

03-540-CD  
CITIBANK (SOUTH DAKOTA) vs. MARGARET S. SMEAL

BURTON NEIL & ASSOCIATES, P.C.  
By: Burton Neil  
Identification No. 11348  
26 South Church Street  
West Chester, PA 19382  
610-696-2120  
Attorney for Plaintiff

CITIBANK (SOUTH DAKOTA) N.A.  
701 EAST 60TH STREET NORTH  
SIOUX FALLS, SD

Plaintiff

: IN THE COURT OF COMMON PLEAS

: CLEARFIELD COUNTY, PENNSYLVANIA

v.

MARGARET S SMEAL  
80 MAPLE STREET  
RAMEY, PA

Defendant

: NO. 03-540-40

: CIVIL ACTION - LAW

**COMPLAINT  
NOTICE**

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claim set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

**YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.**

LAWYER REFERENCE AND  
INFORMATION SERVICE

Court Administrator

Clearfield County Courthouse,  
Clearfield, PA 16830  
814-765-2641

**FILED**

APR 11 2003

10020.034.3338

William A. Shaw  
Prothonotary

BURTON NEIL & ASSOCIATES, P.C.  
By: Burton Neil  
Identification No. 11348  
26 South Church Street  
West Chester, PA 19382  
610-696-2120  
Attorney for Plaintiff

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CITIBANK (SOUTH DAKOTA) N.A.  
701 EAST 60TH STREET NORTH  
SIOUX FALLS, SD

Plaintiff

: IN THE COURT OF COMMON PLEAS

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: NO.

MARGARET S SMEAL  
80 MAPLE STREET  
RAMEY, PA

Defendant

: CIVIL ACTION - LAW

### **Complaint**

1. The plaintiff is Citibank (South Dakota) N.A., with place of business located at 701 EAST 60TH STREET NORTH, SIOUX FALLS, SD.
2. The defendant is MARGARET S SMEAL, who resides at 80 MAPLE STREET, RAMEY, CLEARFIELD County, Pennsylvania.
3. At the defendant's request, plaintiff issued the defendant a credit card with account number 5491130343587614 for the defendant's use in making credit purchases and securing cash advances subject to the terms and conditions governing the use of the credit card. Attached hereto, made a part hereof and marked Exhibit A is a true and correct copy of the terms and conditions.
4. The defendant accepted the credit card and the terms and conditions governing its use for the purchase of goods, merchandise and services and/or cash advances from vendors who accepted plaintiff's credit card. In using the credit card, the defendant agreed to comply with the terms and conditions governing its use which included the obligation to pay plaintiff for all the charges made in full upon receipt of the statement or in installments subject to monthly finance charges.
5. The defendant utilized the credit card by making/obtaining purchases of goods, merchandise and services and/or cash advances from vendors who accepted the credit card. Monthly statements were sent to the defendant which detailed the charges made to the account including finance charges, late and/or over limit charges. The balance due for the charges made by the defendant including any finance charges, late or over limit charges is \$3,763.14.

6. Defendant did not pay the balance due in full upon receipt of the billing statements and failed to make the required minimum monthly payment set forth in the the billing statement. As such, defendant is in default of the terms and conditions governing the use of the credit card.

7. Although demand has been made by plaintiff upon defendant to pay the sum of \$3,763.14, the defendant failed and refused to pay all or any part thereof.

8. Plaintiff alleges it is entitled to recovery of attorney's fees from defendant pursuant to the terms and conditions governing the account. Plaintiff's counsel is not a salaried employee of Citibank (South Dakota) N.A. Plaintiff seeks recovery of attorney fees in the sum of \$715.00.

WHEREFORE, plaintiff demands judgment against the defendant in the sum of \$3,763.14, attorneys fees in the sum of \$715.00 and the costs of this action.

BURTON NEIL & ASSOCIATES, P.C.

By:   
Burton Neil, Esquire  
Attorney for Plaintiff

In making this communication, we advise our firm is a debt collector.

