

In the District Court of Appeal of the State of Florida Fourth Circuit, 110
South Tamarind Avenue, West Palm Beach, FL 33401

Record on Appeal from the Circuit Court of the Seventeenth Judicial Circuit
in and for Broward County, Florida

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Appellant

V.

Truist Bank f/k/a Branch
Banking and Trust Company

Appellee

Case Type – Credit Card
Appeal Case No.: 4D2024-1841
L.T. Case No.: COCE 23-090435

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-----Amended Initial Brief-----

- **Introduction**

To the Honorable Judges of the Fourth District Court of Appeal, Greeting:

Giving the complex requirements and procedure for a lawsuit and/or an appeal, I was a bit nervous to go ahead and tried to defend myself without the help of a lawyer. I was afraid of making mistakes. I contacted many lawyers, but I could not afford to hire a one. Therefore, I embraced myself, and I accepted the challenge. I knew this was bigger than me, so I let go my ego and embraced humility; and whenever I felt weak, I called upon the God almighty- in Him I found courage.

In this appeal, I will show how Truist Bank (Plaintiff/Appellee) violated my consumer rights using false misleading, misrepresentation and deceptive means; and how payments were unfairly and inaccurately reported to my credit report. And it was all done for Truist Bank to accomplish its wicked plans. I believe such deceitful practice may affect not just the consumer who is taken to court, but it may also affect the judge decisions who may have to make severe decision that would affect somebody's life.

Meanwhile, if you witnessed someone doing something wrong and say nothing, it is as if you're giving a license for the wicked one to carry on.

- **Statement of the case and Facts**

As this was previously reported to this court and to the lower tribunal, I had a credit card with BB&T Bank that was opened on February 08, 2019.

According to record, a change was made on December 06, 2019, where BB&T Bank changed to Truist Bank. I used the credit card to buy some personal things, including food, cloth. I also used the credit card to buy gas to put in my truck; I would sometimes use the credit card to pay some bills such as light, things like any credit consumer would use a credit card for. I made multiple payments and was never late on my monthly payment.

Unfortunately, I had to stop making payments. The last payment I made was in October 2022. I stopped making payment for two (2) reasons. The first reason I stopped making payment was involuntarily, but the second was voluntarily. The first reason was involuntarily because I was dealing with some hardship. I knew the credit card came with some assistance programs to assist credit consumers who could not afford to make their regular monthly payment for a period of time, as this was part of the contract. I contacted Truist Bank; I told them I was in a hardship crisis, and I could not afford to continue to make payment on the credit card as I normally do. Every time I called, they said they did not have a hardship

program available. Nevertheless, while I was reviewing my statements, I noticed I was paying for two accounts, and no payments were recorded on the account I was sued for until the middle of the year 2022. It seemed as if it was done in a deceitful way; the first 8 numbers of both accounts were similar, but the rest of the numbers were different. If it was not for my hardship, I probably would not discover that. When I found out about that, I contacted Truist Bank and told them I would not make another payment until somebody explained to me exactly what was going on. I was told that somebody would contact me from Truist Bank to address my concerns. I never got an answer to my question. However, I received a notice of debt from debt collector Marcadis Singer law firm dated July 26, 2023, with the amount claimed of \$15,750.32 dollars. I wrote 3 debt validation letters to debt collector Marcadis Singer law firm. My first letter to debt collector Marcadis Singer law firm is Dated August 11, 2023. The second letter is dated August 22, 2023, and the third letter is dated September 06, 2023. All my letters, including the letter I sent to Truist Bank dated September 05, 2023, were all mailed certified mailed. In those letters, I raised several questions and concerns, but my questions and concerns were ignored and neglected. However, on December 09, 2023, I was served with a lawsuit. For whatever reason, I was not surprised when I received the actual

Lawsuit Summons, because of multiple letters I received in my mailbox from third-party law firm agency before I received the actual lawsuit summons. The first thing I noticed in the lawsuit was an affidavit attached document stated that BB&T had changed its name to Truist Bank on December 06, 2019. Accordingly, the document was from North Carolina (a place I never lived in, nor have I visited). There was no other signed document in the package except for the attach affidavit from North Carolina. My signature was nowhere to be found. There was no account number listed in the lawsuit summons whatsoever. I thought that was fraud, but my conscious would not let me deny everything that was in the lawsuit summons. Be mindful that the letter I sent to Truist Bank asked for specific question as I was trying to find out who owns the debt. Though receipt signed document showed all letters were received, I never received an answer to my questions. Even with all those questions in mind that were never answered, I tried to negotiate with debt collector Marcadis law firm. On several occasions with different dollar amounts, I offered to pay some monthly payment because I was told that when someone takes you to court, you must do everything you can to settle your differences with the person taking you to court. I also understood that the debt collector may have spent some money to purchase the debt; whether or not the debt

collector purchased the debt for pennies on the dollar like they normally do. Therefore, I was willing to compromise, trying to find a way or a solution to solve this matter at hand. Unfortunately, all my offers were neglected and rejected. I'm not a professional, I'm not perfect, but I forwarded several letters/documents to Judge McHugh Kathleen who was the assigned judge of the case from the lower tribunal. I have no doubt that if the Honorable Judge were to take time to read and review the information that was given, she would have made a better decision. She would have seen that the so-called evidence that the plaintiff and/or the debt collector provided to her was inconsistent, inaccurate, and even deceptive. The Judge had sufficient information in her possession enough to see that there were sufficient factual disputes, that are written all over the lawsuit, that should have stopped, denied the plaintiff's motion for summary judgement, or even dismiss the whole case. For lack of evidence, and for failure to state a claim upon which a relief may be granted. Having said that, prior to Judge McHugh, Kathleen's decision of granting the "Plaintiff's Motion for Summary Judgement, the judge was informed of everything I mention here and more. The Judge also knew that the debt collector law firm's attorney who supposedly represent plaintiff or Appellee Truist Bank, did not testify under oath for anything whatsoever. In addition, on July 09, 2024, just when I

thought I was ready to elaborate more on the issue, the meeting was over in a blink of an eye; and I did not even know it until I raised my hand to ask a question, and that's when the judge said the meeting was over.

