

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

CAPITAL ONE BANK,	:	APPEAL NO. C-090361
Plaintiff-Appellee,	:	TRIAL NO. 08CV-26578
vs.	:	<i>JUDGMENT ENTRY.</i>
COLLEEN STANTON,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.¹

In two related assignments of error, defendant-appellant Colleen Stanton argues that the trial court erred in granting summary judgment to plaintiff-appellee, Capital One Bank. We disagree and affirm.

Capital One filed a complaint alleging that Stanton had not paid her credit-card bill and that she owed the company \$3,475.33 plus interest. After Stanton answered, Capital One sent her requests for admissions that, when left unanswered, established that she owed the money and had no defense to the claim. Capital One then asked the trial court to grant summary judgment in its favor. The magistrate assigned to the case granted the motion. Stanton objected, but provided no reason that summary judgment was not proper. The trial court overruled her objection.

Summary judgment is appropriate if (1) no genuine issue of material fact exists for trial, (2) the moving party is entitled to judgment as a matter of law, and (3) reasonable

¹ See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

minds can come to but one conclusion and that conclusion is adverse to the nonmoving party, who is entitled to have the evidence construed most strongly in his or her favor.²

To recover the money due to it, Capital One had to prove that Stanton was the account holder and to establish (1) a beginning balance; (2) a list of charges, debits, and credits; and (3) an arrangement of beginning balance and items that permitted the calculation of the amount claimed to be due.³ Through the requests for admissions and the materials submitted in conjunction with its motion for summary judgment, Capital One established its claim. Therefore, we overrule Stanton's two assignments of error and affirm the trial court's judgment.

Further, a certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

CUNNINGHAM, P.J., HENDON and DINKELACKER, JJ.

To the Clerk:

Enter upon the Journal of the Court on February 24, 2010

per order of the Court _____
Presiding Judge

² *Greene v. Whiteside*, 181 Ohio App. 3d 253, 2009-Ohio-741, 908 N.E.2d 975, at ¶23, citing *Temple v. Wean United, Inc.* (1977), 50 Ohio St.2d 317, 327, 364 N.E.2d 267; *Stinespring v. Natorp Garden Stores* (1998), 127 Ohio App.3d 213, 215, 711 N.E.2d 1104.

³ *Discover Bank v. Lammers*, 2nd Dist. No. 08-CA-85, 2009-Ohio-3516, at ¶20, citing *Citibank (South Dakota) N.A. v. Ogunduyile*, 2nd Dist. No. 21794, 2007-Ohio-5166, at ¶7, citing *Gabriele v. Reagan* (1988), 57 Ohio App.3d 84, 87, 566 N.E.2d 684.