## Citibank Card Agreement

This agreement and the accompanying letter are your Citibank Card Agreement. The letter contains important account information, including the annual percentage rate and the amount of any membership fee. Please read and keep both the letter and this Agreement for your records. This Agreement is binding on you unless you cancel your account within 30 days after receiving the card and you have not used or authorized use of your account.

To simplify the rest of this Agreement for you, the following definitions will apply. The words *you*, *your*, and *yours* mean the person responsible for this Agreement, to whom we direct the billing statement. The word *card* means one or more cards which we have issued with your account number. The words *we*, *us*, and *our* mean Citibank (South Dakota) N.A. The words *authorized user* mean any person to whom you give permission to use your account. The words *Citizen checks* mean one or more checks that we may provide for you to obtain a cash advance. The words *Balance Transfer checks* mean one or more checks that we may provide for you to obtain a balance transfer. Balance transfers will be treated as purchases for all purposes, except as otherwise described in this Agreement.

### Using Your Account and Your Credit Line:

The card must be signed to be used. Your initial signature appears on the accompanying letter. A portion of your credit line, called the cash advance limit, is available for cash advances. At our discretion and at any time, we may change your credit line or cash advance limit. We will notify you if we do, either by mail or through the billing statement sent either before or after the changes take effect. You may request a change to your credit line or cash advance limit by contacting Customer Service by telephone or mail.

The full amount of your credit line is available to buy or lease goods or services wherever the card is honored. Your cash advance limit is available for cash through any bank or automated teller machine that accepts the card or by using Citibank checks. The total amount charged on your account, including purchases, balance transfers, cash advances, finance charges, fees, or other charges, must always remain below your credit line. However, if the total amount exceeds your credit line you must still pay us. Your card must only be used for lawful transactions.

### Additional Cards

You may request additional cards on your account for yourself or others and you may permit another person to have access to the card or account number. However, if you do, you must pay us for all charges made by those persons, including charges for which you may not have intended to be responsible. You must notify us to revoke permission for any person you previously authorized to use your account. If you tell us to revoke another person's use of your account, we may close the account and issue a new card or cards with a different account number. You are responsible for the use of each card issued on your account according to the terms of this Agreement.

### Membership Fee

The accompanying letter indicates whether your account is subject to a membership fee. If it is, the fee is added to the purchase balance and is non-refundable unless you notify us to cancel your account within 30 days from the mailing date of the billing statement on which the fee is billed.

### Billing:

Your billing statement shows the balance, any finance charges, fees, the minimum payment, and the payment due date. It also shows your current credit line and cash advance limit; an itemized list of current charges, Citibank checks, payments and credits; a summary showing separately the purchase and cash advance balances, and finance charges assessed on each balance; and other important information. If you default under this Agreement, we may, in our sole discretion, stop sending you billing statements if we deem your account uncollectible or if we institute delinquency collection proceedings by sending it to an outside collection agency or attorney for collection.

You must notify us of a change in your address by contacting Customer Service by telephone or mail. We will mail or deliver the billing statement to only one mailing address.

### How We Determine the Balance:

The total outstanding balance (the amount you owe us) appears as the "New Balance" on the billing statement. To determine the New Balance, we begin with the outstanding balance on your account at the beginning of each billing period, called the "Previous Balance" on the billing statement. We add any purchases and cash advances and subtract any payments and credits

that we receive. We then add the appropriate finance charges and fees and make other applicable adjustments.

### Annual Percentage Rates for Purchases and Cash Advances:

Your annual percentage rates and any corresponding daily or monthly periodic rates appear on the accompanying letter. A daily periodic rate is the applicable annual percentage rate divided by 365. A monthly periodic rate is the applicable annual percentage rate divided by 12. Whether or not an annual percentage rate is variable is indicated on the accompanying letter. Please see the section entitled "Variable Annual Percentage Rates for Purchases and Cash Advances" for details relating to how these rates may change, including if you default under any Citibank Card Agreement.

