IN THE COURT OF COMMON PLEAS FOR THE STATE OF DELAWARE IN AND FOR NEW CASTLE COUNTY

PAUL J. MRAZ,	)	
	)	
Mraz,	)	
	)	
v.	)	C.A. No.: CPU4-25-000177
	)	
WELLS FARGO BANK, N.A.,	)	
	)	
Wells Fargo.	)	
	)	

MEMORANDUM OPINION

Wells Fargo Bank, N.A., (hereinafter "Wells Fargo") brings this Motion in accordance with Court of Common Pleas Civil Rule 12(b)(6) to dismiss this matter for Paul J. Mraz's (hereinafter "Mraz") failure to state a claim upon which relief can be granted. The Court conducted a hearing on Wells Fargo's motion on June 6, 2025. On June 9, 2025, the Court received Mraz's Motion to Amend.[1] Thereafter, Wells Fargo responded to Mraz's Motion to Amend on June 26, 2025, after which the Court took this matter under advisement. For the reasons that follow, Wells Fargo's Motion is hereby **GRANTED** and Mraz's Motion is **DENIED AS MOOT.**

[1] Mraz's Motion to Amend was regarding changing the dates of the transfer in his Complaint. However, as these dates do not affect the outcome of the analysis, Mraz's Motion is moot.

I. FACTS

On January 16, 2025, Mraz filed a Complaint against Wells Fargo, alleging that it failed to honor an Automated Clearing House transfer ("ACH") of $2,000.00 to ABRA[2] to purchase 0.017307918 of Bitcoin (BTC). The ACH transfer order was made on October 16, 2020. Mraz contends that Wells Fargo's failure to honor the ACH order violated South Dakota's Uniform Commercial Code (the "UCC").[3] Mraz seeks damages based on alleged lost opportunities to purchase BTC and the loss of instant credit privileges in his crypto account. Service was perfected upon Wells Fargo on January 28, 2025. Wells Fargo filed this instant Motion on March 5, 2025.

In its Motion, Wells Fargo raises several arguments. First, Wells Fargo argues that Mraz fails to reference any specific statute to support his claim. Second, Wells Fargo claims that under Delaware's UCC, Articles 4 and 4A, Mraz's claim is time-barred.[4] Third, Wells Fargo contends that, should South Dakota law be controlling, Delaware's statute of limitations applies when hearing claims within its jurisdiction. Finally, Wells Fargo alleges that if South Dakota's statute of limitations is applicable, Mraz's claim still fails because South Dakota law imposes a similar statute of

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[2] ABRA is a digital asset services company that provides a platform for various financial activities related to cryptocurrencies.

[3] In his Complaint, Mraz did not provide any specific South Dakota statute that controlled this matter.

[4] Wells Fargo alleges that ACH claims fall under UCC Article 4A, specifically 6 Del. C. §4A-505, which has one year statute of limitations. Conversely, Wells Fargo contends that if this claim falls under the general banking statute, 6 Del. C. § 4-111, there is a three-year statute of limitations. Either way, Mraz's claim would be time barred under Delaware law.

limitations under Articles 4 and 4A. Therefore, Wells Fargo requests that the Court dismiss Mraz's Complaint.

On March 24, 2025, Mraz filed a Motion in Opposition to Wells Fargo's Motion to Dismiss. In his Opposition Motion, Mraz contends that South Dakota law governs the dispute because of an agreement between the parties, the Online Access Agreement (the "OAA"), which designates South Dakota law as controlling. Further, Mraz contends that the correct South Dakota statute that governs this dispute is SDCL § 57A-4-402, which has a statute of limitations of six years.[5] Mraz also alleges that the OAA provides that Article 4A of the UCC only applies to Business Accounts, and his account with Wells Fargo is a consumer account; therefore, Article 4A does not apply. Thus, Mraz alleges that his claim is not time-barred by the statute of limitations.

On April 8, 2025, Wells Fargo filed a reply brief to Mraz's Opposition Motion, which included the Deposit Account Agreement (the "DAA").[6] In its reply, Wells Fargo maintains that the correct agreement that governs this matter is the DAA. Wells Fargo argues that the DAA designates Delaware law as controlling. The DAA states explicitly that the laws that govern are the "[l]aws of the state where you

[5] SDCL § 57A-3-118.
[6] Defendant sought leave of the Court before filling said motion, which was granted.

opened your account (without regard to conflict of laws principles)."[7] Thus, Mraz's claim is time-barred under Delaware law.

