**, late of Jefferson Township, Fayette
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Canton, Michigan 48187
c/o 6253 Highway Drive
Rostraver Township, PA 15012
Attorney: Albert C. Gaudio

**PATRICIA LOU WARREN, a/k/a
PATRICIA H. WARREN, a/k/a PATRICIA
REISCH**, late of Wharton Township, Fayette
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Attorney: Vincent J. Roskovensky, II

First Publication

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Fayette County, PA (1)

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Mt. Pleasant, PA 15666
Attorney: Marvin Snyder

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a/k/a EDITH ANN LYNN**, late of Belle
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Executrix: Pamela Ambrose
616 Henry Street
Belle Vernon, PA 15012
c/o 823 Broad Avenue
Belle Vernon, PA 15012
Attorney: Mark E. Ramsier

JAMES H. RITENOUR, late of Perry
Township, Fayette County, PA (1)

Executrix: Barbara Stanley
177 Francis Road
Perryopolis, PA 15473
c/o 823 Broad Avenue
Belle Vernon, PA 15012
Attorney: Mark E. Ramsier

DANIEL CHARLES SCHIFFBAUER, late of
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Executrix: Rosa M. Schiffbauer
c/o Proden & O'Brien
99 East Main Street
Uniontown, PA 15401
Attorney: Jeffrey S. Proden

**RONALD WAGNER, a/k/a RONALD L.
WAGNER, SR., a/k/a RONALD LEE
WAGNER**, late of Markleysburg,
Fayette County, PA (1)

Executor: Ronald L. Wagner, Jr.
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Pittsburgh, PA 15219
Attorney: F. Christopher Spina

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Fayette County, PA (1)

Administratrix: Annette Wroble
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68 South Beeson Boulevard
Uniontown, PA 15401
Attorney: James Higinbotham

LEGAL NOTICES

IN THE COURT OF COMMON PLEAS OF
FAYETTE COUNTY, PENNSYLVANIA
NO. 962 TERM, 2023
EMINENT DOMAIN PROCEEDING
IN REM

IN RE: CONDEMNATION BY THE
COMMONWEALTH OF
PENNSYLVANIA, DEPARTMENT OF
TRANSPORTATION, OF THE
RIGHT-OF-WAY FOR STATE
ROUTE 4003 , SECTION 03M
IN THE BOROUGH OF BROWNSVILLE

NOTICE OF CONDEMNATION AND DEPOSIT OF ESTIMATED JUST COMPENSATION

Notice is hereby given that the Commonwealth of Pennsylvania, by the Secretary of Transportation, whose address is the Commonwealth of Pennsylvania, Department of Transportation, Office of Chief Counsel, Real Property Division, Commonwealth Keystone Building, Harrisburg,

Pennsylvania 17120, pursuant to the provisions of Section 2003(e) of the Administrative Code of 1929, P.L. 177, 71 P.S. 513(e), as amended, has filed on May 18, 2023 a Declaration of Taking to the above term and number, condemning the property shown on the plans of the parcels listed on the Schedule of Property Condemned which have been recorded in the Recorder's Office of the above county at the places indicated on the said schedule. The name (s) of the owner(s) of the property interest(s) condemned is (are) also shown on the aforesaid Schedule. The Secretary of Transportation, on behalf of himself/herself and the Governor has approved the within condemnation by signing on August 30, 2022 a plan entitled Drawings Authorizing Acquisition of Right of Way for State Route 4003 Section 03M, a copy of which plan was recorded in the Recorder's Office of the aforesaid county on March 8, 2023, in Instrument # 202300001918.

The purpose of the condemnation is to acquire property via fee simple for the rehabilitation project of the Historic Dunlap Creek Bridge.

Plans showing the property condemned from the parcels listed on the Schedule of Property Condemned have been recorded in the aforesaid Recorder's Office at the places indicated on the Schedule, where they are available for inspection. The Property Interest thereby condemned is designated on the Declaration of Taking heretofore filed. The Commonwealth of Pennsylvania is not required to post security, inasmuch as it has the power of taxation.

Because the identity or the whereabouts of the condemnee(s) listed below is (are) unknown or for other reasons he (they) cannot be served, this notice is hereby published in accordance with Section 305(b) of the Eminent Domain Code (26 Pa.C.S. §305(b)).

Claim No.	2600629000
Parcel No.	3
Name	Unknown
Address	N/A

The power or right of the Secretary of Transportation of the Commonwealth of Pennsylvania to appropriate the property condemned, the procedure followed by the Secretary of Transportation or the Declaration of Taking may be challenged by filing preliminary objections within thirty (30) days of the date of this notice.

