

FILED
12/10/2023
SMB
THOMAS G. BRUTON
CLERK, U.S. DISTRICT COURT

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

)	
JERICO MATIAS CRUZ,)	Case No. 1:22-cv-02956
)	
Plaintiff,)	
)	
v.)	Judge Jeremy C. Daniel
)	
DISCOVER FINANCIAL SERVICES,)	
INC. et al.,)	
Defendants.)	
)	

**PRO SE PLAINTIFF JERICO MATIAS CRUZ’S RESPONSE TO DEFENDANTS
DISCOVER FINANCIAL SERVICES et al.’s MOTION TO DISMISS FOR FAILURE TO
STATE A CLAIM OF THE SECOND AMENDED COMPLAINT PURSUANT TO FED. R.
CIV. P. 7(a)(7) AND 12 CFR SECTION 202.1(b)**

NOW COMES pro se Plaintiff Jerico Matias Cruz electronically files a response to Defendants Discover Financial Services, et al.’s motion to dismiss for failure to state a claim of pro se Plaintiff Jerico Matias Cruz’s second amended complaint via submission box for pro se litigant of the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division pursuant to Fed. R. Civ. P. 7(a)(7) and 12 CFR Section 202.1(b), and in support thereof, and states as follows:

BACKGROUND

1. On or about June 4, 2022, pro se Plaintiff Jerico Matias Cruz electronically files his breach of contract complaint against Defendants Discover Financial Services, Inc. et al. under the provisions of Equal Credit Opportunity Act, 15 U.S. Code Section 1691 et seq. Dkt.1.
2. On or about June 4, 2022, pro se Plaintiff Jerico Matias Cruz electronically files his application for leave to proceed in forma pauperis. Dkt.4.
3. On or about June 7, 2022, the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, assigns this civil case to the Honorable Thomas M. Durkin, Judge, Presiding and to Magistrate Judge Maria Valdez. Dkt.5.
4. On or about June 7, 2022, the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division sends a notification and consent forms to all parties only if all parties involved in this civil case sign the consent for the Magistrate Judge Maria Valdez to conduct all civil proceedings pursuant to L.R. 73.1(b). Dkt.6.
5. On or about June 8, 2022, Honorable Thomas M. Durkin, Judge, Presiding, grants pro se Plaintiff Jerico Matias Cruz's application or motion for leave to proceed in forma pauperis; directs the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, to directly file pro se Plaintiff Jerico Matias Cruz's complaint and issues summons for service of the complaint

on the Defendants Discover Financial Services, Inc. et al; and appoints the United States Marshals Service to serve the complaint and summons to Defendants Discover Financial Services, Inc. et al. All parties need to file a Joint Status Report before or on August 17, 2022. Dkt.7.

6. On or about June 8, 2022, the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, directly files pro se Plaintiff Jerico Matias Cruz's breach of contract complaint, dated June 4, 2022. Dkt.8.
7. On or about June 9, 2022, the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, issues summons to the United States Marshals Service via email as to Defendants Discover Financial Services, Inc. et al. Dkt.8.
8. On or about June 10, 2022, the waiver of service returned unexecuted by the United States Marshals Service as to Defendant Discover Bank. Dkt.9.
9. On or about July 15, 2022, the summons returned executed by the United States Marshals Service as to Defendant Discover Financial Services, Inc., dated July 13, 2022; and Defendant Discover Financial Services, Inc. must answer pro se Plaintiff Jerico Matias Cruz before or on July 13, 2022. Dkt.10.
10. On or about August 3, 2022, Defendant Discover Financial Services, Inc. electronically files a first motion for extension of time to file a responsive pleading. Dkt.11.

