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SUPERIOR COURT
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CIVIL DIVISION
CIVIL DIVISION

MIDLAND FUNDING, LLC, Plaintiff, vs. CHERYL E. WILLIAMS, Defendant.	Superior Court of New Jersey Law Division - Morris County Special Civil Part Civil Action Docket No. DC-004044-11 ANSWER WITH PROOF OF SERVICE
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Defendant, Cheryl E. Williams, submits this Answer to prevent the entry of default pending her Motion for Summary Judgment, and says:

**ANSWER TO PREVENT ENTRY OF DEFAULT
TO ALLOW HEARING OF SUMMARY JUDGMENT MOTION**

Background

1. In pertinent part, R. 6:3-1 expressly applies R. 4:6 to the Special Civil Part provided, however, "a defendant who is served with process whether within or outside this State shall serve an answer including therein any counterclaim within 35 days after completion of service." (Prior versions of R. 4:6-1(a) had differentiated times to answer depending on whether the defendant was served inside or outside New Jersey.)
2. R. 4:6-1(a) similarly provides, in pertinent part, "the defendant shall serve an answer, including therein any counterclaim, within 35 days after service of the summons and complaint on that defendant."
3. R. 4:6-1(b) provides, however, "the time periods prescribed in paragraph (a) [i.e., R. 4:6-1(a)] of this rule are altered by the filing and service of a motion under R. 4:6 or for summary judgment under R. 4:46 or R. 4:69-2 as follows: (1) if the motion is denied in whole or part or its disposition postponed until trial, the responsive pleading shall be served within 10 days after notice of the court's action." Emphasis

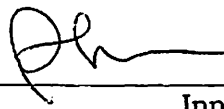
added. R. 6:6-1(a) expressly applies R. 4:46 to the Special Civil Part. Thus, the Rules permit the filing of a summary judgment motion in the Special Civil Part *before* filing an answer.

4. Nevertheless, Defendant's counsel is informed that the Clerk may enter default unless an answer is filed within 35 days after service of process and will not accept a summary judgment motion for filing until after an answer is filed. Consequently, this Answer is filed solely to prevent the entry of default.

Preliminary Answer Preserving all Defenses Pending Summary Judgment Motion

5. As this Answer is filed solely to avoid the Clerk's entry of default, if the Summary Judgment Motion is denied, Defendant will file an amended answer pursuant to R. 4:9-1 (as of right if the motion is denied within 90 days after the filing of this answer, or by leave of court). As the Summary Judgment Motion challenges the sufficiency of Plaintiff's evidence to establish each element of its *prima facie* case, Defendant denies all allegations of the complaint and asserts any and all affirmative defenses including all defenses which would be waived if not asserted.

Philip D. Stern & Associates, LLC
Attorneys for Defendant, Cheryl E. Williams



Dated: July 5, 2011

Inna Ryu

**CERTIFICATIONS PURSUANT TO R. 4:5-1 AND R. 1:38-7
AND CERTIFICATION OF SERVICE**

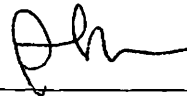
I certify that the matter in controversy is not the subject of any other court action or arbitration proceeding, now or contemplated, and that no other parties should be joined in this action, EXCEPT: the applicable terms and conditions governing consumer credit card accounts issued by Chase Bank USA, N.A., may contain an arbitration clause. If the agreement proffered by Plaintiff contains such a clause, Defendant may assert that Plaintiff must resolve its claims by arbitration and that this Court would, therefore, lack subject matter jurisdiction.

I further certify that any confidential personal identifiers have been redacted from any documents now submitted to the Court and will be redacted from all documents submitted in the future in accordance with R. 1:3 8-7(b).

In accordance with R. 1:5-3, I certify that the within pleading was served in accordance with R. 1:5-2, on the following attorney by ordinary mail, postage prepaid, mailed on the date set forth below and addressed to:

Ralph Gulko, Esq.
Pressler and Pressler, LLP
7 Entin Road
Parsippany, NJ 07054

Dated: July 5, 2011



Inna Ryu