

IN THE COUNTY COURT, FOURTH
JUDICIAL CIRCUIT, IN AND FOR
DUVAL COUNTY, FLORIDA

CASE NO.: 16-2007-CA-002294-XXXX-MA
DIVISION: P

FLORIDA CREDIT RESEARCH, INC.
assignee of Metris Companies, Inc.,
Plaintiff,

vs.

MARK STROMBERG,
Defendant.

**ORDER GRANTING DEFENDANT'S MOTION
TO DISMISS PLAINTIFF'S COMPLAINT**

This matter came before the Court on Defendant's Motion to Dismiss Plaintiff's Complaint and Defendant's Motion to Strike Request for Attorney's Fees. The Court having heard argument of counsel for the Plaintiff and Defendant, having reviewed the file and being otherwise sufficiently advised in the premises, finds as follows:

1. On March 8, 2007, the Plaintiff, Florida Credit Research, Inc. filed its Complaint. The only supporting documentation attached to the Complaint was a single October 31, 2003 statement from Direct Merchants Bank with "charge off" account principal and interest amounts. Also attached were two pages of a document entitled "Cardholder Agreement" payable to Direct Merchants Bank which was not signed or dated. The "Cardholder Agreement" did not contain any reference to the Defendant.
2. Fla.Sm.CLR. 7.050(a) provides that a case shall be commenced by filing a Statement of Claim. -Actions are commenced by the filing of a statement of claim in concise form,

which shall inform the Defendant of the basis and the amount of the claim. If the claim is based on a written document, a copy or the material part thereof shall be attached to the statement of claim.

3. Plaintiff has failed to attach a credit card application or agreement signed by Defendant.

4. Plaintiff has failed to attach copies of the account, showing items, time of accrual of each, and amount of each. *See by analogy* Forms 1.932 and 1.933, *Fla.R.Civ.Pro.*, requirements for an account stated or open account claim.

5. The documents which are attached to the Complaint conflict with the allegations of the complaint.

It is therefore based upon any of the foregoing,

ORDERED AND ADJUDGED:

A. Defendant's Motion to Dismiss Plaintiff's Complaint is granted without prejudice because of the deficiencies referenced in Paragraphs 3 through 5, inclusive above.

B. Plaintiff shall have thirty (30) days from the date of this order to serve an amended complaint. Defendant shall have twenty (20) days after service of the amended complaint to file a response.

C. Defendant's Motion to Strike Request for Attorney's Fees shall be deferred until such time as it comes before the Court, if any.

DONE AND ORDERED in Duval County, Florida, this 22 day of June, 2007.

ORDER ENTERED

JUN 22 2007

/s/ ANGELA M COX
COUNTY COURT JUDGE

Copies furnished to:
Scott Louis Fishman, Attorney for Plaintiff
Lynn Drysdale, Attorney for Defendant