

M.R. 3140

**IN THE
SUPREME COURT
OF
THE STATE OF ILLINOIS**

Order entered June 26, 2018.

(Deleted material is struck through, and new material is underscored.)

On June 8, 2018, new Illinois Supreme Court Rules 280, 280.1, 280.2, 280.3, 280.4, and 280.5 were adopted, with an effective date of July 1, 2018. Rules 280, 280.1, 280.2, 280.3, 280.4, and 280.5 remain adopted but shall instead be effective on October 1, 2018, modified *nunc pro tunc* to June 8, 2018. Rules 280.4 and 280.5 additionally contained clerical errors, which are corrected *nunc pro tunc* to June 8, 2018.

Modified Rule 280

Rule 280. Applicability.

A civil action is subject to the requirements of this Part if the complaint contains any claim originating from a credit card or by a debt buyer attempting to collect a consumer debt.

Adopted June 8, 2018, ~~eff. July 1, 2018~~ eff. Oct. 1, 2018.

Modified Rule 280.1

Rule 280.1. Definitions for Credit Card or Debt Buyer Collection Actions.

For purposes of a civil action subject to the requirements of this Part:

(a) “Affidavit” means an affidavit or a verification under Section 1-109 of the Code of Civil Procedure (735 ILCS 5/1-109).

(b) “Assignment” means a transfer of debt from the owner of the debt to the purchaser of the debt.

(c) “Charge-off balance” means an account principal and other legally collectible costs, expenses, and interest accrued prior to the charge-off date, less any payments or settlement.

(d) “Charge-off creditor” means the person or entity who extended credit to the natural persons involved in a consumer credit transaction on the charge-off date.

(e) “Charge-off date” means the date on which a receivable is treated as a loss or expense.

(f) “Consumer credit transaction” means a transaction between a natural person and another person in which property, service, or money is acquired on credit by that natural person from such other person primarily for personal, family, or household purposes.

(g) “Consumer debt” or “consumer credit” means money, property, or their equivalent,

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JUN 26 2018

SUPREME COURT
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due or owing or alleged to be due or owing from a natural person by reason of a consumer credit transaction.

(h) “Credit card” means any instrument or device, whether known as a credit card, credit plate, charge plate or any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services or anything else of value on credit or in consideration or an undertaking or guaranty by the issuer of the payment of a check drawn by the cardholder.

(i) “Debt buyer” means a person or entity that is engaged in the business of purchasing delinquent or charged-off consumer loans or consumer credit accounts or other delinquent consumer debt for collection purposes, whether it collects the debt itself or hires a third-party for collection or an attorney at law for litigation in order to collect such debt.

(j) “Debt buyer collection action” means a civil action in which the complaint seeks to recover on a consumer debt purchased by a debt buyer.

(k) “Original consumer debt” means the amount of the charge-off balance.

(l) “Person” means any natural person or business entity of any kind, including but not limited to a corporation, partnership, limited partnership, limited liability partnership, or limited liability company.

(m) “Principal” means the unpaid balance of the amount borrowed in any consumer credit transaction, not including any interest, fees, or other charges.

Adopted June 8, 2018, ~~eff. July 1, 2018~~ eff. Oct. 1, 2018.

Modified Rule 280.2

Rule 280.2. Complaint in Credit Card or Debt Buyer Collection Actions.

In addition to the requirements set forth in Rules 131 and 282(a), the complaint in a credit card or debt buyer collection actions shall:

(a) Print the name of the person who signs the complaint under the signature line;

(b) Attach a completed Credit Card or Debt Buyer Collection Affidavit, prepared by utilizing, or substantially adopting the appearance and content of, the form provided in the Article II Forms Appendix, together with all required documents;

(c) Include a statement that the suit is filed within a relevant statute of limitations; and

(d) Have the Credit Card or Debt Buyer Collection Affidavit signed by the plaintiff or the plaintiff’s designated agent. For purposes of this Rule, the attorney for the plaintiff may not sign the affidavit on behalf of the plaintiff or plaintiff’s designated agent.

Adopted June 8, 2018, ~~eff. July 1, 2018~~, eff. October 1, 2018.

Modified Rule 280.3

Rule 280.3. Continuance of Trial or Voluntary Dismissal of Credit Card or Debt Buyer Collection Actions.

Absent a properly noticed written motion for continuance under Rule 231 or for voluntary dismissal under section 2-1009 of the Code of Civil Procedure (735 ILCS 5/2-1009), a motion for continuance or voluntary dismissal made on the date of trial shall be denied, and the case shall proceed to trial, unless:

(a) The court finds that (i) each party has consented to a continuance with an understanding of the potential consequences of not consenting and (ii) a continuance serves the interest of justice; or

(b) The court is unable to proceed on the trial date, in which case an order may be entered continuing the case for a final trial date.

(c) Nothing herein shall limit the right of any litigant to seek a continuance subject the provisions and requirements of Rule 231(f).

Adopted June 8, 2018, ~~eff. July 1, 2018~~ eff. October 1, 2018.

Corrected Rule 280.4

Rule 280.4. Consequences for Non-Compliance.

If the plaintiff fails to comply with the requirements of this Part, the court may not enter a default judgment, and the court, on motion or on its own initiative, may dismiss the complaint.

~~Adopted~~Amended June 8, 2018, ~~eff. July 1, 2018~~ eff. October 1, 2018.

Corrected Rule 280.5

Rule 280.5. Identity Theft Relating to Credit Card or Debt Buyer Collection Actions.

(a) A defendant in a credit card or debt buyer collection action who asserts that he or she is a victim of identity theft with respect to the consumer debt that is the subject of the action, must serve the following on the plaintiff:

(1) An Identity Theft Affidavit in accordance with the form approved by the Illinois Attorney General; and

(2) An Identity Theft Affidavit (Credit Card or Debt Buyer Collection Action) in accordance with the form approved by the Illinois Supreme Court, which can be found in the Article II Forms Appendix.

Of these two affidavits, only the Identity Theft Affidavit (Credit Card or Debt Buyer Collection Action) must be filed with the court. Within 90 days of service of the Identity Theft Affidavit

(Credit Card or Debt Buyer Collection Action) on the plaintiff, the plaintiff or the court, on its motion, shall dismiss the case unless the plaintiff files an affidavit asserting facts that indicate the defendant is not the victim of identity theft and is responsible for the consumer debt at issue.

Adopted~~Amended~~ June 8, 2018, ~~eff. July 1, 2018~~ eff. October 1, 2018.