

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT
IN AND FOR MARION COUNTY, STATE OF FLORIDA
CIVIL DIVISION
(DUNNELLON)

BETTY J. CUNEO,

Plaintiff,

-VS-

CHASE BANK USA, N.A. and
PHILLIPS & COHEN ASSOCIATES, LTD.,
CORP.,

Defendants

CASE NO.: 09-4836-CA-

DIV.: G
DIVISION:

PLAINTIFF'S MOTION TO AMEND FOR PUNITIVE DAMAGES

COMES NOW the Plaintiff and files this Motion to Amend for Punitive Damages with this Honorable Court in support thereof respectfully asserts as follows:

1. Florida has a long standing policy to grant amendments to pleadings liberally and punitive damages are no exception. "[Burr] moved to amend his fraud count to add a claim for punitive damages but the trial court denied the amendment. We find this was an abuse of discretion in light of Florida's liberal policy of allowing amendments to pleadings. See Johnny Burr v. Lawrence S. Norris, 667 So.2d 424. (Fla.App. 2 Dist., 1996).
2. Verified Interrogatories are sufficient to state a reasonable basis for amending a complaint. "The court reasoned that while general allegations in a complaint are not enough to provide a reasonable basis, when a plaintiff alleges under oath specific instances such as the ones alleged here, a reasonable basis is provided." See Simeon v. Cox, 671 So.2d 158 (Fla.1996).
3. The only thing a Plaintiff needs to establish for a Motion to Amend for Punitive Damages to be granted is a "reasonable basis."

4. A Plaintiff's proffer should be taken as true and in the light most favorable to her. "[W]e should review a trial court's order granting or denying a motion to amend to state a claim for punitive damages de novo. We are of the view that the standard that applies to determine whether a reasonable basis has been shown to plead a claim for punitive damages should be similar to the standard that is applied to determine whether a complaint states a cause of action. See Holmes (holding that the analysis to determine whether a claimant has established a reasonable basis to plead a claim for punitive damages is similar to the analysis applied to determine whether the allegations of a complaint are sufficient to state a cause of action). Within the framework of this standard, we will view the record evidence and the proffer in the light most favorable to Despain and accept it as true." See Estate of Beulah Despain v. Avante Group, Inc., 900 So.2d 637 (Fla.App. 5 Dist.,2005).

5. The Defendant intentionally harassed and abused the Plaintiff in outrageous format by their representatives, managers and supervisors.

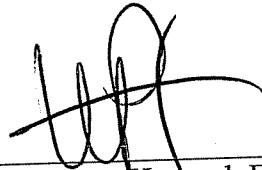
6. The Defendant is vicariously liable for the conduct of its collectors since the Defendant actively and knowingly participated in this conduct; knowingly condoned, ratified and consented to such conduct and engaged in conduct that constitutes gross negligence that contributed to the damages to the Plaintiff.

7. The Defendant's corporate policy of collecting debts against the Plaintiff was the product of intentional misconduct and/or gross negligence which was a substantial cause of damages to Plaintiff.

WHEREFORE, the Plaintiff respectfully requests this Honorable Court grant his Motion to Amend for Punitive Damages against the Defendants and rule the Second Amended

Complaint attached here as "Exhibit A" deemed filed and any further relief deemed proper in the pursuit of justice.

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail this 5 day of December, 2009 to: Robert M. Quinn, Esquire, Carlton Fields, P.A., P.O. Box 3239, Tampa, FL 33601-3239.



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