FURTHERMORE, NOTICE IS GIVEN THAT the Commonwealth of Pennsylvania,

Department of Transportation, pursuant to Section 522 of the Eminent Domain Code (26 Pa.C.S. §522), will, at the end of the above-referenced thirty (30) day time period within which to file preliminary objections to the Declaration of Taking, present a petition to the Court of Common Pleas of the above county to deposit into court the just compensation estimated by the Commonwealth to be due all parties in interest for damages sustained as the result of the condemnation of the property herein involved.

The petition to deposit estimated just compensation may not be presented to the court if the owner(s) of the property herein involved inform the District Right-of-Way Administrator of the District noted below of their existence and/or whereabouts prior to the expiration of the noted period. After estimated just compensation has been deposited into court, the said monies may be withdrawn by the persons entitled thereto only upon petition to the court. If no petition is presented within a period of six years of the date of payment into court, the court shall order the fund or any balance remaining to be paid to the Commonwealth without escheat.

District Right-of-Way Administrator
Engineering District 12-0
Pennsylvania Department of Transportation


DiBella Weinheimer
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JUDICIAL OPINION

IN THE COURT OF COMMON PLEAS OF FAYETTE COUNTY, PENNSYLVANIA
CIVIL DIVISION

CAVALRY SPV I, LLC AS ASSIGNEE	:	
OF COMENITY BANK,	:	
Plaintiff,	:	
v.	:	
BRADLEY BEAL,	:	No. 1641 of 2020, G.D.
Defendant.	:	Honorable Linda R. Cordaro

OPINION

Linda R. Cordaro, J.

April 27, 2023

Before this Court are Defendant's Preliminary Objections to Plaintiffs Amended Complaint.

The standard in determining preliminary objections is whether the facts pleaded establish that it is clear and free from doubt that the plaintiff will be unable to prove the facts legally sufficient to establish a right to relief. *Bower v. Bower*, 611 A.2d 181, 182 (Pa. 1992). A trial court must accept as true all facts that are well-pleaded, material, and relevant, together with any reasonable inferences that may be drawn from those facts. *Mellon Bank, N.A. v. Fabinyi*, 650 A.2d 895, 899 (Pa. Super. Ct. 1994).

Defendant raises three objections. The first two objections are that Plaintiffs pleading fails to conform to law or rule of court as under Pa.R.Civ.P. 1028(a)(2). The third is that Plaintiff has failed to plead with specificity as under Pa.R.Civ.P. 1028(a)(3). After consideration of the pleadings and exhibits, Defendant's brief in support, {1} and argument on the matter on March 27, 2023, the objections are sustained for the reasons set forth below.

First, Defendant objects that the verification to Plaintiffs Amended Complaint is signed only by Plaintiffs counsel and so does not comply with the conditions set forth in Pa.R.Civ.P. 1024(c). According to the Rule, the verification of a pleading shall be made by at least one party filing the pleading unless all parties are outside the jurisdiction of the court and verification cannot be obtained from any of them within the time allowed for filing the pleading. In that case, any person with sufficient knowledge and belief may make the verification. A review of the record shows that Plaintiffs Amended Complaint includes a verification signed by Plaintiffs counsel and avers only that Plaintiff is outside the court's jurisdiction. This is insufficient under Rule 1024(c). {2}

{1} Plaintiff was ordered to serve a copy of the response and brief in opposition upon the undersigned but did not do so.
 {2} Counsel for Plaintiff stated in oral argument that it was not possible to timely obtain the signature of a party, however this was not set forth in the verification itself.

In addition, according to the record, Defendant served preliminary objections to the original complaint on November 10, 2020. Plaintiff then filed the Amended Complaint on December 7, 2020, 27 days later, meaning even reliance upon counsel's signature did not result in a timely filing. {3} Furthermore, Plaintiff filed its recent motion for determination on Defendant's Preliminary Objections on January 20, 2023, 774 days after filing the Amended Complaint, which was surely ample time in which to obtain a party signature. Defendant's first objection under Pa.R.Civ.P. 1028(a)(2) is sustained.

Next, Defendant alleges that Plaintiff has provided insufficient proof that the subject credit account was assigned from Comenity Bank to Plaintiff. Under Pa.R.Civ.P. 2002(a), except as otherwise provided, all actions shall be prosecuted by and in the name of the real party in interest. Under Pa.R.Civ.P. 1019(i), if a claim is based upon a writing, the pleader must attach a copy of the writing or the material part thereof.

