

03-1225-CD
CAPITAL ONE BANK vs. ROBERT B. NEPTUNE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

CAPITAL ONE BANK

Plaintiff

vs.

ROBERT B. NEPTUNE

Defendant

No. *03-1225-CD*

COMPLAINT IN CIVIL ACTION

FILED ON BEHALF OF
Plaintiff

COUNSEL OF RECORD OF
THIS PARTY:

William T. Molczan, Esquire
PA I.D. #47437
WELTMAN, WEINBERG & REIS CO., L.P.A.
2718 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219
(412) 434-7955

WWR#03050192

FILED

AUG 18 2003

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

CAPITAL ONE BANK

Plaintiff

vs.

Civil Action No.

ROBERT B. NEPTUNE

Defendant

COMPLAINT IN CIVIL ACTION AND NOTICE TO DEFEND

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 twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by an attorney and filing in writing with the court your defenses or objections to the claims 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 REFERRAL SERVICE

PA Bar Association

P.O. Box 186

Harrisburg, PA 17108

1-800-692-7375

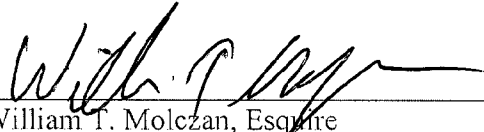
COMPLAINT

1. Plaintiff is a corporation with offices in P.O. Box 85147, Richmond, VA 23276.
2. Defendant is an adult individual residing at Rd 3 LPV Apt 8C, Clearfield, PA 16830.
3. Defendant applied for and received a credit card issued by Plaintiff bearing the account number 4121741551925931 .
4. Defendant made use of said credit card and has currently a balance due and owing to Plaintiff, as of April 5, 2000, in the amount of \$1,207.09. A true and correct copy of Plaintiff's Statement of Account is attached hereto, marked as Exhibit "1" and made a part hereof.
5. Defendant is in default of the terms of the cardholder Agreement having not made monthly payments to Plaintiff thereby rendering the entire balance immediately due and payable.
6. Plaintiff avers that the Cardholder Agreement between the parties provides that Plaintiff is entitled to the addition of finance charges at the rate of 19.80% per annum on the unpaid balance.
7. Although repeatedly requested to do so by Plaintiff, Defendant has willfully failed and/or refused to pay the principal balance, finance charges or any part thereof to Plaintiff.

WHEREFORE, Plaintiff demands Judgment in its favor and against Defendant, Robert B. Neptune individually, in the amount of \$1,207.09 with continuing finance charges thereon at the rate of 19.80% per annum from April 5, 2000 plus costs.

THIS IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION OBTAINED
SHALL BE USED FOR THAT PURPOSE.

WELTMAN, WEINBERG & REIS, CO., L.P.A.



William T. Molczan, Esquire

PA I.D. #47437

WELTMAN, WEINBERG & REIS CO., L.P.A.

2718 Koppers Building

436 Seventh Avenue

Pittsburgh, PA 15219

(412) 434-7955

WWR#:03050192

Capital One® Values You As A Customer!

If you are unable to pay the amount due at this time, we strongly urge you to call us immediately at 1-800-955-6600. We are willing to work with you to help you out of your current financial situation and resolve the delinquency of your account.

Don't further damage your credit.

Your account will soon be reviewed to be charged-off as bad debt. If your account is charged-off, you will still be responsible for the debt, but it will be listed on your credit report and could prevent you from receiving credit cards, loans and even affect future employment and housing opportunities.

Capital One is a federally registered service mark of Capital One Financial Corporation. All rights reserved. © 2000 Capital One

VISA ACCOUNT
4121-7415-5192-5931

MAR 06 - APR 05, 2000
Page 1 of 1

Account Summary

Previous Balance	\$1,136.97
Payments, Credits and Adjustments	\$0.00
Transactions	\$50.00
Finance Charges	\$20.12
New Balance	\$1207.09
Minimum Amount Due	\$607.09
Payment Due Date	May 05, 2000
Total Credit Line	\$600
Total Available Credit	\$0.00
Credit Line for Cash	\$600
Available Credit for Cash	\$0.00

Payments, Credits and Adjustments

Transactions

DATE		
1 06 MAR	PAST DUE FEE	\$25.00
2 06 MAR	OVERLIMIT FEE	25.00

If you are paying by MONEY ORDER, remember to write your name and 16-digit account number on the money order to ensure the payment is credited to your account.

At your service

To call Customer Relations or to report a lost or stolen card:
1-800-262-1493

Send payments to:

Capital One Services
P.O. Box 85147
Richmond, VA 23285-5147

Send inquiries to:

Capital One Services
P.O. Box 85045
Richmond, VA 23285-5015

Important Account Information

Guaranteeing your hotel or rental car reservation with your credit card? Record the confirmation code and obtain the cancellation policy. If you call to cancel, record the cancellation code. Always retain these codes; they may be needed.