- **Summary of argument**

a). The Fair Debt Collection Practices Act (FDCPA) prohibits creditors and debt collectors from engaging in abusive, unfair, fraudulent, deceptive, misleading practices to collect debts from consumers.

b). why did Truist Bank wait to the middle of the year 2022 to start reporting payment on the credit card account that Truist Bank claimed had full authority of since December 06, 2019, what was Truist Bank motive behind its action?

c). If Truist Bank had full authority on the credit card account since December 06, 2019, but chose not to report payments on the account until the middle of the year 2022, would this consider to be a fair debt collection practice act?

d). As a consumer I was never late or missed payment on my credit card since the beginning of 2019 until I fall into hardship at the of the year 2022. Knowing the credit card came with some hardship assistance program, I reach over to Truist Bank asking for assistance. Not only I did not get the

assistance, I found out I was paying for two accounts, and no payments were recorded on the account I was sued for until the middle of the year 2022. It seemed as if it was done in a tricky way; the first 8 numbers of both accounts were similar, but the rest of the numbers were different. If it was not for my hardship, I probably would not discover that. When I found out about that, I contacted Truist Bank and told them I would not make another payment until somebody explained to me exactly what was going on. I was told that somebody would contact me from Truist Bank to address my concerns. I never got an answer to my question. Next thing I know, I was up for a lawsuit. Was this an act of fair debt collection act?

Remark: The debt was charged off/write off, and the creditor/credit grantor was marked unknown on my credit report. Normally, when creditors charge off a debt, it means that they write off the account as a loss and closed for future charges. The Creditor may file a 1099-c with the IRS. Then, the creditor will get money from IRS for the loss account. Often time, the creditor may sell the debt to a debt buyer or a collection agency for pennies on the dollar. Then, the debt buyer or the collection agency may try to collect the debt in respect to the federal of law of Fair Debt Collection Practices Act (FDCPA) that prohibits creditors and debt collectors from engaging in abusive, unfair, fraudulent, deceptive, misleading practices to

collect debts. Having said that, could it be that Truist Bank is doing double dipping by filling a 1099-c with IRS and sue me too? I don't know if this is legal or not, but could that be the reason why the name of the creditor vanished and mark unknown in my credit report while Truist Bank is listed on the lawsuit summon as the plaintiff and now the appellee? Ladies and Gentlemen, I cannot be the only one who can see that something is wrong in this picture.

- **Argument**

a). The Fair Debt Collection Practices Act (FDCPA) prohibits creditors and debt collectors from engaging in abusive, unfair, fraudulent, deceptive, misleading practices to collect debts from consumers.

b). Lack of consideration / failure of consideration

Truist Bank used unfair and deceitful tactics to take advantage of me, to sue me while denying me of services that were part of the credit card agreement upon acceptance of the credit card. Besides, even when my questions and concerns were left unanswered, I offered to pay some monthly payment because I was told that when someone takes you to

court, you must do everything you can to settle your differences with the person taking you to court. I feel like all my effort gone to waste.

c). Failure of condition precedent

Instead of Truist bank reaching out to me to explain the issue of the two credit card accounts which is one of the reasons I stopped making payments, they decided to sue me instead.

d). Unfair credit reporting by plaintiff/Truist Bank

Truist Bank produced attach Affidavits stated that Truist Bank had full authority on the account I was sued for (4616081123215178) since December 06, 2019. Yet, Truist Bank waited until the middle of the year 2022, to start reporting payments on the credit card account I was sued for.

d). Still no clear explanation how the claimed amount was accumulated

Truist Bank failed to give me a clear explanation on how the amount claimed was accumulated, to include purchased, signed document/receipts, all payments, along with the MPR credit card interest rate, and credit cash back that were part the agreement upon the acceptance of the credit card.

- **Conclusion**

Thank you for the time that you take to read the initial appeal. This delicate work has made me realized how much I don't know and how much more there is to learn. In that, I found a reason to forgive Truist Bank along with debt collector Marcadis Singer law firm, because one way or the other, they have help me growing in knowledge by growing through the pain of their unfair ways of doing business that is contrary to the standard federal law of debt collection; which is contrary to the standard of the way the federal law of fair debt collection practices act is demented. I probably made some mistakes, but I know I had to at least try to get it done. I hope the truth that's in the work speaks louder than the style of the work. Having said that, the lower court's ruling contains errors. The evidence does not support the findings made, and procedure compromised the fairness of the proceedings. Therefore, I respectfully request for a simple reversal of the lower court's decision with condition to hold a new trial.

Respectfully submitted

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I HEREBY CERTIFY that a true and correct copy of the foregoing Amended Initial Brief Appeal document has been furnished to Ralph S. Marcadis, at 5104 South Westshore Boulevard, Tampa, Florida 33611, this 04 day of October 2024.

Respectfully submitted,


Aline Charles

I HEREBY CERTIFY that the forgoing brief complies with the type-volume limitation provided. The forgoing principal brief contains 2336 words, and it's typed in Arial (proportional) 14-point type, double spaced Florida appeal computer-generated appeal rule 9.210 as previously instructed and to the best of my ability,

Respectfully Submitted


Aline Charles