**Variable Annual Percentage Rates for Purchases and Cash Advances:** If the annual percentage rate for purchases is based on the U.S. Prime Rate plus a margin, we will calculate the rate by adding the applicable margin to the U.S. Prime Rate published in *The Wall Street Journal*. Whether or not the U.S. Prime Rate is reviewed on a quarterly or monthly basis is indicated on the accompanying letter. If it is reviewed quarterly, it is reviewed on the third Tuesday of March, June, September, and December of each year. If the third Tuesday is a holiday, we will use the U.S. Prime Rate published the next day. If it is reviewed monthly, it is reviewed on the last business day of each month. If more than one U.S. Prime Rate is published, we may choose the highest rate. If *The Wall Street Journal* ceases publication or to publish the U.S. Prime Rate, we may use the U.S. Prime Rate published in any other newspaper of general circulation, or we may substitute a similar reference rate at our sole discretion. Each time the annual percentage rate changes, we will apply it to any existing balances, subject to any promotional rate that may apply.

In addition, the annual percentage rate for purchases and cash advances may vary if you default under any Citibank Card Agreement because you fail to make a payment to us or any other creditor when due, you exceed your credit line, or you make a payment to us that is not honored by your bank. In such circumstances, we may increase the ANNUAL PERCENTAGE RATE (including any promotional rate) on all balances to a higher rate of up to the rate indicated on the accompanying letter. Factors considered in computing this higher rate may include the length of time the account has been open, the existence, seriousness, and timing of Citibank Card account delinquency, and other indications of account usage and dominance. Your account may again become eligible for a lower annual

percentage rate on new purchases, new cash advances, or both after you have met the terms of all Citibank Card Agreements for six months. Your existing balances will remain subject to the higher rate until they are paid in full.

Any increase or decrease in a variable annual percentage rate takes effect on the first day of the billing period directly following the month in which we calculate the rate. The annual percentage rate in effect and any subsequent changes to it will appear on the billing statement. An increase in the variable annual percentage rate means you will pay a higher finance charge and perhaps a higher minimum payment.

### Promotional Rate Offers:

At our discretion, we may offer you a promotional annual percentage rate for all or a part of the purchase and/or cash advance balances. The period of time for which the promotional rate applies may be limited. Any promotional rate, the corresponding periodic rates, and the period of time during which it is in effect will appear on the accompanying letter. We may also offer you a promotional annual percentage rate to encourage specific transactions, such as transferring balances from accounts you have with others. Any promotional rate offer will be subject to the terms of the offer and this Agreement.

### Finance Charges:

Finance charges will begin to accrue from the date of the transaction for purchases and continue to accrue until payment in full is credited to your account. However, if you paid the total New Balance, if any, listed on the last billing statement by the payment due date on that statement you will have until the payment due date on your current statement to pay your total New Balance to avoid imposition of finance charges on purchases. For cash advances and balance transfers, finance charges will begin to accrue from the date of the transaction and continue to accrue until payment in full is credited to your account.

### We will calculate finance charges as follows:

We figure a portion of the finance charge on your account by multiplying the daily balance for purchases and the daily balance for cash advances by the applicable daily periodic rate and adding together any such finance charges for cash advances for each day in the billing period.

For finance charge calculation purposes, the billing period begins on the day after the Statement Closing Date of the previous billing period and

#### Late Fee

We may add a fee to the purchase balance for each billing period you fail to make the minimum payment by its due date. If we do, the amount of this fee appears on the accompanying letter.

#### Returned Payment Fee

We may add a fee to the purchase balance when a payment check or similar instrument is not honored, when we must return it because it cannot be processed, or when an automatic debit is returned unpaid. If we do, the amount of this fee appears on the accompanying letter. At our option, we will assess this fee the first time your check is not honored, even if it is honored upon resubmission.

