

Alabama

Open Accounts—three years, Ala. Code § 6-2-37(1)

Account Stated, Breach of Contract and Money Had and Received—six years, Ala. Code § 6-2-34(4)-(5), (9)

Sale of goods—four years, Ala. § 7-2-725

Cases Interpreting Statute of Limitations

Alabama courts have various conflicting decisions on whether credit card accounts are subject to the three year or six year limitations period.

At least two courts have ruled that when a party cannot produce a contract “signed” by the debtor, the three year limitations period applies. *Thomas v. American Exp. Bank*, 2013 WL 3967673 (Ala. Civ. App. 2013); *Midland Funding LLC v. Brown*, Circuit Court of Mobile County, Alabama, Case No. CV-2015-900026.00 (April 10, 2015).

Other Alabama courts have split on whether a credit card account is an “account stated,” falling within the six year limitations period or an “open account” subject to a three year limitations period. *Ayers v. Cavalry SVP I, LLC*, 876 So.2d 474, 478 (Ala. Civ. App. 2003)(open account); *In re Pritchett*, No. 06-40077-JJR-13, 2006 WL 3103161, at *1 (Bankr. N.D. Ala. Oct. 26, 2006)(account stated).

An account stated claim can be proved by evidence of the rendering of a statement to the debtor and the debtor’s admission to the correctness of the statement. The debtor’s admission may be express or implied. An implied admission is demonstrated where the creditor provided evidence that the debtor incurred the debt and then made payments against it for four years without objection. *Cook v. Midland Funding, LLC*, No. 2140786, 2016 Ala. Civ. App. LEXIS 118 (Civ. App. May 13, 2016) citing *University of South Alabama v. Bracy*, 466 So. 2d 148, 150 (Ala. Civ. App. 1985).

Debt buyer’s affidavit outlining purchase or defaulted credit card accounts is sufficient to establish business records exception to hearsay rule. *Cook v. Midland Funding, LLC*, No. 2140786, 2016 Ala. Civ. App. LEXIS 118 (Civ. App. May 13, 2016)

proved the debtor where the debtor borrower

Borrowing Statute

§ 6-2-17. Foreign statutes of limitations.

“When the statute of limitations of another state or foreign country has created a bar to an action upon a contract made or act done in such state or country while the party sought to be charged thereby was a resident of such state or country, the bar thus created is effectual in this state against any action commenced thereon in the same manner it would have been in the state or country where the act was done or contract made.”

The information provided in this document is for educational purposes and is not legal advice.

Last updated May 19, 2016