The Amended Complaint avers that Plaintiff is the assignee and successor in interest of a credit account ending in "-9850," and that this account was issued to Defendant by the original creditor, Comenity Bank. A review of the record shows that Plaintiff provided the following in support of the averment:

- A copy of a credit card account agreement that bears no cardholder name, account open date, or signatures (hereinafter "Agreement Document");
- A signed copy of a "Bill of Sale and Assignment of Accounts" between Comenity Bank and Cavalry SPV I, LLC (Cavalry) (hereinafter "Assignment Document"). This document states that, pursuant to a "Credit Card Account and Receivables Purchase Agreement" dated October 5, 2018, as of January 6, 2020, Comenity Bank assigned to Cavalry all rights, title and interest in the accounts described in an attached Asset Schedule;
- A document stating that accounts transferred pursuant to the "Credit Card Account Purchase Agreement and Bill of Sale" are described in a named electronic file delivered to Plaintiff on January 6, 2020 (hereinafter "Asset Schedule Document");
- A document with a two-column grid listing the Defendant's name; an address and redacted social security number; an open date, last payment date, current balance; and a number redacted except for the last four digits -9850 (hereinafter "Account Detail Document"). This document also includes the following notes:

"Data Excerpt from Schedule 1"(Asset Schedule);

"The data contained in this document was extracted from the electronic records transmitted by the seller concerning the referenced account";

"Purchase Date January 14, 2020."

{3} Defendant states that Plaintiff was under no time constraints to file the Amended Complaint, however, under Pa.R.Civ.P. 1028(c)(1), Plaintiff had twenty days from service of preliminary objections in which to file.

The attachments provided are insufficient to show assignment for several reasons. First, the Agreement Document has no identifying information to demonstrate that it is the agreement into which Defendant purportedly entered with Comenity Bank. Second, according to the Assignment Document, as of January 6, 2020, Plaintiff was assignee for accounts as listed in the Asset Schedule Document, which in turn lists the name of an electronic file containing information on charged-off accounts. However, there is no indication that Defendant's information was among these accounts. Third, the Account Detail states that the individual information shown is excerpted from an Asset Schedule, but it does not refer to the electronic file that allegedly included Defendant's information. Further, the listed "purchase date" on the Account Detail does not match the assignment date given in the Assignment Document. These documents do not sufficiently demonstrate (1) an agreement between Defendant and Comenity Bank; or (2) the assignment of Defendant's credit account to Plaintiff. Defendant's second objection under Pa.R.Civ.P. 1028(a)(2) is sustained.

Finally, Defendant contends that Plaintiff has not pleaded sufficient detail as to the transactions associated with the subject credit account. Here, the pertinent question is whether the complaint is sufficiently clear to enable the defendant to prepare his defense. *Rambo v. Greene*, 906 A.2d 1232, 1236 (Pa. Super. Ct. 2006). The Fayette County Court of Common Pleas previously has sustained preliminary objections in a credit card collection action on the grounds that there must be "sufficient documentation and allegations to permit a defendant to calculate the total amount of damages that are allegedly due by reading the documents attached to the complaint and the allegation within the complaint." {4}

The record shows that Plaintiff submitted a copy of an account statement addressed to Defendant, with an account number ending in -9850, and a statement closing date of December 7, 2018. That statement shows purchase and payment transaction details and a previous balance of \$2,002.01. Plaintiff also submitted copies of similar statements with closing dates of March 7, 2019; April 6, 2019; May 7, 2019; and December 7, 2019. The December 2019 statement shows a balance of \$3,269.47, the amount of relief requested in the Amended Complaint.

However, this documentation does not provide sufficient detail for Defendant to calculate the damages allegedly due. There is no record showing what transactions comprised the previous balance on the December 7, 2018 statement, nor are there statements showing transactions (including late fees and interest charges) between May 2019 and November 2019. Furthermore, the monthly statements that Plaintiff did submit show three different annual percentage rates applied to the account. {5} There is insufficient detail either in these statements or the Amended Complaint itself to show how the total amount due was calculated. Defendant's objection under Pa.R.Civ.P. 1028(a)(3) is sustained.

{4} *Citibank N.A. v. Michael A. Bereider*, No. 1945 of 2013, G.D. (April 3, 2014) (quoting *Chase Bank USA v. Rader*, 8 Pa.D. & C.5th 297, 301 (Pa.Com.Pl. 2009)).

{5} December 2018 statement - 26.99% APR; March - May 2019 statements - 27.24% APR; December 2019 statement - 26.49% APR.

ORDER

AND NOW, this 27th day of April, 2023, upon consideration of Defendant's Preliminary Objections, brief, and oral argument on the matter, it is ORDERED and DIRECTED that Defendant's Preliminary Objections are SUSTAINED.

In accordance with Pa.R.Civ.P. 1028(e), Plaintiff has the right to plead over within thirty (30) days after Notice of this Order.

BY THE COURT:
Linda R. Cordaro, Judge

ATTEST:
Prothonotary

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