#### Citibank Checks:

Citibank checks may be used to purchase goods and services or to obtain cash up to the amount of your available cash advance limit unless that amount will cause the balance to exceed your credit line. We will treat Citibank checks as a cash advance and charge them against your cash advance limit. Each Citibank check must be in the form we have issued and must be used according to any instructions we give you. Citibank checks may be used only by the person whose name is printed on them. Citibank checks may not be used to pay any amount owed to us under this or any other Citibank Card Agreement. We will not certify any Citibank checks, nor will we return paid Citibank checks.

#### Balance Transfer Checks:

Balance Transfer checks may be used to transfer balances from others or to obtain funds up to the amount of your available credit line. Each Balance Transfer check must be in the form we have issued and must be used according to any instructions we give you. Balance Transfer checks may not be used to pay any amount owed to us under this or any other Citibank Card Agreement. We will not certify any Balance Transfer checks, nor will we return paid Balance Transfer checks.

#### Returned Citibank Check Fee

We may add a fee to the cash advance balance if we decline to honor a Citibank check. If we do, the amount of this fee appears on the accompanying letter. We may decline to honor such checks if, for example, the amount of the check would cause the balance to exceed your cash advance limit or credit line, if you default, if you did not comply with our

instructions regarding the check, if your account has been closed, or if the card has expired.

#### Stop Payment Fee

We will add a \$25 fee to the cash advance balance when payment of Citibank check is stopped at your request. You may stop payment of Citibank check by notifying us in writing at PO Box 6500, Sioux City, South Dakota 57117 or by calling us at the telephone number listed on the billing statement. If you call, you must confirm the call in writing within 30 days. A written stop payment order will remain in effect for six months unless renewed in writing.

Once a charge is made through the use of the card or account number we cannot "stop payment" on the charge. If there is a dispute involving a charge on your account, please refer to the section entitled "What To Do If There's An Error In Your Bill."

#### Lost or Stolen Cards, Account Numbers or Citibank Checks

If any card, account number or Citibank check is lost or stolen or if you think someone used or may use them without your permission, notify us at once by calling the telephone number shown on the billing statement or the number obtained by calling toll-free or local Directory Assistance. We may require you to provide certain information in writing to help us find out what happened. Don't use the card or the Citibank checks after you have been notified, even if they are found or returned. You may be liable for unauthorized use of the card, but not for more than \$50. You won't be liable for any unauthorized purchases or cash advances made after we've been notified of the loss or the theft; however, you must identify for us the charges on the billing statement that were not made by you, or someone authorized by you, and from which you received no benefit.

#### Default

You are in default if you fail to pay the minimum payment listed on each billing statement on time, file for bankruptcy, exceed your credit line without our permission, or default on any other Citibank Card Agreement. If you are in default, we may close your account and demand immediate payment of the full balance. If you have given us a security interest in a savings account or certificate of deposit, we may use the deposit amount to pay any amount you owe us. But of course, you don't want this to happen. Call us first and let us try to help you.

10

#### Collection Costs

If we have to refer collection of your account to a lawyer (who is not our salaried employee), to the extent permitted by law you will have to pay our attorney's fee plus court costs or any other fees. If we sue to collect and you win, we will pay your reasonable legal fees and court costs.

#### Customer Privacy

We will not sell information about you or your account to non-Citibank companies. On occasion, however, we will allow certain companies to offer specially selected products and services to you through the mail or by telephone. These companies will not be allowed to retain any information about you or your account unless you agree to purchase their product or service. If you do not want to receive these offers, write or call us at the address or telephone number listed on the billing statement. Be sure to include your name, address, and account number. We will remind you at least once each year of your right to be excluded from these offers.

#### Telephone Monitoring

From time to time we may monitor telephone calls regarding your account with us to assure the quality of our service.

#### Information Reporting

We may report your performance under this Agreement to credit reporting agencies, including your failure to make minimum payments on time. A negative credit report may significantly harm your ability to obtain credit from other sources. We may also obtain follow-up credit reports on you (for example, when we review your account for a credit line increase). We may exchange information about you or your account with our Citicorp affiliates, and our Citicorp affiliates may perform certain customer service and payment processing functions for your account. Otherwise, no one else will be given information about your account without your permission or proper legal authority. We will try to notify you by telephone or by mail of any legal process served on us in order to give you an opportunity to object to it unless the law prohibits the notice.

#### Correcting Your Credit Report

If you think we reported erroneous information to a credit reporting agency or wish to have the name of the agency we contacted, write us at the address listed on the billing statement. We will promptly investigate

the matter, and if our investigation shows you are right, we will contact each credit reporting agency to whom we reported and will request they correct the report. If we disagree with you after our investigation, we will tell you in writing or by telephone and instruct you how to submit a statement of your position to those agencies. Your statement will become a part of your credit record with them.

#### Closing Your Account

You may close your account at any time by notifying us in writing. However, you remain responsible to pay the balance according to the terms of this Agreement. We may close your account or suspend your account privileges or Citibank checks at any time without prior notice. We may also issue a different card, account number, or different checks at any time. You must return the card or the Citibank checks to us upon request.

#### Refusal of the Card

We are not responsible if we do not approve a purchase or cash advance on your account, or if a third party refuses to accept or honor the card, even if you have sufficient credit available. We may limit the number of purchases or cash advances, which may be approved in one day. If we detect unusual or suspicious activity on your account, we may temporarily suspend your credit privileges until we can verify the activity. We may approve purchases or cash advances, which cause the balance to exceed your credit line without waiving any of our rights under this Agreement.

#### Changing this Agreement

We can change this Agreement, including all fees and the annual percentage rate, at any time. However, if the change will cause a fee, rate or minimum payment to increase, we will mail you written notice at least 15 days before the beginning of the billing period in which the change becomes effective. If you do not agree to the change, you must notify us in writing within 30 days after the effective date of the change and pay us the balance, either at once or under the terms of the unchanged Agreement. Otherwise, the change in the notice is binding on you. Use of the card after the effective date of the change shall be deemed acceptance of the new terms, even if the 30 days have not expired.

#### Delay in Enforcement

We may need time to look into certain matters and our delay in enforcing our rights under this Agreement without losing them.

directly following the month in which we calculate the rate to it will appear on the billing statement. An increase in the variable annual percentage rate means you will pay a higher finance charge and perhaps a higher minimum payment.

**Transaction Fee for Balance Transfers:**  
You have obtained a balance transfer if you transfer a balance from others by means other than a Citibank check, or you obtain funds through a Balance Transfer check. To each balance transfer we add an additional FINANCE CHARGE of 3.0% of the balance transfer, but not less than \$5 or more than \$50. This fee will be added to the purchase balance with the balance transfer. The balance transfer transaction fee may cause the annual percentage rate on the billing statement on which the balance transfer first appears to exceed the nominal annual percentage rate.

**Late Fee:**  
We will add a late fee to the standard purchase balance for each billing period you fail to make the minimum payment by its due date. This late fee will be: \$15 on balances up to \$100, \$25 on balances of \$100 up to \$1000, and \$35 on balances of \$1000 and over.

**Non-acceptance Instructions:**  
If you do not wish to accept these changes, you must notify us in writing within 26 days after the Statement/Closing Date indicated on your August billing statement stating your non-acceptance. Include your name, address, and account number and mail to: Customer Service Center, P.O. Box 44121, Jacksonville, Florida, 32231-4121. If you notify us that you do not accept these new terms, you can continue to use your card(s) under your existing terms until the end of your current membership year or the expiration date on your card(s), whichever is later. At that time your account will be closed and you will be able to pay off your remaining balance under your current terms. For more detailed information about your current terms, please refer to your Citibank Card Agreement as amended by any prior change in terms notices.

Postage  
02/2001

© 2001 Citibank (South Dakota), N.A.  
Member FDIC

For more detailed information about your current terms, please refer to your Citibank Card Agreement as amended by any prior change in terms notice.

**Non-acceptance Instructions:** If you do not wish to accept the above changes, you must notify us in writing within 26 days after the Statement/Closing Date indicated on your August billing statement, stating your non-acceptance. Include your name, address, and account number and mail it to: Citibank, PO Box 6026, Sioux Falls, SD 57117-6026. If you notify us that you do not accept these new terms, you can continue to use your card(s) under your existing terms until the end of your current membership year or the expiration date on your card(s), whichever is later. At that time your account will be closed and you can pay off your remaining balance under your current terms.

## Notice of Change in Terms to Your Citibank Card Agreement

Effective on the day after the Statement/Closing Date indicated on your August 2001 billing statement, we are amending your Citibank Card Agreement to substitute the following provisions regarding the default rate, the transaction fee for balance transfers, and the late fee for the corresponding ones in your existing Citibank Card Agreement. When applicable, these changes will appear on your September 2001 billing statement. We encourage you to read this notice and save it for future references.

### Variable Annual Percentage Rates for Purchases and Cash Advances

The annual percentage rate for purchases and cash advances may also vary if you default under any Citibank Card Agreement because you fail to make a payment to us or any other creditor when due, you exceed your credit line, or you make a payment to us that is not honored by your bank. In such circumstances, we may increase the ANNUAL PERCENTAGE RATE (including any promotional rate) on all balances to a default rate of up to 24.39%. Factors considered in determining this default rate may include the length of time the account has been open, the existence, seriousness, and timing of Citibank Card Agreement defaults, and other indications of account usage and performance. The increase in the variable annual percentage rate as described in this paragraph takes effect as of the first day of the billing period in which you default. Your account may again become eligible for a lower annual percentage rate on new purchases, new cash advances, or both after you have met the terms of all Citibank Card Agreements for six consecutive months. Your existing balances will remain subject to the default rate until they are paid in full.

Citibank  
© 2000 Citibank, N.A. (South Dakota)  
Member FDIC

## Verification

Jennifer Sisson is an attorney management specialist for Citibank (South Dakota), N.A. and Citicorp Credit Services, Inc., wholly owned subsidiaries of Citigroup, the within Plaintiff in this action.

She verifies that the statements of fact made in the foregoing Complaint are true and correct to the best of her knowledge and belief. The undersigned understands that the statements made herein are subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities.

Date: 4/4/03

Jennifer Sison  
Name

Account number: 5491130343587614

Defendant: Margaret Smeal

William A. Shaw  
Prothonotary

1  
M/2.09 1st rec 85-02  
1/11/03  
APR 11 2003  
rec to copy.

**In The Court of Common Pleas of Clearfield County, Pennsylvania**

**CITIBANK**

**VS.**

**SMEAL, MARGARET S.**

**Sheriff Docket # 13929**

**03-540-cd**

**COMPLAINT**

**SHERIFF RETURNS**

NOW APRIL 17, 2003 AT 1:57 PM SERVED THE WITHIN COMPLAINT ON MARGARET S. SMEAL, DEFENDANT AT RESIDENCE, 80 MAPLE ST., RAMEY, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO MARGARET S. SMEAL A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN TO HER THE CONTENTS THEREOF.  
SERVED BY: DAVIS/MORGILLO

**FILED**

*BSA*  
**MAY 19 2003**

*01224574*

William A. Shaw

Prothonotary/Clerk of Courts

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**Return Costs**

<b>Cost</b>	<b>Description</b>
<b>33.49</b>	<b>SHERIFF HAWKINS PAID BY: ATTY CK# 9089</b>
<b>10.00</b>	<b>SURCHARGE PAID BY: ATTY CK# 9090</b>

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**Sworn to Before Me This**

19 Day Of May 2003

**So Answers,**

*Chester A. Hawkins*  
*by Marlyn Hark*  
**Chester A. Hawkins**  
**Sheriff**

WILLIAM A. SHAW  
Prothonotary  
My Commission Expires  
1st Monday in Jan 2006  
Clearfield County, PA