

**Dental Recycling N. Am., Inc. v Mid-Atlantic Topco,
LLC**

2026 NY Slip Op 30117(U)

January 8, 2026

Supreme Court, New York County

Docket Number: Index No. 651842/2023

Judge: Lyle E. Frank

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This opinion is uncorrected and not selected for official publication.

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. LYLE E. FRANK PART 11M

Justice

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DENTAL RECYCLING NORTH AMERICA, INC.,

Plaintiff,

- v -

MID--ATLANTIC TOPCO, LLC, DENTALONE PARTNERS,
INC., DCP EQUITY PARTNERS, LLC, PREMIER DENTAL
SERVICES, INC., D/B/A

Defendant.

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INDEX NO. 651842/2023

MOTION DATE 09/11/2025

MOTION SEQ. NO. 001

**DECISION + ORDER ON
MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72

were read on this motion to/for JUDGMENT - SUMMARY.

Upon the foregoing documents, the motion is granted.

Background

Defendant Mid-Atlantic Topco, LLC owns and operates various dental practices throughout the country, and Plaintiff is a recycling company for regulated dental byproducts, such as waste amalgam with mercury. Mid-Atlantic acquired defendant DentalOne, with defendant DCP Equity Partners, LLC as a successor entity to DentalOne (collectively with DCP and Mid-Atlantic, the “Defendants”). In 2019, Mid-Atlantic and Plaintiff entered into a recycling services agreement. As part of this agreement, Plaintiff delivered amalgam separator machines to a variety of Mid-Atlantic locations. The next year, more locations were added to the agreement from the DentalOne acquisition. From January 2023 to October 2023, Plaintiff sent a series of invoices for separation services and the use of the machines to Defendants (the “Invoices”). These invoices are to date unpaid.

In April of 2023, Plaintiff commenced this underlying proceeding, seeking to recover on the unpaid invoices, pleading claims of breach of contract, unjust enrichment, and account stated. Defendants have answered, and Plaintiff has filed a second amended complaint. Discovery has taken place, including depositions of various current and former employees of Defendants. Plaintiff now moves for partial summary judgment on the account stated cause of action, and Defendants oppose.

Discussion

Plaintiff is seeking summary judgment on the claim for account stated related to the Invoices. Defendants oppose, arguing that there are questions of fact related to 1) whether the Invoices were objected to within a reasonable time; and 2) whether Plaintiff adequately performed under the services agreement.

Under CPLR § 3212, a party may move for summary judgment and the motion “shall be granted if, upon all the papers and proof submitted, the cause of action or defense shall be established sufficiently to warrant the court as a matter of law in directing judgment in favor of any party.” CPLR § 3212(b). Once the movant makes a showing of a prima facie entitlement to judgment as a matter of law, the burden then shifts to the opponent to “produce evidentiary proof in admissible form sufficient to establish the existence of material issues of fact which require a trial of the action.” *Stonehill Capital Mgt. LLC v. Bank of the W.*, 28 N.Y.3d 439, 448 [2016].

The required elements of an account stated claim are met when “a party to a contract receives bills or invoices and does not protest within a reasonable time.” *Russo v. Heller*, 80 A.D.3d 531, 532 [1st Dept. 2011]. A party demonstrates prima facie entitlement to summary judgment on an account stated claim when they provide evidence of the invoices, an affidavit stating that the invoices were sent to the defendant, and that the defendant received the invoices

and failed to object. *See, e.g., Glassman v. Weinberg*, 154 A.D.3d 407, 408 [1st Dept. 2017]; *L.E.K. Consulting LLC v. Menlo Capital Group, LLC*, 148 A.D.3d 527, 528 [1st Dept. 2017].

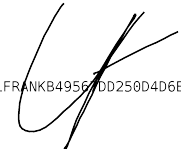
Here, as regarding the matter of objection, Plaintiff has provided the emails acknowledging receipt of the invoices as well as excerpts from deposition testimony of employees of Defendants stating that they were not aware of any objections to the invoices. Defendants argue that because their employees requested waste recycling certificates, which were required alongside the invoices under the agreement, this creates issues of fact regarding timely objection. Specifically, Defendants argue that although their employee did not characterize her response to the invoices as an objection, this is because as a layperson she was unaware of the formal requirements and therefore there are issues of fact going to objection.

This argument fails, however, to overcome the prima facie case put forth by Plaintiff. The employee in question specifically testified that she was not aware if Plaintiff was ever provided with any objection to the invoices. Even for a layperson, with a lay understanding of the word “objection”, this is not consistent with a defense to an account stated claim. While Defendants are correct in stating that there are issues of fact going to whether waste recycling certificates were requested and/or received and when, that issue does not impact whether the Invoices were received and whether Defendants objected in a reasonable time to the amounts stated and their obligation to pay said amounts. Plaintiffs have put forth a prima facie entitlement and Defendants have failed to rebut that showing by raising any material issues of fact. The matter of the waste recycling certificates might be material to a breach of contract claim but are not relevant to an account stated claim. Accordingly, it is hereby

ADJUDGED that the motion is granted; and it is further

ORDERED that plaintiff Dental Recycling North America, Inc., is entitled to judgment in the amount of \$180,499.36, plus interest from June 1, 2023, on their second cause of action against defendants Premier Dental Services, Inc., d/n/a Sonrava Health, Mid-Atlantic Topco, LLC, d/b/a Mid-Atlantic Dental Partners, Dental One, DentalOne Partners, Inc., and DCP Equity Partners, LLC; and it is further

ORDERED that the remainder of the causes of action are severed pending trial or other resolution of this matter.

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1/8/2026
DATE

LYLE E. FRANK, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE