

**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., 3rd 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 §

Motion/Order to Show Cause and supporting papers 1-8; Notice of Cross Motion and supporting papers _____ Notice of
Affidavits and supporting papers _____ Answering
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 (1st 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

J.S.C.