

**SUPREME COURT - STATE OF NEW YORK  
I.A.S. PART XIII SUFFOLK COUNTY**

PRESENT:

Hon. MELVYN TANENBAUM  
Justice

MOTION #001-CASE DISP  
R/D: 021908  
S/D 021908

\_\_\_\_\_  
PALISADES COLLECTION, LLC

PLTF'S/PET'S ATTY:  
WOLPOFF & ABRAMSON, LLP  
300 Canal View Blvd., 3<sup>rd</sup> floor  
Rochester, New York 14623

Plaintiff,

- against -

CINDY L. COOPEY

DEFT'S/RESP'S ATTY:  
CINDY L. COOPEY, Pro-se  
7 Lidd Parkway  
Lindenhurst, New York 11757

Defendants.

\_\_\_\_\_  
Upon the following papers numbered 1 to 8 read on this motion for an order pursuant to CPLR §

\_\_\_\_\_  
Notice of  
Motion/Order to Show Cause and supporting papers 1-8; Notice of Cross Motion and supporting papers \_\_\_\_\_ Answering  
Affidavits and supporting papers \_\_\_\_\_ Replying Affidavits and supporting papers \_\_\_\_\_ Other \_\_\_\_\_  
; (and after hearing counsel in support and opposed to the motion) it is,

**ORDERED** that this motion by plaintiff Palisades Collection, LLC for an order pursuant to CPLR §3212 granting summary judgment against defendant Cindy L. Coopey is denied.

Plaintiff claims that defendant defaulted in making payments due pursuant to a credit card agreement. Although plaintiff Palisades Collection, LLC claims that it is the legal assignee of the account from the credit card provider/Providian National Bank, there is no relevant admissible proof submitted in the form of a properly acknowledged assignment to support movant's claim that "Palisades" has capacity to maintain this action. Plaintiff's motion must therefore be denied.

Plaintiff also claims that defendant Cindy L. Coopey served an answer to "Palisades" complaint. However, the document referred to as defendant's answer represents a demand for a response from the creditor under the Fair Debt Collection Act to which there has been no response.

CPLR §3212(b) empowers the Court to search the record and to award judgment where appropriate without the necessity of filing a formal cross motion (McDOUGAL v. APPLE BANK FOR SAVINGS, 200 AD 2d 418, 606 NYS 2d 215 (1<sup>st</sup> Dept., 1994). Based upon these circumstances plaintiff's summary judgment motion must be denied and judgment granted in favor of the defendant dismissing plaintiff's complaint since no valid claim has been stated against "Coopey". Accordingly, it is

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**ORDERED** that pursuant to CPLR §3212 (b) the defendant “”Coopey” complaint against is hereby dismissed.

Dated: April 25, 2008

**MELVYN TANENBAUM**

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J.S.C.