

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI  
ASSOCIATE JUDGE DIVISION  
AT KANSAS CITY

FILED-CIRCUIT COURT  
JACKSON CO MO-KC  
2013 MAR 12 AM 9:03

PORTFOLIO RECOVERY  
ASSOCIATES LLC, A LIMITED  
LIABILITY COMPANY,

Plaintiff,

vs.

GUADALUPE MEJIA,

Defendant.

Case No. 1216-CV34184

Division 31

ANSWER

For her Answer to Plaintiff's Petition, Defendant states as follows:

COUNT I – SUIT ON A CONTRACT

1. Defendant is without sufficient knowledge to admit or deny the allegations in paragraph 1 and therefore denies same.
2. Defendant is without sufficient knowledge to admit or deny the allegations in paragraph 2 and therefore denies same.
3. Defendant admits paragraph 3.
4. Defendant denies paragraph 4.
5. Defendant denies paragraph 5.
6. Defendant denies paragraph 6.
7. Defendant denies paragraph 7.
8. Defendant denies paragraph 8.

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9. Defendant denies paragraph 9.
10. Defendant denies paragraph 10.
11. Defendant denies paragraph 11.

**COUNT II – MONEY HAD AND RECEIVED**

1. Defendant restates and re-alleges her responses to each and every paragraph of Count I as if fully set forth herein.

2. Defendant denies paragraph 2.
3. Defendant denies paragraph 3.

**COUNT III – ACCOUNT STATED**

1. Defendant restates and re-alleges her responses to each and every paragraph of Counts I and II as if fully set forth herein.

2. Defendant denies paragraph 2.
3. Defendant denies paragraph 3.
4. Defendant denies paragraph 4.
5. Defendant denies paragraph 5.
6. Defendant denies paragraph 6.
7. Defendant denies paragraph 7.

**AFFIRMATIVE DEFENSE AND CLAIM FOR ATTORNEY FEES**

Further answering, Defendant states that Plaintiff has failed to state any claim upon which relief may be granted and that, upon dismissal of Plaintiff's Petition, Defendant will be entitled to an award of her attorney fees and costs, pursuant to § 408.092 RSMo.

WHEREFORE, Defendant prays that Plaintiff's Petition be dismissed, and that Defendant

be awarded her costs and attorney fees pursuant to § 408.092 RSMo, and for such other relief as the Court deems just and proper.

### **COUNTERCLAIM**

#### **Count I – Violation of Fair Debt Collection Practices Act**

For Count I of her Counterclaim against Plaintiff, Defendant states:

1. Defendant is a natural person and a resident of Jackson County, Missouri, who has continuously resided at the same address in Kansas City, Missouri, since 1994 and has never resided at the address stated in the credit card statement attached to Plaintiff's Petition.

2. Defendant has never had a credit card or any other kind of financial transaction with HSBC BANK NEVADA NA / ORCHARD BANK and Plaintiff therefore has no right to seek collection of any debt based on any such transaction against Defendant, but nevertheless seeks to hold Defendant liable for the alleged debt.

3. Plaintiff regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another in that it regularly purchases defaulted debt for pennies on the dollar and collects or attempts to collect on that debt by engaging in debt collection activity and suing consumers in court. Whenever referred to in this matter, "Plaintiff" includes the agents, servants, or employees of Plaintiff acting within the scope and course of their agency.

4. By its actions and conduct alleged, Plaintiff has violated 15 U.S.C. § 1692d(2), which prohibits debt collectors from engaging in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt.

5. By its actions and conduct alleged, Plaintiff has violated 15 U.S.C. § 1692e(2)(A), which prohibits debt collectors from making false representation of the character, amount, or legal

status of any debt.

6. By its actions and conduct alleged, Plaintiff has violated 15 U.S.C. § 1692f(1), which prohibits the collection of any amount unless such collection is permitted by law.

Pursuant to 15 U.S.C. § 1692k, the Plaintiff is liable to the Defendant for her actual damages, additional statutory damages of up to \$1,000.00, and reasonable attorney's fees.

WHEREFORE, Defendant prays for judgment against Plaintiff on Count I of her Counterclaim for her actual damages in excess of \$25,000.00, as determined by the jury, for additional statutory damages in the amount of One Thousand and 00/100 Dollars (\$1,000.00), for her attorney's fees and costs incurred herein, and for such other relief as the Court deems just and proper.

**Count II – Malicious Prosecution**

For Count II of her Counterclaim against Plaintiff, Defendant states:

1. Paragraphs 1 through 6, above, are incorporated by reference.
2. Plaintiff, maliciously intending to injure the Defendant, instituted the instant lawsuit against her without reasonable grounds and has continued to prosecute the lawsuit when Plaintiff knew or should have known that the lawsuit is groundless.
3. Despite being advised by Defendant that the Defendant did not owe the debt and had never resided at the address listed on the credit card statement attached to Plaintiff's Petition the Plaintiff continued to prosecute this action against Defendant.
4. Plaintiff does not possess any facts or documents that would support its claim that Defendant owes the alleged debt upon which Plaintiff's suit is based.
5. The instant lawsuit was instituted and prosecuted by Plaintiff maliciously and without probable cause and, notwithstanding that there was no probable cause for the institution and

prosecution of the underlying lawsuit, the Defendant has been compelled to defend same and forced to incur loss of time and money attendant to the defense of the lawsuit and has been made to suffer great embarrassment, humiliation, mental anguish and emotional distress.

6. The conduct of Plaintiff alleged above was made and done in reckless disregard of, and indifference to, the rights of the Defendant, thereby calling for an assessment of punitive damages against Plaintiff in order to punish it and to deter it and others from engaging in like conduct in the future.

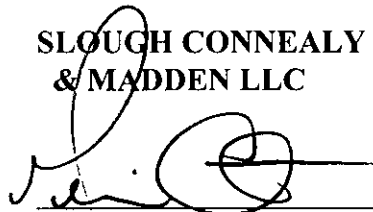
WHEREFORE, Defendant prays for judgment against Plaintiff on Count II of her Counterclaim for her actual damages in excess of \$25,000.00, as determined by the jury, for punitive damages in such amount as fairly assessed by the jury against the Plaintiff, and for her costs and such other relief as the Court may deem just and proper.

**Jury Demand**

Defendant demands trial by jury in this matter.

Respectfully submitted,

**SLOUGH CONNEALY IRWIN  
& MADDEN LLC**



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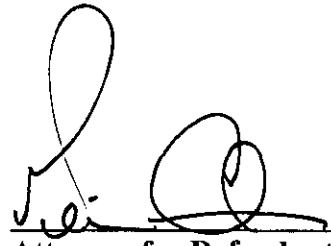
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**Attorneys for Defendant**

**CERTIFICATE OF SERVICE**

I hereby certify that on the 12th day of March 2013, a true and accurate copy of the above and foregoing was served in person in Division 31 upon a representative for:

Edward J. Myers  
Raymond Bozarth  
GAMACH & MEYERS, P.C.  
1000 Camera Ave., Suite A  
Crestwood, Missouri 63126



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**Attorney for Defendant**