On June 8, 2025, the Court held a hearing on Wells Fargo's Motion. The hearing focused solely on determining whether Delaware or South Dakota law governed the controversy, which would then establish the applicable statute of limitations. Wells Fargo argued that the DAA governs because it specifically states "[i]n addition to the other terms in the Agreement, the following terms and conditions apply to payments to or from your account that you transmit through an ACH."[8] At the same time, the OAA covers online access, Wells Fargo online, business online, Wells Fargo mobile, and Wells Fargo advisors online services, but not ACH transfers with Wells Fargo.

On the other hand, Mraz contended that when two agreements are applicable, the DAA yields to the OAA. He specifically cites the DAA, which states that when a service is offered with a separate agreement, "and there is a conflict between the terms of the [DAA] and the separate agreement, the separate agreement will apply."[9] He also cites the OAA, which states that it "will control and take precedence in resolving any inconsistencies between [the OAA] and the terms in the other

[7] Def. Rep. Br., Ex. 1, at 9.
[8] Def. Rep. Br., Ex. 1, at 58.
[9] Def. Rep. Br., Ex. 1, at 9.

agreement that address the Online Access Process."[10] Mraz avers that since there is a conflict between the two agreements governing law provisions, the OAA controls, and South Dakota law governs. Mraz further claims that if South Dakota law controlled, Delaware's procedural law would not apply, meaning South Dakota law, not Delaware's, would govern the statute of limitations.

Moreover, Mraz claims that since these agreements are contracts of adhesion, any ambiguity should be resolved against Wells Fargo and in his favor. Mraz avers that the very term OAA implied electronic fund transfers. Mraz also asserted that he never opened an account with Wells Fargo; instead, he opened an account with Wachovia while he was a resident of Maryland. Wells Fargo subsequently bought his account with Wachovia on December 31, 2008, while he was a resident of Delaware.

II. DISCUSSION

This Motion was filed as a 12(b)(6) motion to dismiss; however, since the parties relied on documents outside the complaint, the Court is free to reject the extraneous documents or convert the Motion to one for Summary Judgment.[11] Where, as here, the documents are integral to the claims and the truth of the contents

[10] Pl. Mot. to Strike Pleadings, Ex. A, at 8.
[11] *Doe 30's Mother v. Bradley*, 58 A.3d 429, 444 (Del. Super. 2012). *See also, Two Farms Inc. v. Davis, Bowen & Friedel, Inc.*, 2018 WL 2714796, at *2 (Del. Super. June 4, 2018).

of the documents is not the subject of the dispute, the Court may consider the documents without converting the Motion to one for Summary Judgment.[12]

In this case, Mraz references the "use agreement"[13] without attaching this document. Mraz includes a part of the OAA in his Opposition Motion. [14] Thereafter, Wells Fargo attached the DAA in its Response Motion.[15] In response to Mraz's Motion to Strike, Wells Fargo responded with a full copy of the OAA attached.[16] Both parties relied on these documents to support their statute of limitations arguments.[17]

The Court sees neither document as dispositive. Accordingly, the Court will treat the Motion as one to Dismiss pursuant to Rule 12(b)(6). When considering a motion to dismiss, all well-pled facts in the complaint must be assumed to be true.[18] If the plaintiff is not "entitled to recover under any reasonably conceivable set of

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[12] *Windsor I, LLC. V. CWCapitol Asset Management LLC, 238 A.3d 863, 872 (2020)*; *Two Farms Inc. v. Davis, Bowen & Friedel, Inc.*, 2018 WL 2714796, at *2 (Del. Super. June 4, 2018).
[13] Pl. Compl., ¶ 5, at 1.
[14] Pl. Mem. Opposing Def. Mot. Dismiss, Ex. A.
[15] Def. Reply Pl. Opp'n Mot. Dismiss, Ex. A.
[16] Def. Opp'n Pl. Mot. to Strike Pleadings, Ex. A.
[17] Although the parties did not argue that this Motion should be converted to a motion for summary judgment, the Court, at length, considered and determined that the OAA and DAA were not being used for the truth of the matter asserted. *In re Santa Fe Pacific Corp. S'holder Litig.*, 669 A.2d 59, 69 (Del. 1995). While affidavits were also attached to Wells Fargo's Reply to Mraz's Opposition Motion, the Court did not consider them in reaching its decision. Notably, had the Court converted this Motion to one for summary judgment, the outcome would have been the same.
[18] *Battista v. Chrysler Corp.*, 454 A.2d 286, 287 (Del. Super. 1982).

