

Consumer Wins Spectacular Victory Against Debt Collector Stock & Grimes

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A consumer was alleged to owe a Discover Bank credit card after she defaulted and was unable to pay the remaining balance. Discover Bank hired the Pennsylvania collection law firm, Stock & Grimes, LLP, to collect the remaining balance.

Stock & Grimes filed a debt collection lawsuit 3 years after the consumer defaulted but before Pennsylvania's 4 year statute of limitations expired. The consumer defended claiming that Delaware's 3 year statute of limitations should apply because Discover Bank experienced the harm of the consumer's default in Delaware where it can be found and located.



Pennsylvania Borrowing Statute

Although it can become complicated, the consumer alleged that Pennsylvania's Borrowing Statute, 42 Pa. C.S.A. 5521 (a law that says the courts will apply the shorter of two properly competing statutes of limitations), required the Pennsylvania state court "to import" Delaware's shorter, 3-year statute of limitations. It is well known that Pennsylvania generally has a 4-year statute of limitations for contract lawsuits (including credit cards) and that Delaware generally has a 3-year statute of limitation for contract lawsuits. But, "Whose law should apply when the consumer is in Pennsylvania and Discover Bank is in Delaware?" the consumer asked her consumer rights attorney. "Why should Pennsylvania law automatically apply if I can benefit from a shorter statute of limitations?"

The state-court collection action eventually settled before the state court could decide the issue of competing statutes of limitations. Rather, the consumer sued Stock & Grimes in federal court claiming that the collection lawsuit was time-barred under Pennsylvania's Borrowing Statute. The consumer also alleged that if Stock & Grimes filed a time-barred collection action against a consumer, Stock & Grimes violated the U.S. Fair Debt Collection Practices Act ("FDCPA").

Stock & Grimes Must Comply with the FDCPA

The FDCPA protects consumers against time-barred collection lawsuits because courts have interpreted the FDCPA's fairness requirements to prohibit collection lawsuits on stale debt. When debt collectors like Stock & Grimes file time-barred collection lawsuits against consumers, the collection lawsuits are known as *Kimber* violations named after a famous case. See [*Kimber v. Federal Financial Corp.*, 668 F. Supp. 1480 \(M.D. Ala. 1987\)](#). The FDCPA does not allow *Kimber* violations because an unsophisticated consumer might not know that he or she can defend against a stale debt using an applicable statute of limitations.

On June 12, 2012, the federal court entered a judgment against Stock & Grimes finding that Delaware's shorter, 3-year statute of limitations applied under Pennsylvania's Borrowing Statute. Accordingly, when Stock & Grimes sued the consumer on behalf of Discover Bank (a bank in

Delaware), before 4 years but after 3 years of default, the Borrowing Statute applied Delaware's shorter statute of limitations. The federal court then found that Stock & Grimes' time-barred collection lawsuit against the consumer violated the FDCPA.

The consumer is expected to present her case to a jury in July 2012 to determine the amount of her damages she sustained as a result of Stock & Grimes violation of the FDCPA.

If Discover Bank or Stock & Grimes has filed a time-barred collection lawsuit against you, please call us at 610-616-5303 or contact us via our web form.

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