

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

DISCOVER BANK,	:	
	:	Civil Action No. C2-3-686
Plaintiff,	:	
	:	Judge Gregory L. Frost
-against-	:	
	:	Magistrate Judge Mark R. Abel
NEW VISION FINANCIAL, LLC.,	:	
	:	
Defendant.	:	

PLAINTIFF DISCOVER BANK'S MOTION TO DISMISS
DEFENDANT NEW VISION FINANCIAL, LLC'S AFFIRMATIVE
DEFENSES AND COUNTERCLAIMS, AND FOR PARTIAL
JUDGMENT ON THE PLEADINGS

Now comes Plaintiff Discover Bank, by and through its undersigned counsel, and hereby respectfully submits its Motion to Dismiss Defendant New Vision Financial, LLC's Affirmative Defenses and Counterclaims contained in its Answer and Counterclaims pursuant to F.R.Civ.P. 12(b)(6) for failure to state a claim and for Partial Judgment on the Pleadings in favor of Discover Bank on the issue of liability pursuant to F.R.Civ.P. 12(c).

This Motion is more fully supported by the Memorandum of Law which is being filed simultaneously herewith.

Respectfully submitted,

s/ Craig A. Smith
Craig A. Smith (0012443)
Attorney for Plaintiff
GAMBLE HARTSHORN JOHNSON, LLC
One East Livingston Avenue
Columbus, Ohio 43215-5700
(614) 221-0922
(614) 365-9741 – Fax
E-mail: smith@ghjlaw.com

Of Counsel:

JAFFE & ASHER LLP
600 Third Avenue, 9th Floor
New York, New York 10016
(212) 687-3000

CERTIFICATE OF SERVICE

I hereby certify that on March 12, 2004, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: Rodney A. Holaday, raholaday@vssp.com, and I hereby certify that I have mailed by United States Postal Service the document to the following nonCM/ECF participants: E. Scott Dosek, Kutak Rock LLP, 8601 North Scottsdale Road, Suite 300, Scottsdale, AZ 85253, and Ira N. Glauber and Mark H. Moore, Jaffe & Asher LLP, 600 Third Avenue, New York, NY 10016.

s/Craig A. Smith
Craig A. Smith (Bar No. 0012443)
Attorney for Plaintiff
GAMBLE HARTSHORN JOHNSON, LLC
One East Livingston Avenue
Columbus, Ohio 43215-5700
(614) 221-0922
(614) 365-9741 – Fax
E-mail: smith@ghjlaw.com