11. On or about August 3, 2022, Defendant Discover Financial Services, Inc.'s Corporate Disclosure Statement, as required by Fed. R. Civ. R. 7.1., and Notifications as to Defendant Discover Financial Services, Inc.'s Affiliates are electronically filed, as required by L.R. 3.2. Dkt.12.
12. On or about August 3, 2022, Honorable Thomas M. Durkin, Judge, Presiding, grants Defendant Discover Financial Services, Inc.'s motion for extension of time to file a responsive pleading; allows Defendant Discover Financial Services, Inc. to answer or otherwise plead to pro se Plaintiff Jerico Matias Cruz's breach of contract complaint before or on August 31, 2022; and the deadline of the Joint Status Report is extended until August 17, 2022. Dkt.13.
13. On or about August 30, 2022, Defendant Discover Financial Services, Inc. electronically files a second motion for extension of time to file a responsive pleading. Dkt.14.
14. On or about August 31, 2022, Honorable Thomas M. Durkin grants Defendant Discover Financial Services, Inc.'s second motion for extension of time to file a responsive pleading; allows Defendant Discover Financial Services, Inc. to answer or otherwise plead to pro se Plaintiff Jerico Matias Cruz's breach of contract complaint before or on September 7, 2022; and the deadline for the Joint Status Report is extended until September 21, 2022. Dkt.15.

15. On or about August 31, 2022, Defendant Discover Bank's legal counsel files an appearance. Dkt.16.
16. On or about August 31, 2022, Defendants Discover Financial Services, Inc. et al. electronically and jointly file a motion to dismiss for failure to state a claim. Dkt.17.
17. On or about August 31, 2022, Honorable Thomas M. Durkin, Judge, Presiding, enters a court order for pro se Plaintiff Jerico Matias Cruz to file a response to Defendants Discover Financial Services, Inc. et al.'s motion to dismiss before or on September 30, 2022; and Defendants Discover Financial Services, Inc. et al.'s reply is due before or on October 14, 2022. Dkt.18.
18. On or about September 21, 2022, Defendants Discover Financial Services, Inc. et al. electronically and jointly file their Status Report. Dkt.19.
19. On or about September 22, 2022, Honorable Thomas M. Durkin enters a court order to direct all parties involved with this civil case that no further status reports should be filed and a discovery schedule will not be set until briefing on the motion to dismiss is complete; and pro se Plaintiff Jerico Matias Cruz's failure to file a response to Defendants Discover Financial Services, Inc. et al.'s motion to dismiss may result to case dismissal. Dkt.20.

20. On or about September 22, 2022, pro se Plaintiff Jerico Matias Cruz electronically files a first motion for extension of time to respond to Defendants Discover Financial Services, Inc. et al.'s motion to dismiss. Dkt.21.
21. On or about September 22, 2022, Honorable Thomas M. Durkin, Judge, Presiding, grants pro se Plaintiff Jerico Matias Cruz's first motion for extension of time to respond to Defendants Discover Financial Services, Inc. et al.'s motion to dismiss; extends the time for pro se Plaintiff Jerico Matias Cruz to respond before or on October 21, 2022; Defendants Discover Financial Services, Inc.'s reply is due before or on November 4, 2022; directs pro se Plaintiff Jerico Matias Cruz to provide his current physical address and contact information to Defendants Discover Financial Services, Inc. et al.; and informs pro se Plaintiff Jerico Matias Cruz's hardship claim has limited weight in this civil case. Dkt.23.
22. On or about October 24, 2022, pro se Plaintiff Jerico Matias Cruz electronically files a second motion for extension of time to respond to Defendants Discover Financial Services, Inc. et al.'s motion to dismiss. Dkt.24.
23. On or about October 25, 2022, Honorable Thomas M. Durkin, Judge, Presiding, grants pro se Plaintiff Jerico Matias Cruz's second motion for extension of time to respond to Defendants Discover Financial Services, Inc. et al.'s motion to dismiss; extends the time for pro se Plaintiff Jerico Matias Cruz to respond

before or on November 22, 2022; and Defendants Discover Financial Services, Inc.'s reply is due before or on December 6, 2022. Dkt.26.

24. On or about November 23, 2022, pro se Plaintiff Jerico Matias Cruz electronically files a third motion for extension of time to respond to Defendants Discover Financial Services, Inc. et al.'s motion to dismiss. Dkt.27.