Finance Charges

Please see reverse side for important information

	Balance rate applied to	Periodic rate	Compounding APR	FINANCE CHARGE
PURCHASES	\$1,137.74	05425%	19.80%	\$19.13
CASH	\$58.93	05425%	19.80%	\$9.99

ANNUAL PERCENTAGE RATE applied this period

19.80%

65367P

PLEASE RETURN PORTION BELOW WITH PAYMENT.

001000 0000000 0 41217 415519 25931

120709

60709

New Balance	\$1207.09
Minimum Amount Due	\$607.09
Payment Due Date	May 05, 2000
Total enclosed	\$ <input type="text"/>

Please print address changes below using blue or black ink.

Street	Apt. #	
City	State	ZIP
Home Phone	Alternate Phone	

Capital One Bank
P.O. Box 85147
Richmond, VA 23285-5147



065367

ROBERT B NEPTUNE
RD3 LPV
APT 8C
CLEARFIELD PA 16830-9803

EXHIBIT

Please write your account number on your check or money order made payable to Capital One Bank and mail in the enclosed envelope.



1. How To Avoid A Finance Charge

- a. Grace Period.** You will have a minimum grace period of 25 days without finance charge on new purchases, new special purchases and new other charges if you pay your total "New Balance" in full, in accordance with the Important Notice or payments below, and in time for it to be credited to your current statement closing date. There is no grace period on cash advances and special transfers.
- b. Purchases, Special Purchases and Other Charges.** If you do not pay the entire "New Balance" by your next statement closing date, finance charge will be assessed on new purchases, new special purchases and new other charges from the first day of your next billing period. You may reduce the amount of finance charge that may be assessed by paying more than the minimum payment.
- c. Cash Advances and Special Transfers.** Cash advances and special transfers are assessed finance charge from the date of the transaction or the date the transaction is processed to your account on the first calendar day of the current billing period. You may not avoid finance charge on these transactions; however, you may reduce the amount of finance charge that may be assessed by making your payment early or increasing the amount of your payment.
- d. Minimum Finance Charge.** For each billing period that your account is subject to finance charge, a minimum total FINANCE CHARGE of \$0.50 will be imposed. If the total finance charge resulting from the application of your periodic rate is less than \$0.50, we will substitute that amount from the \$0.50 minimum and the difference will be billed to the purchase segment of your account.

2. Average Daily Balance (Including New Purchases).

- a. Calculate the finance charge.** We multiply the daily balance of each segment of your account (e.g., cash advance segment, purchase segment, special purchase segment, special transfer segment) by your daily periodic rate(s). We total the results of these daily calculations to arrive at your total periodic finance charge. To obtain the daily balance of the current billing cycle, we take the beginning balance of each segment each day, add any new transactions and the daily finance charge(s) of the previous days balance of each segment, and subtract any payments or credits posted as of that day. This gives us the separate daily balance for each segment. To calculate your total finance charge, multiply the "Balance Rate Applied To," which equals your average daily balance, by the daily periodic rate and then multiply it by the billing period. Due to rounding on a daily basis, there may be a slight variance between this calculation and the amount of finance charge actually assessed.
- b. If the code Z or N appears on the front of this statement next to "Balance Rate Applied To," we multiply the average daily balance of each segment by your monthly periodic rate. To obtain the average daily balance of the billing period covered by this statement, we take the beginning balance of each segment each day, add any new transactions and the daily finance charge(s) of the previous days balance of each segment, and subtract any payments or credits posted as of that day. This gives us the daily balance of each**

segment. Then, we add up all the daily balances for each segment for the billing period and divide by the total number of days in the billing period. This gives us the average daily balance of each segment.

3. Annual Percentage Rate (APR).

- a. The term "Annual Percentage Rate" may appear as "APR" on the front of this statement.**
- b. If the code P (Prime), L (3-mo. LIBOR), C (Certificate of Deposit), or S (Bankcard Prime) appears on the front of this statement next to the periodic rate(s), the periodic rates and corresponding ANNUAL PERCENTAGE RATES may vary quarterly and may increase or decrease based on the stated indices, as found in *The Wall Street Journal*, plus the margin previously disclosed to you. These changes will be effective on the first day of your billing period covered by your periodic statement ending in the months January, April, July and October.**
- c. If the code D (Prime), F (1-mo. LIBOR) or G (3-mo. LIBOR Replicator Monthly) appears on the front of your statement next to the periodic rate(s), the periodic rates and corresponding ANNUAL PERCENTAGE RATES may vary monthly and may increase or decrease based on the stated index, as found in *The Wall Street Journal*, plus the margin previously disclosed to you. These changes will be effective on the first day of your billing period each month.**

- 4. Other Finance Charges.** Other finance charges and transaction fees (including the cash advance fee, balance transfer fee, minimum finance charge, purchase check fee, account opening fee and express account fee) will be included in the finance charge and applied in accordance with the terms of your Custom or Agreement for a special offer, we may have made to you. Including some of these fees in the finance charge may cause the "ANNUAL PERCENTAGE RATE Applied This Period" to exceed the "Corresponding APR" for this segment to which this fee was billed.

