

IN THE COUNTY COURT IN AND FOR
MIAMI DADE COUNTY, FLORIDA

LVNV FUNDING, LLC.,
A Successor in Interest to Sears,
Plaintiff,

CASE NO.: 08-1018 CC23 (4)

v.

TRUDY HARRIS,
Defendant.

FINAL SUMMARY JUDGMENT AGAINST THE PLAINTIFF

This case came to be heard on defendant's motion for a final summary judgment against the plaintiff, LVNV FUNDING, LLC, a successor in interest to Sears, on June 15, 2009. After due notice of hearing, an argument of counsel, the court finds the following:

In January of 2008, plaintiff filed a complaint against defendant in the amount of 10,633.45, attorney's fees, and costs based on an establish credit account in the name of the Defendant. Defendant filed a counterclaim against plaintiff and also denied the allegations of plaintiff's complaint. In addition, as one of her affirmative defenses, Defendant alleged that plaintiff failed to comply with Florida Statute 559.715.

Florida Statute 559.715 deals with the assignment of a consumer debt, and states in part:

This part does not prohibit the assignment, by a creditor, of the right to bill and collect a consumer debt. However, the assignee must give the debtor written notice of such assignment within 30 days after the assignment...

Florida courts have demanded strict compliance with the statute, *UMLIC-VP v. LEVINE*, 10 Fla L. Weekly. Supp 336 (2003), and *CACH, LLC v QUARTERMAINE*, 15 Fla. L. Weekly Supp. 843b (2008).

In the present case, plaintiff was unable to produce any evidence that it complied with Florida Statute 559.715. Therefore, it is hereupon,

ORDERED that Defendant's motion for a final summary judgment is granted because the plaintiff has failed to comply with the with written notice provision of Florida Statute 559.715, which this court holds is a condition precedent to a debt collection action predicated upon an

assignment of debt. Plaintiff shall take nothing from this action, and its claims are dismissed with prejudice.

DONE and ORDERED this _____ day of June, 2009.

SIGNED and DATED
JUN 24 2009
JUDGE ERIC Wm.HENDON

The Honorable Judge Eric Hendon

cc:

David E. Borack, Esq.
Attorney for Plaintiff

Angelo Marino, Jr., Esq.
Attorney for Defendant