25. On or about November 28, 2022, Honorable Thomas M. Durkin, Judge, Presiding, grants pro se Plaintiff Jerico Matias Cruz's third motion for extension of time to respond to Defendants Discover Financial Services, Inc. et al.'s motion to dismiss; extends the time for pro se Plaintiff Jerico Matias Cruz to respond before or on December 23, 2022; and Defendants Discover Financial Services, Inc.'s reply is due before or on January 6, 2022. Dkt.29.

26. On or about November 29, 2022, Defendants Discover Financial Services, Inc. et al. electronically file a motion for extension of time to reply to pro se Plaintiff Jerico Matias Cruz's response to Defendants Discover Financial Services, Inc. et al.'s motion to dismiss. Dkt.30.

27. On or about November 30, 2022, Honorable Thomas M. Durkin, Judge, Presiding, grants Defendants Discover Financial Services, Inc. et al.'s motion for extension of time to reply to pro se Plaintiff Jerico Matias Cruz's response to Defendants Discover Financial Services, Inc. et al.'s motion to dismiss before or on January 20, 2023. Dkt.31.

28. On or about November 30, 2022, pro se Plaintiff Jerico Matias Cruz electronically files a motion for summary judgment with attached document of supporting memorandum of law. Dkt.32.
29. On or about December 1, 2022, Honorable Thomas M. Durkin, Judge, Presiding, denies pro se Plaintiff Jerico Matias Cruz's motion for summary judgment without prejudice and directs pro se Plaintiff Jerico Matias Cruz to file response to Defendants Discover Financial Services Inc. et al.'s motion to dismiss before or on December 23, 2022. Dkt.34.
30. On or about December 29, 2022, all parties involved must file a statement to identify all affiliates related to this civil case pursuant to L.R. 3.2. Dkt.35.
31. On or about January 18, 2023, Honorable Thomas M. Durkin, Judge, Presiding, enters a court order directs and provides an opportunity for pro se Plaintiff Jerico Matias Cruz to file a response to Defendants Discover Financial Services, Inc. et al. before or on February 1, 2023; and pro se Plaintiff Jerico Matias Cruz's failure to file a response on time will Defendants Discover Financial Services, Inc. et al.'s motion to dismiss. Dkt.36.
32. On or about February 1, 2023, pro se Plaintiff Jerico Matias Cruz electronically files a response to Defendants Discover Financial Services, Inc. et al.'s motion to dismiss. Dkt.38.

33. On or about February 2, 2023, the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division issues a notice of correction, pertaining to pro se Plaintiff Jerico Matias Cruz's motion for continuance to respond, dated February 1, 2023. Dkt. Dkt.40.
34. On or about February 13, 2023, Defendants Discover Financial Services, Inc. et al.'s reply to pro se Plaintiff Jerico Matias Cruz's response to Defendants Discover Financial Services, Inc. et al.'s motion to dismiss for failure to state a claim. Dkt.41.
35. On or about June 27, 2023, the Executive Committee enters an order for the random reassignment of civil cases to a new district judge named Honorable Jeremy C. Daniel, Judge, Presiding, including pro se Plaintiff Jerico Matias Cruz's breach of contract complaint against Defendants Discover Financial Services, Inc. et al.; the Executives Committee directs all parties involved with random reassignment of civil cases to thoroughly review the Honorable Jeremy C. Daniel's website for further instructions from his standing order and future civil proceedings of randomly reassigned civil cases; and Honorable Thomas M. Durkin, Judge, Presiding, is no longer involved with this civil case upon reassignment to the Honorable Jeremy C. Daniel, Judge, Presiding. Dkt.42.
36. On or about August 28, 2023, Honorable Jeremy C. Daniel, Judge, Presiding, grants Defendants Discover Financial Services, Inc. et al.'s motion to dismiss for

failure to state a claim under the provisions of Federal Rules of Civil Procedure and allows pro se Plaintiff Jerico Matias Cruz to file his first amended complaint within twenty-eight (28) days.

37. On or about October 2, 2023, the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, accepts in-person filings of pro se Plaintiff Jerico Matias Cruz's emergency motion pursuant to Fed. R. Civ. P. 7(b).

