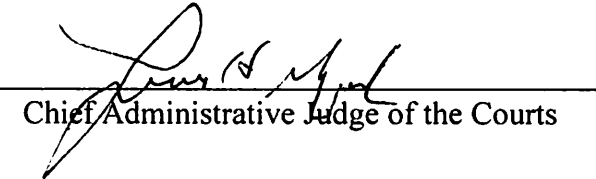


**ADMINISTRATIVE ORDER OF THE  
CHIEF ADMINISTRATIVE JUDGE OF THE COURTS**

Pursuant to the authority vested in me, and as required by L. 2021, c. 593, which enacted the “Consumer Credit Fairness Act”, I hereby promulgate, effective May 7, 2022, the following forms for use in implementing this law (Exh. A):

1. Affidavit of Facts by Original Creditor (Original Creditor Action);
2. Affidavit of Facts and Sale of Account by Original Creditor (Debt Buyer Actions).
3. Affidavit of Facts and Purchase of Account by Debt Buyer Plaintiff (Debt Buyer Actions); and
4. Affidavit of Purchase and Sale of Account by Debt Seller (Debt Buyer Actions).

Upon taking effect, this order shall supersede the previous form affidavits set forth in AO/185/14.

  
\_\_\_\_\_  
Chief Administrative Judge of the Courts

Dated: May 4, 2022

AO/122/2022

# **EXHIBIT A**



Affidavit of Facts by Original Creditor

The undersigned, being duly sworn, deposes and says:

- 1. I, [Affiant name] am a/an [employee officer member] of [place of employment/servicing] ("Servicer"), servicer for [Original Creditor name] ("Plaintiff"), and I have access to Plaintiff's books and records ("Business Records"), including electronic records, relating to the account ("Account") of [Defendant name] ("Defendant").
2. [Check this paragraph if Servicer] Servicer is the servicer for the Plaintiff in the underlying action.
3. Plaintiff and Defendant entered into a credit agreement ("Agreement"). Defendant agreed to pay Plaintiff for all goods, services and cash advances provided pursuant to the Agreement.
4. [Check this paragraph if seeking judgment on an account stated cause of action] I have personal knowledge of Plaintiff's procedures for generating and mailing account statements to customers.
5. [Check this paragraph if seeking judgment on a revolving consumer credit account] At this time, Defendant owes \$ on the Account.
6. [Check this paragraph if seeking judgment on a non-revolving consumer credit account] At this time, Defendant owes \$ on the Account.

7. As set forth in New York CPLR Article 50, the interest rate applicable to the Account pursuant to section five thousand four of this chapter applies.

8. **[Check if not seeking post-judgment interest]**

Plaintiff explicitly disclaims any right to post-judgment interest on this Account.

**WHEREFORE**, deponent demands judgment against Defendant for \$\_\_\_\_\_, (plus interest from \_\_\_/\_\_\_/\_\_\_\_\_ [date], if applicable), together with the costs and disbursements of this action.

The above statements are true and correct to the best of my personal knowledge.

Dated: \_\_\_/\_\_\_/\_\_\_\_\_

\_\_\_\_\_

Affiant Signature

\_\_\_\_\_

Affiant Name

Sworn to before me this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

**Exhibits to be Attached to Affidavit**

- 1. Agreement= Contract/Invoice or Charge-off Statement if revolving credit account**
- 2. Most Recent Charge/Payment/ Balance Transfer Statement**
- 3. Additional Books and Records evidencing:**
  - a. Defendant's Full Name
  - b. Balance due and last 4 digits of Account Number printed on Most Recent Monthly Statement reflecting charge/payment/ balance transfer
  - c. Last Payment Date and Amount
  - d. Charge-off Date and Amount
  - e. Delinquency Date and Amount
  - f. Post Charge-off/Delinquency Interest and/or Fees
  - g. Post-Charge-off/Delinquency Credits

*[Note: A Certificate of Conformity is only required for affidavits specific to real property transactions.]*



# Affidavit of Facts and Sale of Account by Original Creditor

The undersigned, being duly sworn, deposes and says:

