

IN THE COUNTY COURT IN AND
FOR BROWARD COUNTY, FLORIDA

CASE NUMBER 98-07007 COWE 80

SEARS, ROEBUCK & CO.

Plaintiff

vs.

PHILLIP WEISS

Defendant

_____ /

AMENDED MOTION TO SET ASIDE JUDGMENT

Comes now, the Defendant, PHILLIP WEISS, and requests this Honorable Court to Set Aside the Final Judgment ordered by the Court on December 30, 1998. To wit:

1. Defendant denies being served a copy of Plaintiff's Complaint. Moreover, Plaintiff's Affidavit of Service is flawed, to wit: Defendant's address was not, nor has ever been, 13 SW 8 Ave #2, Dania, FL 33004.
2. Defendant denies giving Plaintiff cause to sue for damages.
3. Defendant denies having made purchases of various and diverse consumer goods through the use of a credit card obtained from the Plaintiff bearing account number 06 62543 14204 3.
4. Defendant denies owing the Plaintiff \$4,260.21 that is due with interest since June 10, 1998.

5. Defendant denies having had business transactions with Plaintiff, or agreeing to the resulting balance.

6. Defendant denies having received a statement of account from Plaintiff.

7. Defendant asserts that he is a victim of identity theft.

8. Defendant asserts that this identity theft was reported to several government agencies including:

- a. the Federal Trade Commission, FTC Ref. No. 1553057;
- b. the Office of the Attorney General, State of Florida;
- c. the Broward Sheriff's Office, District 2, Dania Beach, Florida.

9. Defendant asserts that he has never resided at 13 S.W. 8th Avenue, #2, Dania, Florida 33004.

10. Defendant asserts that he never received Plaintiff's Interrogatories in Aid of Execution, which Plaintiff asserts was mailed to Defendant on February 10, 2000. Moreover, Plaintiff's instrument of interrogatory is flawed, to wit: Defendant's address was not, nor has ever been, 13 SW 8th Avenue, Apt. #2, Dania, FL 33004-3258.

11. Defendant asserts that Plaintiff's Affidavit of Interest Calculation is not applicable to Defendant, to wit: Defendant denies owing, or having ever owed, Plaintiff a debt.

12. Defendant asserts that Plaintiff's Affidavit of Costs is not applicable to Defendant, to wit: Defendant denies owing, or having ever owed, Plaintiff a debt.

13. Defendant asserts that Plaintiff's Notice of Filing is not applicable to Defendant, to wit: Defendant denies owing, or having ever owed, Plaintiff a debt.

14. Defendant asserts that Plaintiff's "Exhibit A" (Verified Statement of Account and Affidavit of Non-Military Service) is not applicable to Defendant, to wit: Defendant denies owing, or having ever owed, Plaintiff a debt.

15. Defendant asserts that Plaintiff's Non-Military Affidavit is not applicable to Defendant, to wit: Defendant denies owing, or having ever owed, Plaintiff a debt.

For the foregoing reasons, Defendant, PHILLIP WEISS, respectfully requests that the Final Judgment ordered by the Court on December 30, 1998, be set aside.

This amended motion is dated the _____ day of _____, 2001.

Respectfully,

Phillip Weiss
Defendant

Defendant hereby certifies that true and correct copies of the foregoing amended motion were mailed this _____ day of _____, 2001, by certified mail, return receipt requested, to:

SEARS, ROEBUCK & CO.
Plaintiff
45 Congress Street
Salem, MA 01970

Zakheim & Associates, P.A.
Attorney for Plaintiff
5310 N.W. 33rd Avenue
Suite 100
Fort Lauderdale, FL 33309
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Phillip Weiss
Defendant