

IN THE CIRCUIT COURT IN AND FOR
HILLSBOROUGH COUNTY, FLORIDA

Case No.:
Division: CIVIL

AMERICAN EXPRESS CENTURION BANK,
Plaintiff,

vs.
JAMES J. GIBSON,
Defendant.

Complaint

Plaintiff ("American Express") sues Defendant, JAMES J. GIBSON, and alleges that:

1. This is an action for damages in the total principal amount of \$187569.95, and is within the jurisdiction and venue of this Court.
2. All conditions precedent to bringing this action have been performed, excused, or waived.

The Parties

3. At all relevant times, American Express was and is a bank chartered under the laws of the State of Utah with a place of business at 4315 S. 2700 WEST, SALT LAKE CITY, UT 84184.
4. Upon information and belief, at all relevant times, Defendant was and is an individual who resides in HILLSBOROUGH County.

Facts

5. At all relevant times, Defendant was the holder of an American Express Credit Card ("the Card") that enabled them to charge items to an American Express Credit Card Account (Account No. XXXX-XXXXXX-98007) ("the Account").

6. At all relevant times, Defendant was the basic cardmember on the Account and responsible for paying all amounts charged to the Account.
7. By accepting and using the Card, Defendant agreed to all of the terms and conditions set forth in the Agreement between cardmember and American Express. (A copy of the Agreement is attached hereto as Exhibit "A").
8. The terms and conditions of the Agreement include the following:
 - a. Defendant agreed to be responsible for paying all amounts charged to the Account.
 - b. Defendant agreed that payment for all charges to the Account is due immediately upon receipt of the billing statement mailed by American Express.
 - c. Defendant agreed that American Express may impose a late fee on all amounts unpaid.
 - d. Defendant agreed that they would pay all court costs.
9. As a result of Defendant's failure to pay, American Express referred its claim against Defendant to an outside attorney, Henschel & Beinhaker, P.A.
10. Defendant used the Card to charge various items to the Account for which payment was never made.
11. American Express sent monthly statements ("the Statements") to Defendant for the Account, which showed the balance due on the Account.
12. In violation of the Agreement, requiring payment in full of the balances due on the Account, Defendant has failed and refused to make the payments to American Express as set forth in the Statements.

13. As a result, American Express suspended Defendant's charge privileges on the Account.

14. The principal balance on the Account owed by Defendant to American Express is \$187569.95.

Count I – Breach of Contract

Plaintiff realleges and reavers paragraphs 1 through 14 as if fully stated herein.

15. American Express and Defendant entered into an agreement, as alleged more fully above, a copy being attached as an exhibit hereto.

16. Plaintiff has performed all of its contractual obligations required by the agreement.

17. Defendant breached the agreement by failing to pay the amount due under the agreement.

18. As a direct and proximate result of Defendant's breach, American Express has been damaged in the amount of \$187569.95.

WHEREFORE, Plaintiff demands judgment for damages in the amount of \$187569.95 plus costs.

Count II – Account Stated

Plaintiff realleges and reavers paragraphs 1 through 14 as if fully stated herein.

19. Before the institution of this action Plaintiff and Defendant had business transactions between them and on AUGUST 29, 2013, they agreed to the resulting balance.

20. Plaintiff rendered a statement of it to Defendant, and Defendant did not object to the statement. (Statements are hereto attached as Exhibit "B").

21. Defendant owes Plaintiff \$187569.95 on the account.

WHEREFORE, Plaintiff demands judgment for damages in the amount of \$187569.95.

Count III – Unjust Enrichment

Plaintiff realleges and reavers paragraphs 1 through 14 as if fully stated herein.

22. Plaintiff conferred a benefit on Defendant by way of extending credit to Defendant, and Defendant has knowledge of the benefit.

23. Defendant accepted and retained the conferred benefit, and thus has been unjustly enriched in the sum of \$187569.95.

24. Under the circumstances it would be inequitable for Defendant to retain the benefit without paying for it.

WHEREFORE, Plaintiffs demand judgment for damages in the amount of \$187569.95.

Dated October 23, 2013.

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