



# Affidavit of Facts by Original Creditor

The undersigned, being duly sworn, deposes and says:

- 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"). The last four digits of the Account number are \_\_\_\_\_. In my position, I have personal knowledge of the procedures for creating and maintaining Plaintiff's Business Records. 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 records were made at or near the time of the events recorded. Based on my review of Plaintiff's Business Records, I have personal knowledge of the facts set forth in this affidavit.
- [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.
- 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. The amount of the last payment, if any, made by Defendant was \$\_\_\_\_\_, made on \_\_\_\_\_ [*date*]. Defendant is now in default and demand for payment has been made. A true and correct copy of the Agreement or document(s) evidencing the Agreement is/are attached as an exhibit to this affidavit.
- [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. It is the regular practice of Plaintiff's business to provide periodic account statements to its customers. On or about \_\_\_\_\_ [*date*], Plaintiff sent one or more account statements relating to the Account to Defendant stating the amount due as \$\_\_\_\_\_. The account statement(s) were mailed to Defendant's last known address and Plaintiff's records do not reflect that the statement(s) were returned by the post office or that the Defendant objected to them. A true and correct copy of the final account statement(s) is attached as an exhibit to this affidavit.
- [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 \$\_\_\_\_\_.
- [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 any credits or payments made by or on behalf of the Defendant of \$\_\_\_\_\_.



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/Delinquency Date and Amount
  - e. Post-Charge-off/Delinquency Interest and/or Fees
  - f. Post-Charge-off/Delinquency Credits

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