38. On or about October 2, 2023, the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, accepts the in-person filings of pro se Plaintiff Jerico Matias Cruz's motion for extension of time to file a first amended complaint pursuant to Fed. R. Civ. P. 6(b)(1)(A).

39. On or about October 2, 2023, the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, accepts the in-person filings of pro se Plaintiff Jerico Matias Cruz's first amended complaint pursuant to Discover It's Acceptance of the Card Agreement, 12 CFR Sections 1002.1 et seq., and 15 U.S. Code Sections 1691 et seq.

40. On or about October 6, 2023, Defendants Discover Financial Services, Inc. et al electronically file a response to notice of emergency motion pursuant to Fed. R. Civ. P. 7(b) (D.E. 51, 52, 53, the "Emergency Motion").

41. On or about October 10, 2023 at 9:30 AM CST, there is a scheduled telephonic hearing in the courtroom 1419 with all parties involved with this federal civil

case; Honorable Jeremy C. Daniel, Judge, Presiding, denies pro se Plaintiff Jerico Matias Cruz's emergency motion, but grants pro se Plaintiff Jerico Matias Cruz's motion for extension of time to file a first amended complaint; Honorable Jeremy C. Daniel, Judge, Presiding, dismisses without prejudice the first amended complaint, and directs pro se Plaintiff Jerico Matias Cruz to file a second amended complaint before or on November 11, 2023; and there will be no extension of time for the second amended complaint. Dkt.55.

42. On or about October 31, 2023, pro se Plaintiff Jerico Matias Cruz files a second amended complaint for breach of contract against Defendants Discover Financial Services, Inc. et al. for \$20,000,000.00 monetary damages in-person to the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division pursuant to Discover It's Acceptance of the Card Agreement; 12 CFR Sections 1002.2(r), 1002.2(t), 1002.4(a), and 1002.9(a)(2); and 15 U.S. Code Sections 1691(a)(1). Dkt.56.

43. On or about November 9, 2023, Defendants Discover Financial Services, Inc. et al. electronically files a motion to dismiss for failure to state a claim on pro se Plaintiff Jerico Matias Cruz's second amended complaint. Dkt.58.

44. On or about November 13, 2023, Honorable Jeremy C. Daniel, Judge, Presiding, enters a court order and briefs all parties as follows: (1) Pro Se Plaintiff Jerico Matias Cruz's response to Defendants Discover Financial Services, Inc. et al.'s

motion to dismiss to pro se Plaintiff Jerico Matias Cruz's second amended complaint is due before or on December 4, 2023; Defendants Discover Financial Services, Inc. et al.'s reply to pro se Plaintiff Jerico Matias Cruz's response is due before or on December 11, 2023; and the status hearing is set on January 23, 2024 at 9:30 AM CST. Dkt.59.

45. On or about December 6, 2023, pro se Plaintiff Jerico Matias Cruz electronically files motion for extension of time to file a response to Defendants Discover Financial Services, Inc. et al.'s motion to dismiss for failure to state a claim to pro se Plaintiff Jerico Matias Cruz's second amended complaint via submission box for pro se litigant of the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division pursuant to Fed. R. Civ. P. 6(b)(1)(A). Dkt.60.

ARGUMENT

I. Pursuant to Fed. R. Civ. P. 7(a)(7), pro se Plaintiff Jerico Matias Cruz is allowed to electronically file a response to Defendants Discover Financial Services, Inc. et al.'s motion to dismiss for a failure to state a claim of pro se Plaintiff Jerico Matias Cruz's second amended complaint via submission box for pro se litigant of the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division.

1. Pro Se Plaintiff Jerico Matias Cruz's response to Defendants Discover Financial Services, Inc. et al.'s motion to dismiss for failure to state a claim of pro se Plaintiff Jerico Matias Cruz's second amended complaint is timely filed because pro se Plaintiff Jerico Matias Cruz electronically files his motion for extension of time to response to Defendants Discover Financial Services, Inc. et al.'s motion to dismiss of the second amended complaint, dated December 6, 2023, pursuant to Fed. R. Civ. P. 7(a)(7).