1. I, \_\_\_\_\_ [Affiant name] am a/an [employee officer member] of \_\_\_\_\_ [place of employment/servicing] ("Servicer"), servicer for \_\_\_\_\_ [Original Creditor name] ("Original Creditor"), and I have personal knowledge of and access to Original Creditor's books and records ("Business Records"), including electronic records, relating to a pool of defaulted/charged-off consumer credit accounts sold or assigned by Original Creditor to \_\_\_\_\_ [Debt Buyer name] ("Debt Buyer"), on \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_ [date] (the "Sale"), which included the account ("Account") of the consumer ("Consumer") identified in the exhibits attached hereto and incorporated herein.
2. **[Check this paragraph if Servicer]**  
 Servicer is the servicer for the Original Creditor. Original Creditor has authorized Servicer to service and maintain the Business Records relating to the Account, along with giving testimony and executing affidavits, declarations, and certifications on behalf of Original Creditor regarding the Account.
3. As part of the Sale, Original Creditor assigned all of its interest in the Account, including the right to any proceeds from the Account, to Debt Buyer, and it transferred Business Records relating to the Account to Debt Buyer. A true and correct copy of the bill of sale or written assignment of the Account is attached as an exhibit to this affidavit.
4. In my position, I also have personal knowledge of Original Creditor's procedures for creating and maintaining its Business Records, including its procedures relating to the sale and assignment of consumer credit accounts. Original Creditor's Business Records were made in the regular course of business, and it was the regular course of such business to make the Business Records. The Business Records were made at or near the time of the events recorded. Based on my knowledge of Original Creditor's Business Records, I have personal knowledge of the facts set forth in this affidavit.
5. Original Creditor and Consumer were parties to a credit agreement ("Agreement"). Consumer agreed to pay Original Creditor for all goods, services and cash advances provided pursuant to the Agreement. The date and the amount of the last payment, if any, made by Consumer are set forth in an exhibit attached hereto and made a part hereof. Consumer defaulted and a demand for payment was made by Original Creditor. A true and correct copy of the Agreement is attached as an exhibit to this affidavit.
6. **[Check this paragraph if seeking judgment on an account stated cause of action]**  
 I have personal knowledge of Original Creditor's procedures for generating and mailing account statements to customers. It is the regular practice of Original Creditor's business to provide periodic account statements to its customers. Original Creditor sent one or more account statements relating to the Consumer's Account to Consumer on the date(s) and for the amount(s) due set forth in an exhibit attached hereto and made a part hereof. The account statement(s) were mailed to Consumer's last known address and Original Creditor's Business Records do not reflect that the statement(s) were returned by the post office or that the Consumer objected to them. A true and correct copy of the most recent account statement(s) generated and mailed by Original Creditor is attached as an exhibit to this affidavit.

7. **[Check this paragraph if seeking judgment on revolving consumer credit account]**

At the time of Sale, Consumer owed the amount set forth in the exhibits attached hereto and made a part hereof, which also set forth the name of the Consumer; the last four digits of the Account number; the date and amount of the charge-off balance; the date and amount of the last payment, if any; the total amounts, if applicable, of any post-charge-off interest and post-charge-off fees and charges; any post-charge-off credits or payments made by or on behalf of the Consumer; and the balance due at the time of the Sale. The above statements are true and correct to the best of my personal knowledge.

8. **[Check this paragraph if seeking judgment on a non-revolving consumer credit account]**

At the time of Sale, Consumer owed the amount set forth in the exhibits attached hereto and made a part hereof, which also set forth the amount broken out by (i) principal; (ii) finance charge or charges; (iii) fees imposed by the original creditor; (iv) collection costs; (v) attorney's fees; (vi) interest; and (vii) any other fees and charges, less post-sale credits or payments made by or on behalf of the Defendant of \$\_\_\_\_\_.

The above statements are true and correct to the best of my personal knowledge.

Dated: \_\_\_\_/\_\_\_\_/\_\_\_\_\_

\_\_\_\_\_  
Affiant Signature

\_\_\_\_\_  
Affiant Name

Sworn to before me this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

**Exhibits to be Attached to Affidavit**

- 1. Bill of Sale from Original Creditor to Debt Buyer**
- 2. Agreement= Contract/Invoice or Charge-off Statement if revolving credit account**
- 3. Most Recent Charge/Payment/ Balance Transfer Statement**
- 4. Additional Books and Records evidencing:**
  - a. Debtor's Full Name
  - b. Balance due and last 4 digits of Account Number printed on Most Recent Monthly Statement reflecting charge/payment/ balance transfer
  - c. Last Payment Date and Amount
  - d. Charge-off Date and Amount
  - e. Delinquency Date and Amount
  - f. Post Charge-off/Delinquency Interest and/or Fees
  - g. Post-Charge-off/Delinquency Credits
  - h. Total Balance at time of Sale

*[Note: A Certificate of Conformity is only required for affidavits specific to real property transactions.]*





# Affidavit of Purchase and Sale of Account by Debt Seller

The undersigned, being duly sworn, deposes and says:

- I, \_\_\_\_\_ [Affiant name] am a/an [employee officer member] of \_\_\_\_\_ [place of employment] ("Employer"). In my position, I was personally trained, and therefore have personal knowledge of, the policies and procedures of Employer, which training included the procedures surrounding its record keeping practices, and specifically the process surrounding the creation, maintenance and custody of all relevant systems, documents (both paper and/or electronic), data, and other books and records (collectively "Books and Records") of \_\_\_\_\_ [Debt Seller name] ("Debt Seller") regarding the account opened by \_\_\_\_\_ [Original Creditor name] ("Original Creditor") ending in \_\_\_\_\_ [last 4 digits of account #] ("Account") in the name of \_\_\_\_\_ [Consumer name] ("Consumer"). Debt Seller's Books and Records were made in the regular course of business, and it was the regular course of such business to make the Books and Records. The Books and Records were made at or near the time of the events recorded.
- My job responsibilities provide me with access to Books and Records of Debt Seller needed to validate the information in this affidavit. By virtue of my review of the Books and Records and my personal knowledge of the procedures for creating and maintaining them, I have personal knowledge of the Books and Records and the sale of the Account by Debt Seller to \_\_\_\_\_ [Debt Buyer name] ("Debt Buyer") on \_\_\_\_ / \_\_\_\_ / \_\_\_\_ [date] (the "Sale") as well as the procedures relating to the Sale.
- [Check this paragraph if Authorized Representative]**  
 Employer is the servicer for the Debt Seller in the underlying action. Debt Seller has authorized Employer to service and maintain the Books and Records relating to the Account, along with giving testimony and executing affidavits, declarations, and certifications on behalf of Debt Seller regarding the Account.
- As part of the Sale, Debt Seller sold or assigned a pool of delinquent consumer credit accounts to Debt Buyer, which included the Account of the Consumer. A true and correct copy of the bill of sale or written assignment of the Account is attached as an exhibit to this affidavit.
- As part of the Sale, Debt Seller assigned all its interests in and to the Account, including the right to any proceeds from the Account, to Debt Buyer, and it transferred its Books and Records relating to the Account to Debt Buyer. Debt Seller's Business Records were made in the regular course of business, and it was the regular course of such business to make the Books and Records. The Books and Records were made at or near the time of the events recorded. To the extent that the Books and Records include records that were prepared by a third party, including but not limited to the Original Creditor, they are records that were incorporated into the Books and Records of Debt Seller and included in the Sale to Debt Buyer. The relevant Books and Records pertaining to the Account, including the amount owed by Consumer at the time of the Sale, are attached and made a part hereof.

**6. [Check this paragraph if seeking judgment on a revolving consumer credit account]**

- The exhibits attached hereto set forth the name of the Original Creditor; the last four digits of the Account number; the date and amount of the charge-off balance; the date and amount of the last payment, if any; the total amounts, if applicable, of any post charge-off interest, fees, and/or charges; any post charge-off credits and/or payments made by or on behalf of the Consumer; and the Account balance and last four digits of the Account number printed on the most recent monthly statement recording a purchase transaction, last payment, or balance transfer prior to charge-off of the Account.

**7. [Check this paragraph if seeking judgment on a non-revolving consumer credit account]**

- The exhibits attached hereto set forth the name of the Original Creditor; the last four digits of the Account number; and the amount due at the time of sale or assignment broken out by (i) principal; (ii) finance charge or charges; (iii) fees imposed by the original creditor; (iv) collection costs; (v) attorney's fees; (vi) interest; and (vii) any other fees and charges. less post-sale credits or payments made by or on behalf of the Consumer.

The above statements are true and correct to the best of my personal knowledge.

Dated: \_\_\_\_\_

\_\_\_\_\_

Affiant Signature

\_\_\_\_\_

Affiant Name

Sworn to before me this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

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**Exhibits to be Attached to Affidavit**

- 1. Bill of Sale from Debt Seller to Debt Buyer**
- 2. Additional Business Records evidencing:**
  - a. Debtor's Full Name
  - b. Total Balance and last 4 digits of Account Number at time of Sale

[Note: A Certificate of Conformity is only required for affidavits specific to real property transactions.]



# Affidavit of Facts and Purchase of Account by Debt Buyer Plaintiff

The undersigned, being duly sworn, deposes and says:

1. I, \_\_\_\_\_ [Affiant name] am a/an [employee officer member] of \_\_\_\_\_ [place of employment/servicing] ("Servicer"), servicer for \_\_\_\_\_ [Debt Buyer name] ("Plaintiff"), and I have access to Plaintiff's books and records ("Business Records"), including electronic records, relating to the account ("Account") of \_\_\_\_\_ [Defendant name] ("Defendant"). The last four digits of the Account number are \_\_\_\_\_. In my position, I also have personal knowledge of the procedures for creating and maintaining Plaintiff's Business Records, including its the procedures relating to the purchase and assignment of consumer credit accounts. Plaintiff's Business Records were made in the regular course of business, and it was the regular course of such business to make the Business Records. The Business Records were made at or near the time of the events recorded. Based on my knowledge of Plaintiff's Business Records, I have personal knowledge of the facts set forth in this affidavit.