circumstances susceptible to proof," the complaint is subject to dismissal under CCP Rule 12(b)(6).[19]

Here, the parties, through their pleadings, arguments, and briefs have complicated what appears to the Court to be a relatively straightforward issue regarding whether the Court should apply Delaware or South Dakota law for the purposes of the statute of limitations.[20] Wells Fargo argues Delaware is correct because the DAA governs and the DAA applies explicitly to the ACH transfers at issue.[21] Mraz argues that the OAA governs because, by its terms, the OAA takes precedence over any subordinate agreement, which means South Dakota law controls.[22]

The issue of which document governs is inapposite to the determination of which state's statute of limitations applies. Even if these documents dictate that another state's substantive law will determine the parties' rights, the courts must apply the forum state's statute of limitations.[23] This is in conformity with the principle that the procedural laws of the forum state, Delaware, typically govern.[24]

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[19] *Id.*
[20] While the Court finds Delaware law applies, even if the Court applied South Dakota's statute of limitations, the outcome is unaffected as neither Article 3 nor Article 4 applies to Mraz's claim.
[21] Def. Rep. Br., Ex. 1, at 58.
[22] *See* Def. Opp'n Pl. Mot. to Strike Pleadings, Ex. A., at 8.
[23] *Pivotal Payments Direct Corp. v. Planet Payment, Inc.*, 2015 WL 11120934, at *3 (Del. Super. Dec. 29, 2015).
[24] *Id.*

There is one key exception. If the choice of law provision in an agreement "expressly includes" a reference to the statute of limitations, the choice of law provision would also dictate which statute of limitations applies.[25] Absent such an express provision, the forum state statute of limitations applies.[26]

Therefore, the Court reviewed the DAA and the OAA for the limited purpose of determining if either document explicitly includes a reference to a statute of limitations. The DAA contains a provision that disputes are governed by the laws of the state in which the agreement was formed,[27] while the OAA contains a provision that applies South Dakota law to disputes arising under the agreement.[28] Neither makes any reference to an applicable statute of limitations. As such, Delaware's statute of limitations applies, and Marz's complaint must be dismissed.

The Court is not convinced that the UCC applies to ACH transfers such as those at issue here; however, since the parties exerted considerable effort in strenuously arguing which section of the UCC applies, the Court will address the issue. The parties did not provide, nor did the Court find any Delaware case law on point. The Court is persuaded by the Third Circuit's analysis on whether Article 3

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[25] *Id.*
[26] *Id.*
[27] Def. Reply Pl. Opp'n Mot. Dismiss, Ex. A., at 9.
[28] Def. Opp'n Pl. Mot. to Strike Pleadings, Ex. A., at 50.

and Article 4 apply to ACH transfers.[29] The Third Circuit concluded that Article 3 governs negotiable instruments.[30] The Court reasoned that ACH transfers are not negotiable instruments since they are not a signed writing.[31] The Circuit Court also found that "Article 4 does not contemplate electronic withdrawals and was meant to apply only to traditional written instruments, rather than electronic means of transferring and withdrawing funds."[32] The Third Circuit is not the only court that has reached these conclusions.[33] For the well-reasoned opinion expressed in *Binns*, the Court finds that neither Article 3 nor Article 4 applies.

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[29] *Burkhart v. Genworth Financial, Inc.*, 275 A.3d 1259, 1272 n. 68 (Del. Ch. 2022) ("Delaware courts may look to other states when interpreting uniform acts, particularly when there is no guidance from Delaware courts.").

[30] *Binns*, 803 Fed. Appex. 618, 621.