“Only these pleadings are allowed...if the court orders one, a reply to an answer.” Fed. R. Civ. P. 7(a)(7).

- II. Pursuant to 12 CFR Section 202.1(b), pro se Plaintiff Jerico Matias Cruz is fully qualified to receive, activate, and use his Discover It's Personal Credit Card, as required by the Discover It's Acceptance of the Card Agreement, as a creditworthy applicant upon meeting all the requirements upon receiving and activating his Discover It's Personal Credit Card prior to unauthorized account closure, which is considered a breach of contract.**

2. Pro Se Plaintiff Jerico Matias Cruz meets all the requirements of a creditworthy applicant for Discover It's Personal Credit Card because pro se Plaintiff Jerico Matias Cruz provides all necessary and sufficient personal identifiable information and creditworthiness to be approved for Discover It's Personal Credit Card from Defendants Discover Financial Services, Inc. et al. Pro Se Plaintiff Jerico Matias Cruz's credit card application for Discover It's Personal

Credit Card is not fraudulent and has not intention to defraud Defendants Discover Financial Services, Inc. et al. Therefore, pro se Plaintiff Jerico Matias Cruz is fully qualified to receive, activate, and use his Discover It's Personal Credit Card upon receiving it from Defendants Discover Financial Services, et al. via United States Postal Service ("USPS"), as required by federal mailbox rule, and this federal breach of contract case deems properly filed to the proper venue and federal jurisdiction upon unauthorized account closure pursuant to 12 CFR Section 202.1(b).

"The purpose of this regulation is to promote the availability of credit to all creditworthy applicants without regard to race, color, religion, national origin, sex, marital status, or age (provided the applicant has the capacity to contract); to the fact that all or part of the applicant's income derives from a public assistance program; or to the fact that the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The regulation prohibits creditor practices that discriminate on the basis of any of these factors. The regulation also requires creditors to notify applicants of action taken on their applications; to report credit history in the names of both spouses on an account; to retain records of credit applications; to collect information about the applicant's race and other personal characteristics in applications for certain dwelling-related loans; and to provide applicants with copies of appraisal reports used in connection with credit transactions." 12 CFR Section 202.1(b).

A. Pro Se Plaintiff Jerico Matias Cruz denies the first legal argument of Defendants Discover Financial Services, Inc. et al. as Defendants Discover Financial Services, Inc. et al. cannot distinguish the

causes of actions between original complaint, first amended complaint, and second amended complaint. *See* Defendants Discover Financial Services, Inc. et al.'s Motion to Dismiss Plaintiff's Second Amended Complaint, Paragraph A, Subparagraph 1, Lines 1-13.

i. Pro Se Plaintiff Jerico Matias Cruz's original complaint and first amended complaint are subject to the provisions of Equal Credit Opportunity Act ("ECOA"), 15 U.S. Code Sections 1691 et seq., and Discover It's Acceptance of the Card Agreement.

ii. Pro Se Plaintiff Jerico Matias Cruz's second amended complaint is subject to the provisions of Equal Credit Opportunity Act (Regulation B) ("ECOA-Reg B"), 12 CFR Sections 202.1 et seq., 15 U.S. Code Section 1691(a)(1), and Discover It's Acceptance of the Card Agreement.

B. Pro Se Plaintiff Jerico Matias Cruz denies Defendants Discover Financial Services, Inc. et al.'s first legal argument for not providing sufficient facts to support his causes of actions in original complaint, first amended complaint, and second amended complaint. *See* Defendants Discover Financial Services, Inc. et al.'s

Motion to Dismiss Plaintiff's Second Amended Complaint, Paragraph A, Subparagraph 2, Lines 1-5.

i. Pro Se Plaintiff Jerico Matias Cruz provides necessary and sufficient facts to legally support his causes of actions from original complaint to second amended complaint in which pro se Plaintiff Jerico Matias Cruz's well-pleaded facts are consistent per complaint.