**2. [Check this paragraph if Servicer]**

Servicer is the servicer for the Plaintiff in the underlying action. Plaintiff has authorized Servicer to service and maintain the Business Records relating to the Account, along with giving testimony and executing affidavits, declarations, and certifications on behalf of Plaintiff regarding the Account.

3. Original Creditor and Defendant were parties to a credit agreement ("Agreement"). Defendant agreed to pay Original Creditor pursuant to the Agreement. The date and the amount of the last payment, if any, made by Defendant are set forth in an exhibit attached hereto and made a part hereof. Defendant defaulted on the Account and failed to pay the outstanding balance pursuant to the Agreement. A demand for payment was made, and a balance remained due and owing at the time of the sale. A true and correct copy of the Agreement or document(s) evidencing the Agreement is/are attached as an exhibit to this affidavit.

4. On \_\_\_\_/\_\_\_\_/\_\_\_\_ [date], Plaintiff purchased or was assigned the Account from \_\_\_\_\_ [Debt Seller name] ("Debt Seller"), and at that time, Debt Seller assigned all of its interest in the Account, including the right to any proceeds from the Account, to Plaintiff (the "Purchase"). As part of the Purchase, Business Records relating to the Account were transferred to Plaintiff and incorporated into Plaintiff's Business Records. To the extent Business Records included records prepared by a third party, including but not limited to the Original Creditor, such records were incorporated into Plaintiff's Business Records. Following the Purchase, those Business Records were maintained in the ordinary course of Plaintiff's business.



5. As set forth in the attached affidavits submitted herewith, the complete chain of title, with the date of each sale or assignment of the Account, is as follows:

Assignor	Date of Transfer	Amount at time of Transfer
Transfer 1:	_____	_____
Transfer 2:	_____	_____
Transfer 3:	_____	_____
Transfer 4:	_____	_____

6. **[Check this paragraph if seeking judgment on a revolving consumer credit account]**

At this time, Defendant owes \$ \_\_\_\_\_ on the Account. This amount includes a charge-off balance of \$ \_\_\_\_\_, post-charge-off interest of \$ \_\_\_\_\_, post-charge-off fees and charges of \$ \_\_\_\_\_, less any post-charge-off credits or payments made by or on behalf of the Defendant of \$ \_\_\_\_\_.

7. **[Check this paragraph if seeking judgment on a non-revolving consumer credit account]**

At this time, Defendant owes \$ \_\_\_\_\_ on the Account. As set forth in the exhibits attached hereto and made a part hereof, this amount is broken out by (i) principal; (ii) finance charge or charges; (iii) fees imposed by the original creditor; (iv) collection costs; (v) attorney's fees; (vi) interest; and (vii) any other fees and charges. less post-sale credits or payments made by or on behalf of the Defendant of \$ \_\_\_\_\_.

8. As set forth in New York CPLR Article 50, the interest rate applicable to the Account pursuant to section five thousand four of this chapter applies.

9. **[Check if not seeking post-judgment interest]**

Plaintiff explicitly disclaims any right to post-judgment interest on this Account.

**WHEREFORE**, deponent demands judgment against Defendant for \$ \_\_\_\_\_, (plus interest from \_\_\_/\_\_\_/\_\_\_\_\_ [date], if applicable), together with the costs and disbursements of this action.

The above statements are true and correct to the best of my personal knowledge.

Dated: \_\_\_/\_\_\_/\_\_\_\_\_

\_\_\_\_\_

Affiant Signature

\_\_\_\_\_

Affiant Name

Sworn to before me this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

**Exhibits to be Attached to Affidavit**

- 1. Bill of Sale from Debt Seller to Plaintiff**
- 2. Most Recent Charge/Payment/ Balance Transfer Statement**
- 3. Additional Books and Records evidencing:**
  - a. Defendant's Full Name
  - b. Balance due and last 4 digits of Account Number printed on Most Recent Monthly Statement reflecting charge/payment/ balance transfer
  - c. Last Payment Date and Amount
  - d. Charge-off Date and Amount
  - e. Delinquency Date and Amount
  - f. Post Charge-off/Delinquency Interest and/or Fees
  - g. Post-Charge-off/Delinquency Credits

*[Note: A Certificate of Conformity is only required for affidavits specific to real property transactions.]*