COURT OF APPEALS OF OHIO, SEVENTH APPELLATE DISTRICT

Discover Bank v. Dirienzo

2026-Ohio-361 · No. 25 CO 0016 · Decided February 3, 2026

SUMMARY

The Ohio Seventh District Court of Appeals affirmed summary judgment in favor of Discover Bank in an action to recover a credit-card balance. The court held that Discover established a prima facie case through account statements, a cardmember agreement, and an affidavit authenticating business records, and that the unsigned agreement did not prevent enforcement based on use of the account and the account-stated doctrine. The court also held that the defendant failed to meet her reciprocal summary-judgment burden by submitting evidence showing a genuine issue of material fact or a defense.

CASE DETAILS

COURT	Court of Appeals of Ohio, Seventh Appellate District
WRITING FOR THE COURT	Carol Ann Robb; Cheryl L. Waite; Katelyn Dickey
JURISDICTION	Ohio Court of Appeals, Seventh Appellate District, Columbiana County
DECIDED	February 3, 2026
DOCKET	25 CO 0016
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed the Columbiana County Court of Common Pleas' grant of summary judgment to Discover Bank in an action seeking recovery of a credit-card balance.
STANDARD OF REVIEW	Summary judgment is reviewed de novo. Summary judgment is proper when no genuine issue of material fact remains and reasonable minds can reach only the conclusion that the moving party is entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion
PARTIES	Norma J. Dirienzo v. Discover Bank

TOPICS

summary judgment · civil procedure · evidence · contracts · commercial litigation

PRACTICE AREAS

civil procedure · commercial litigation · contracts · evidence

QUESTIONS PRESENTED

1. Whether the trial court properly granted summary judgment to Discover when the bank relied on an unsigned cardmember agreement, account statements, and circumstantial evidence of account use.
2. Whether Discover's affidavit and attached records established a prima facie case on the account and shifted the reciprocal summary-judgment burden to Dirienzo.
3. Whether Dirienzo's unsworn denials and arguments concerning authentication, hearsay, payment, accord and satisfaction, and standing established a genuine issue of material fact.

HOLDINGS

1. Discover met its initial burden by presenting an authenticated cardmember agreement, account statements showing purchases and payments, and an account balance representing an account stated.
2. An unsigned cardmember agreement does not preclude summary judgment where the account records and other evidence show use of the account and the agreement provides that use or failure to cancel constitutes acceptance.
3. Dirienzo failed to meet her reciprocal burden because she relied on allegations and arguments rather than affidavits or other evidence showing a genuine issue for trial.
4. An affiant authenticating business records under Evid.R. 803(6) need not have firsthand knowledge of the underlying transactions or of the exact circumstances in which the records were created.

KEY QUOTATIONS

> *"Discover sufficiently demonstrated a prima facie case on the existence of the account, an amount representing an "account stated" followed by a year's worth of account statements showing purchases and payments, and a cardmember agreement attached to the account that explained the account holders accepted the agreement if they failed to cancel the account within 30 days of receiving the card or if they (or an authorized user) used the account."* (¶ 31)

> *"In conclusion, the summary judgment burden shifted to Appellant, and she failed to meet her reciprocal burden."* (¶ 32)

FACTUAL BACKGROUND

Discover's account records showed purchases, payments, balances, and a charge-off totaling $22,337.17 during the year before the account was charged off. The statements were sent to Norma J. Dirienzo, initially with a joint account holder and later in Dirienzo's name alone, and reflected purchases and payments after the joint holder's name was removed. Discover submitted a litigation specialist's affidavit authenticating the statements and cardmember agreement as business records; the agreement stated that use of the account or failure to cancel the account within thirty days constituted acceptance. Dirienzo submitted no affidavit or other evidence disputing the account, charges, payments, agreement, or amount owed.

PROCEDURAL HISTORY

Discover Bank sued Norma J. Dirienzo for an accelerated credit-card balance of $22,337.17. The trial court granted Discover's summary-judgment motion after considering an affidavit, account statements, and a cardmember agreement. Dirienzo appealed, arguing that the unsigned agreement, alleged evidentiary deficiencies, and lack of direct proof that she personally used the account prevented Discover's initial burden from shifting to her.

DISPOSITION

affirmed

CASES CITED

- Citibank, N.A. v. Hines, 2019-Ohio-464, ¶ 31 (4th Dist.)
- Byrd v. Smith, 2006-Ohio-3455, ¶¶ 10, 12
- Dresher v. Burt, 75 Ohio St. 3d 280, 294 (1996)
- Leibreich v. A.J. Refrigeration, Inc., 67 Ohio St. 3d 266, 269 (1993)
- Comer v. Risko, 2005-Ohio-4559, ¶ 8
- Citibank v. McGee, 2012-Ohio-5364, ¶ 28 (7th Dist.)
- Mauzy v. Kelly Services, Inc., 75 Ohio St. 3d 578, 584 (1996)
- State v. Treesh, 90 Ohio St. 3d 460, 485 (2001)
- Buckeye Terminals, L.L.C. v. Franklin Cty. Bd. of Revision, 2017-Ohio-7664, ¶ 30
- State Farm Mut. Auto. Ins. Co. v. Anders, 2012-Ohio-824, ¶¶ 15-16 (10th Dist.)
- Minster Farmers Coop. Exchange Co. v. Meyer, 2008-Ohio-1259, ¶ 16
- JPMorgan Chase Bank, N.A. v. Gallabrese, 2025-Ohio-733, ¶ 37 (7th Dist.)
- Gray Printing Co. v. Blushing Brides, L.L.C., 2006-Ohio-1656, ¶ 21 (10th Dist.)
- Midland Credit Mgt., Inc. v. Bowers, 2025-Ohio-2578, ¶¶ 48-52 (7th Dist.)
- Creditrust Corp. v. Richard, 2000 WL 896265, *5 (2d Dist. July 7, 2000)
- Bank of America, N.A. v. Dickerson, 2025-Ohio-1141, ¶ 13 (12th Dist.)
- Hamilton Farm Bur. Coop., Inc. v. Ridgway Hatcheries Inc., 2004-Ohio-809, ¶ 13 (3d Dist.)
- Chase Bank USA, NA v. Lopez, 2008-Ohio-6000, ¶¶ 13-14 (8th Dist.)

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