C. Pro Se Plaintiff Jerico Matias Cruz denies the undistinguishable cause of action between first amended complaint and second amended complaint of Defendants Discover Financial Services, Inc et al.'s second legal argument in particular with ECOA v. ECOA-Reg B, and Breach of Contract, as required by Discover It's Acceptance of Card Agreement. *See* Defendants Discover Financial Services, Inc. et al.'s Motion to Dismiss Plaintiff's Second Amended Complaint, Paragraph B, Lines 1-7.

D. Pro Se Plaintiff Jerico Matias Cruz denies Defendants Discover Financial Services, Inc. et al.'s improper citation of ECOA for the second amended complaint because pro se Plaintiff Jerico Matias Cruz's second amended complaint specifically argues only with 15 U.S. Code Section 1691(a)(1) and nothing else. *See* Defendants

Discover Financial Services, Inc. et al.'s Motion to Dismiss Plaintiff's Second Amended Complaint, Paragraph B, Subparagraph 1-1, Lines 1-10.

E. Pro Se Plaintiff Jerico Matias Cruz denies the second legal argument of Defendants Discover Financial Services, Inc. et al. under ECOA provisions because pro se Plaintiff Jerico Matias Cruz's second amended complaint argues with 15 U.S. Code Section 1691(a)(1) to enumerate each protected category or class upon knowing that Defendants Discover Financial Services, Inc. et al. violate this specific section of ECOA with willful and wanton misconduct that pro se Plaintiff Jerico Matias Cruz identifies as a breach of contract with an intent to discriminate. *See* Defendants Discover Financial Services, Inc. et al.'s Motion to Dismiss Plaintiff's Second Amended Complaint, Paragraph B, Subparagraph 1-2 Lines 1-12.

F. Pro Se Plaintiff Jerico Matias Cruz denies Defendants Discover Financial Services, Inc. et al.'s second legal argument for citing only race as a protected class or category because pro se Plaintiff Jerico Matias Cruz's second amended complaint specifically argues with each protected category or class, whether pro se Plaintiff

Jerico Matias Cruz is discriminated under ECOA and ECOA-Reg B's protected categories or classes. *See* Defendants Discover Financial Services, Inc. et al.'s Motion to Dismiss Plaintiff's Second Amended Complaint, Paragraph B, Subparagraph 1-3 Lines 1-9.

G. Pro Se Plaintiff Jerico Matias Cruz denies Defendants Discover Financial Services, Inc. et al.'s second legal argument about the account closure without alleging facts with pro se Plaintiff Jerico Matias Cruz's protected categories or classes in the second amended complaint. *See* Defendants Discover Financial Services, Inc. et al.'s Motion to Dismiss Plaintiff's Second Amended Complaint, Paragraph B, Subparagraph 1-4 Lines 1-8.

H. Pro Se Plaintiff Jerico Matias Cruz denies Defendants Discover Financial Services, Inc. et al.'s second legal argument about pro se Plaintiff Jerico Matias Cruz's second amended complaint fails to allege facts without establishing all the elements of a civil contract. *See* Defendants Discover Financial Services, Inc. et al.'s Motion to Dismiss Plaintiff's Second Amended Complaint, Paragraph B, Subparagraph 2-1 Lines 1-8.

i. Pro Se Plaintiff Jerico Matias Cruz's second amended complaint alleges with well-pleaded facts of his breach of contract against

Defendants Discover Financial Services, Inc. et al. by establishing the Discover It's Acceptance of the Card Agreement and other prima facie evidence attached with the second amended complaint's Exhibits, as required by Fed. R. Civ. P. 8 and 10.

I. Pro Se Plaintiff Jerico Matias Cruz denies Defendants Discover Financial Services, Inc. et al.'s second legal argument whether unauthorized account closure of Discover It's Acceptance of Card Agreement is a breach of contract from pro se Plaintiff Jerico Matias Cruz's second amended complaint. *See* Defendants Discover Financial Services, Inc. et al.'s Motion to Dismiss Plaintiff's Second Amended Complaint, Paragraph B, Subparagraph 2-2 Lines 1-9.

i. Pro Se Plaintiff Jerico Matias Cruz accepts the offer of Defendants Discover Financial Services, Inc. et al. upon receiving the Discover It's Personal Credit Card via USPS, as required by federal mailbox rule, and upon activating Discover It within thirty (30) days upon acceptance, as required by Acceptance of Card Agreement.

ii. Therefore, pro se Plaintiff Jerico Matias Cruz's second amended complaint alleges with well-pleaded facts that Defendants

Discover Financial Services, Inc. et al. violates Discover It's Acceptance of Card Agreement.

