



IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, ALABAMA

UNIFUND CCR PARTNERS,)	
)	
Plaintiff,)	
)	
v.)	CASE NO: CV-09-5
)	
DEBRA F. LETT,)	
)	
Defendant.)	

ORDER

This matter came before the court on April 14, 2009 for trial. Plaintiff, Unifund CCR Partners introduced into evidence the testimony of Mr. Bobby Carnes and offered evidence of an assignment to it by Unifund Portolio "A" LLC assigning it the right to sue on its behalf. Further, Plaintiff introduced into evidence purported billing statements for the defendant. After hearing the evidence, it is **ORDER, ADJUDGED and DECREED** as follows:

This Court finds that Plaintiff, Unifund CCR Partners, lacks standing to bring this suit as it does not have legal title to the account of the Defendant. Pursuant to ARCP 17(a), Plaintiff will be given thirty (30) days to amend its complaint to bring in the Real Party in Interest. If this is not done then the case will be **DISMISSED WITH PREJUDICE**.

This court further finds that there were certain threshold evidentiary issues that need to be addressed should the case go forward.:

1. Affidavits of Sale/Bills of Sale

Plaintiff attempted to introduce evidence of the assignment or sale of the accounts of the Defendant into court. The Court finds that in their present form, these affidavits or

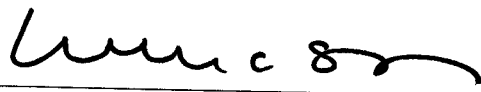
bills of sale are inadmissible. In order to be admissible, Plaintiff will need to provide the complete documents for inspection by the defendant and for admissibility into evidence.

2. Credit Card Statements

Plaintiff attempted to introduce into evidence the purported credit card statements of the Defendant. At that time, there was no testimony from "a person with knowledge" from the original creditor sufficient to meet the requirements of Rule 803(6) or Rule 44(h) of the Rules of Civil Procedure. Further, these records were not made nor maintained in the regular course of business of the Plaintiff, which does not own the debt. Therefore, Mr. Carnes, did not and could not have testified as such. Plaintiff has failed to carry its burden to meet the hearsay exception as spelled out in *Ala. R. Evid. 803(6) and L.A.C. v. State Department of Human Resources*, 890 So. 2d 1026 (Civ. App. Ct. 2003). Thus, this court holds these documents to be inadmissible.

If the proper party is substituted, evidence and testimony must be presented in order to cure deficiencies.

DONE AND ORDERED this the 6 Day of May, 2009


Circuit Court Judge