[31] *Binns*, 803 Fed. Appex. 618, 621. *See also* SDCL § 57A-3-104, cmt. 1 ("An instrument is a 'promise'… [a] promise is a *written* undertaking to pay money *signed* by the person undertaking to pay.") (emphasis added); 6 Del. C. § 3-104, cmt. 1 ("An instrument is a 'promise'… [a] promise is a *written* undertaking to pay money *signed* by a person undertaking to pay.") (emphasis added); *Cumis Ins. Soc., Inc. v. Munoz*, 1996 WL 496982, at *3 (D. D.C. 1996) ("Article 3 of the U.C.C., which contains the provisions relied on by the Mraz, limits its coverage to signed negotiable instruments, and thus by its own terms does not apply to electronic transfers."); *Shawmut Worcester County Bank v. First American Bank & Trust*, 731 F.Supp. 57, 63 (D. Mass. 1990) ("An electronic funds transfer is not within Article 3 of the Uniform Commercial Code because it is not a signed negotiable instrument.").

[32] *Binns v. Truist Bank*, 803 Fed. Appex. 618, 621 (3rd Cir. 2020); *Hospicomm, Inc. v. Fleek Bank, N.A.*, 338 F.Supp.2d 578, 586 (E.D. Pa. 2004); *Marrow v. Bank of America, N.A.* 2021 WL 2627702, at *11 (Md. Ct. Spec. App. June 25, 2021).

[33] *See Delbrueck & Co. v. Mfr. Hanover Trust Co.*, 609 F.2d 1047, 1051 (2nd Circ. 1979) ("The Uniform Commercial Code ('UCC') is not applicable to this case because the UCC does not specifically address the problems of electronic funds transfer); *Bradford Trust Co. of Boston v. Texas American Bank-Houston*, 790 F.2d 407, 409 (5th Circ. 1986) (holding that the Uniform Commercial Code does not apply to wire transfers); *Evra Corp. v. Swiss Bank Corp.*, 673 F.2d 951, 955 (7th Cir. 1982) (holding U.C.C. inapplicable because wire transfers were not in the drafters' contemplation); *Hospicomm, Inc. v. Fleek Bank, N.A.*, 338 F.Supp.2d 578, 586 (E.D. Pa. 2004) ("By its very definitions … Article 4 does not contemplate electronic withdrawals."); *Mellon Bank, N.A. v. Sec. Settlement Corp.*, 710 F.Supp. 991, 992 (D. N.J. 1989); *Shawmut Worcester Cnty. Bank v. First American Bank & Trust*, 731 F.Supp. 57, 62 (D. Mass. 1990) ("The Circuits that have

The Defendant asserts that Article 4A of the UCC applies to ACH transfers. The Court need not reach this issue. While the Court is not persuaded that Article 4A, SDCL § 57A-4A-505, applies to the ACH transfer issue, Article 4A's statute of limitations, 20 Del. C. § 8106(a), is 3 years. Thus, Plaintiff's claim would be time barred under Article 4A, regardless.

As Marz's claims under the UCC fail, Marz's claim is for a breach of contract. Delaware's statute of limitations for a breach of contract, 20 Del. C. § 8106(a), is 3 years. Therefore, Mraz's claim would be time-barred under this theory as well.

Since Mraz fails to allege facts which could, under any conceivable set of circumstances, allow him to recover, the Court must decide in favor of Wells.

IT IS HEREBY ORDERED that Wells Fargo's Motion to Dismiss is **GRANTED** and Mraz's Motion to Amend is **DENIED AS MOOT**.

IT IS SO ORDERED on this 14th day of August 2025.

The Honorable Carl C. Danberg
Chief Judge

considered the matter have uniformly concluded that the Uniform Commercial Code does not apply to Electronic Funds Transfers."); *Cumis Ins. Soc., Inc. v. Munoz*, 1996 WL 496982, at *3 (D. D.C. 1996) ("The overwhelming majority of courts that have considered this issue have refused to apply the U.C.C. to … electronic funds transfer. The Court aggress that the U.C.C. … does not govern such electronic transfers.") *Marrow v. Bank of America, N.A.* 2021 WL 2627702, at *11 (Md. Ct. Spec. App. June 25, 2021) ("By its terms … Article 4 does not apply to electronic-funds."); *Sinclair Oil Corp. v. Sylvan State Bank*, 869 P.2d 675, 680-681 (Ka. 1994) ("We conclude that Article 4 of the Kansas UCC [does] not cover electronic fund transfer debit transactions.").