J. Pro Se Plaintiff Jerico Matias Cruz denies Defendants Discover Financial Services, Inc. et al.'s second legal argument with the second amended complaint about the unauthorized account closure of Discover It's Personal Credit Card has not incurred serious damage to pro se Plaintiff Jerico Matias Cruz's financial and credit history. *See* Defendants Discover Financial Services, Inc. et al.'s Motion to Dismiss Plaintiff's Second Amended Complaint, Paragraph B, Subparagraph 2-3 Lines 1-7.

i. Defendants Discover Financial Services, Inc. et al.'s unauthorized account closure of Discover It has a long-term effect on pro se Plaintiff Jerico Matias Cruz's credit history.

ii. Defendants Discover Financial Services, Inc. et al.'s unauthorized account closure of Discover It destroys pro se Plaintiff Jerico Matias Cruz's ability to borrow, whether for personal or business purposes.

iii. Defendants Discover Financial Services, Inc. et al.'s unauthorized account closure of Discover It impedes or limits pro se Plaintiff Jerico Matias Cruz to transact with credit but

with high interest rate or the ability to borrow is costly or expensive.

iv. Therefore, Defendants Discover Financial Services, Inc. et al.'s unauthorized account closure of Discover It will continue to affect pro se Plaintiff Jerico Matias Cruz creditworthiness for more than five (5) years or this unauthorized account closure will stay for up to seven (7) years before the credit reporting agencies or bureaus permanently remove it from pro se Plaintiff Jerico Matias Cruz's credit file.

K. Pro Se Plaintiff Jerico Matias Cruz denies Defendants Discover Financial Services, Inc. et al.'s third legal argument that pro se Plaintiff Jerico Matias Cruz's second amended complaint is an updated version of his original complaint and first amended complaint. *See* Defendants Discover Financial Services, Inc. et al.'s Motion to Dismiss Plaintiff's Second Amended Complaint, Paragraph C, Subparagraph 3-1 Lines 1-10.

L. Pro Se Plaintiff Jerico Matias Cruz denies Defendants Discover Financial Services, Inc. et al.'s third legal argument about a creditor has a privilege to close a debtor's account without permission from the debtor, while both creditor and debtor are exclusively under

contract, for instance, Discover It's Acceptance of Card Agreement. See Defendants Discover Financial Services, Inc. et al.'s Motion to Dismiss Plaintiff's Second Amended Complaint, Paragraph C, Subparagraph 3-2 Lines 1-11.

i. Pro Se Plaintiff Jerico Matias Cruz accepts the offer of Defendants Discover Financial Services, Inc. et al. upon receiving the Discover It's Personal Credit Card, which satisfy the federal mailbox rule and upon activating Discover It within thirty (30) days, which satisfy the Discover It's Acceptance of Card Agreement.

ii. Therefore, Defendants Discover Financial Services, Inc. et al. breaches the contract.

CONCLUSION

WHEREFORE, pro se Plaintiff Jerico Matias Cruz prays to the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division and Honorable Jeremy C. Daniel, Judge, Presiding, to grant pro se Plaintiff Jerico Matias Cruz's response to Defendants Discover Financial Services, et al.'s motion to dismiss for failure to state a claim of pro se Plaintiff Jerico Matias Cruz's second amended complaint pursuant to Fed. R. Civ. P. 7(a)(7) and 12 CFR Section 202.1(b).

I, pro se Plaintiff Jerico Matias Cruz, declare under the penalty of perjury
the foregoing is true and correct.

Dated: December 10, 2023

/s/ Jerico Matias Cruz
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