

**IN THE ASSOCIATE CIRCUIT COURT
OF THE COUNTY OF XXXXX
STATE OF XXXX**

DEBT COLLECTOR COMPANY, LLC,)	
ASSIGNEE OF CC COMPANY (Mastercard),)	
Plaintiff,)	
)	Cause NO. 10AC- xx
)	Div. x
vs.)	
)	
JOHN Q. PUBLIC,)	
)	
Defendant.)	

MOTION TO DISMISS

Comes Now Defendant, John Q. Public, and for his Motion to Dismiss states as follows:

1. Plaintiff Debt Collector Company, LLC, (hereinafter "Plaintiff" or "Debt Collector") filed its claim against defendant alleging a claim of breach of contract and "for account stated." Both claims are fatally deficient under the laws of this state and must be dismissed.
2. Plaintiff's breach of contract claim must fail because the petition alleges neither the existence nor terms of any contract. Instead, Plaintiff attaches an unverified "statement" of a credit card bill purporting to be a statement of money owed by Defendant at some point in time, but stating neither the terms of any contract nor, most significantly, that plaintiff was a party to the contract, if any.
3. To state a breach of contract under the state law of XXX, a petition must allege a contract, its agreement, breach, and damages. *XYZ Corp. v. Highsmith, 32 XXX 44,46 (State of XXX, 1986)*. Plaintiff's petition fails in every regard.
4. Plaintiff's claiming Account Stated must also fail both because plaintiff has failed to allege any interest in the account it claims as due and because it has not alleged the elements of an account stated, which require some allegations of negotiation or agreement to a total account.
5. Defendant files herewith his Memorandum in Support of His Motion to Dismiss.

Wherefore, Plaintiff's claim fails to state any cause of action recognized by the State of XXX, and its Petition must be dismissed.

Respectfully,

John Q. Public
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Atlanta, GA 303030
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