

2016 JUL -8 A 10 39

CLERK-SUPERIOR COURT
SAN DIEGO COUNTY, CA

1 Patrick J. Layman, SBN #59643
Erin E. Patterson, SBN #262285
2 Kevin A. Hoang, SBN #277132
Amanda Millea, SBN #290769
3 SUTTELL, HAMMER & WHITE, APC
P.O. Box C-90006
4 Bellevue, WA 98009
Tel: (425) 455-8220/(888) 788-8355
5 Facsimile: (425) 453-3239

6 Attorneys for Plaintiff
SHW Reference no. 517495.001
7

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR**
9 **THE COUNTY OF SAN DIEGO**
10 **Hall of Justice Courthouse**
11 **LIMITED CIVIL CASE**

12 Bank of America, N.A.

Case No.: **37-2016-00023198-CL-CL-CTL**

13 Plaintiff,

COMPLAINT FOR DAMAGES

14 vs.

Common Counts: Book Account, Account
15 Stated

16 Ellen D Foggiano and Frank Foggiano Jr

Defendants.

PRAYER AMOUNT: \$16227.04

17 Plaintiff, Bank of America, N.A., by and through its attorneys, alleges causes of
18 action as follows:

19 GENERAL ALLEGATIONS

- 20
- 21 1. This is an action for damages that are within the jurisdictional limits of this Court.
 - 22 2. Defendants are an adult individual residing in this county.
 - 23 3. Venue for this action is proper in this Court because the Defendants reside in this
24 judicial district.
 - 25 4. Plaintiff is a national banking association organized and existing under the laws of
26 the United States of America and having its principal place of business in Charlotte, North
27 Carolina.
28

1 5. Plaintiff is a wholly-owned subsidiary of Bank of America Corporation and the
2 successor-in-interest to FIA Card Services, N.A. ("FIA"), formerly known as MBNA
3 America Bank, N.A. FIA was merged into and under the charter and title of Plaintiff
4 effective October 1, 2014.
5

6 6. Defendants applied for and received a credit account, which is owned and
7 administered by Plaintiff (the "Account"). Defendants used or authorized the use of the
8 Account for the acquisition of goods, services, balance transfers or cash advances.
9

10 7. Defendants failed to make periodic payments on the outstanding balance due as
11 accrued by use of the Account. The Account was subsequently charged-off. The entire
12 balance on the Account is owed to Plaintiff and is presently due and payable in full.

13 8. The current Account balance is \$16227.04, which includes any applicable payments
14 and credits. The Account is not accruing post charge-off interest.
15

16 9. In accordance with federal regulations, monthly periodic statements for the Account
17 have been provided to the Defendants. Based on Plaintiff's records, there are no unresolved
18 billing disputes related to the Account.

19 CAUSES OF ACTION – COMMON COUNTS

20 **FIRST CAUSE OF ACTION: OPEN BOOK ACCOUNT**

21 10. Plaintiff incorporates herein by reference, the allegations contained in paragraphs
22 1-9 above.
23

24 11. Defendants became indebted to Plaintiff within the last four (4) years on an open
25 book account for money due.

26 12. Plaintiff kept an account of the debits and credits involved in the transactions.
27
28

1 13. Defendants owe Plaintiff the sum total of \$16227.04, plus any applicable costs, for
2 a balance due on a book account for money paid, lines of credit extended, and/or funds
3 expended by or for the Defendants.
4

5 **SECOND CAUSE OF ACTION: ACCOUNT STATED**

6 14. Plaintiff incorporates herein by reference, the allegations contained in paragraphs
7 1-9 above.

8 15. Defendants became indebted to Plaintiff within the last four (4) years on an
9 account stated.
10

11 16. Plaintiff kept an account of the debits and credits involved in the transactions.
12 Plaintiff's records indicate that there are no unresolved billing disputes.

13 17. To date, Defendants have not paid any or all of the amount owed under this
14 account.
15

16 18. Defendants owe Plaintiff the sum total of \$16227.04, plus any and all applicable
17 costs, for a balance due on an account stated for money paid, lines of credit extended, and/or
18 funds expended by or for Defendants.

19 PRAYER FOR RELIEF

20 WHEREFORE, Plaintiff, Bank of America, N.A., prays that judgment be entered against
21 Defendants for:

- 22 A. Damages in the amount of \$16227.04, which is the current balance due; and
23 B. Costs of suit incurred herein; and
24 C. Any other relief as the Court deems just and equitable.
25

26 //

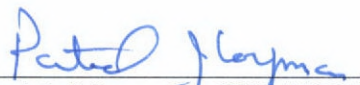
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DATED this 24 day of May, 2016.

SUTTELL, HAMMER & WHITE, APC



- Patrick J. Layman, SBN #59643
 - Erin E. Patterson, SBN #262285
 - Kevin A. Hoang, SBN #277132
 - Amanda Millea, SBN #290769
- Attorneys for Plaintiff

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SAN DIEGO COUNTY, CA

ATTORNEY OR PARTY WITHOUT ATTORNEY (name, state bar number, and address) Patrick J. Layman, SBN #59643 Erin E. Patterson, SBN #262285 Kevin A. Hoang, SBN #277132 Amanda Millea, SBN #290769 Suttell, Hammer & White, A.P.C. P.O. Box C-90006 Bellevue, WA 98009 TELEPHONE NO. (425) 455-8220/ (888) 788-8355 FAX NO. (425) 453-3239 ATTORNEY FOR: Bank of America, N.A.	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO STREET ADDRESS: 330 West Broadway MAILING ADDRESS: CITY AND ZIP CODE: San Diego CA 92101 BRANCH NAME: Hall of Justice Courthouse	
CASE NAME: Bank of America, N.A. v. Ellen D Foggiano and Frank Foggiano Jr	
Statement of Venue Pursuant to Code of Civil Procedure §395(b)	CASE NUMBER: 37-2016-00023198-CL-CL-CTL

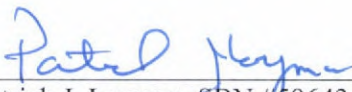
SAN DIEGO is the proper venue to bring this action in accordance with the Code of Civil Procedure §395(b) because it is the judicial district where at least one defendant resides. The address of Frank Foggiano Jr is:

466 Garfield Ave

El Cajon CA 92020-2732

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct.

5/26/16
Date


() Patrick J. Layman, SBN #59643
() Erin E. Patterson, SBN #262285
() Kevin A. Hoang, SBN #277132
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El Cajon CA 92020-2732

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct.

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