- 5. Assessment of Late, Overlimit and Returned Check Fees.** Your account will be assessed no more than two of the fees listed here that occur during any billing period.

- 6. Credit Balances.** If your statement indicates a credit balance, you can either request a refund or have the credit balance applied to future extensions of credit.

- 7. Renewing Your Account.** If a member's photo appears on the front of this statement, you have 30 days from the date this statement was mailed to you to avoid paying the fee or to have such fee credited to you if you cancel your account. During this period, you may continue to use your account in the way you have the membership fee. To cancel your account, you must notify us in writing at the address for inquiries shown on the front of this statement and pay your "New Balance" in full (excluding the membership fee) prior to the end of the 30-day period.

***BILLING RIGHTS SUMMARY**

(In Case Of Errors Or Questions About Your Bill)

If you think your bill is wrong, only you need more information about a transaction on your bill, write us on a separate sheet at the address for inquiries shown on the front of this statement as soon as possible. We must hear from you no later than 60 days after we sent you the first bill on which the error or problem appeared. You can call our Customer Relations number, but doing so will not preserve your rights. In your letter, give us the following information: your name and account number, the dollar amount of the suspected error, a description of the error and an explanation, if possible, of why you believe it is an error, or if you need more information, a description of the item you are unsure about. You do not have to pay any amount in question while we are investigating it, but you are still obligated to pay the parts of your bill that are not in question. While we investigate your question, we cannot report you as delinquent or take any action to collect the amount in question.

***Special Rule For Credit Card Purchases**

If you have a problem with the quality of property or services that you purchased with a credit card and you have tried in good faith to correct the problem with the merchant, you may have the right to pay the remaining amount on the property or services. You have this protection only when the purchase price was more than \$50.00 and the purchase was made in your home state or within 100 miles of your mailing address. (If we nor operate the merchant, or if we mailed you the advertisement for the property or services, all purchases are covered regardless of amount or location of purchase.)

Please remember to sign all correspondence.

Does not apply to non-credit card accounts.

Does not apply to business credit cards.

Capital One supports information privacy protection; see our website at www.capitalone.com.

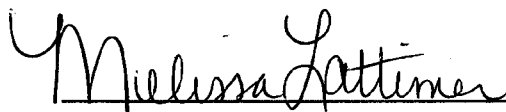
Important Notice: Your payment will be credited to your account as of the date we receive it, provided you send the bottom portion of this statement and your check in the enclosed remittance envelope, and your payment is received in our processing center by 3 p.m. Payments addressed to our Virginia processing center must be received on a business day by 3:00 p.m. ET. Payments addressed to our Washington processing center must be received on a business day by 3:00 p.m. PT. Please allow at least five (5) business days for postal delivery. Payments received by us at any other location or in another form may not be credited the same day we receive them. Our business days are Monday through Saturday, excluding holidays. Please do not use staples, paper clips, etc. when preparing your payment.

VERIFICATION

The undersigned does hereby verify subject to the penalties of 18 PA.C.S. §4904 relating to
unsworn falsifications to authorities, that he/she is Melissa Lattimer

(Name)
agent of Capital One, plaintiff herein, that
(Title) (Company)

he/she is duly authorized to make this Verification, and that the facts set forth in the foregoing Complaint
in Civil Action are true and correct to the best of his/her knowledge, information and belief.



(Signature)

WWR# _____

FILED ice shff
M 8:50 AM
AUG 18 2003
William A. Shaw
Prothonotary/Clerk of Courts

In The Court of Common Pleas of Clearfield County, Pennsylvania

CAPITAL ONE BANK

VS.

NEPTUNE, ROBERT B.

COMPLAINT

Sheriff Docket #

14441

03-1225-CD

SHERIFF RETURNS

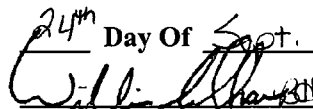
NOW AUGUST 29, 2003 AT 3:10 PM SERVED THE WITHIN COMPLAINT ON ROBERT B. NEPTUNE, DEFENDANT AT EMPLOYMENT, 222 LEAVY AVE., APT 205, CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO ROBERT NEPTUNE A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN TO HIM THE CONTENTS THEREOF.

SERVED BY: COUDRIET/RYEN

Return Costs


Cost	Description
24.00	SHERIFF HAWKINS PAID BY: ATTY CK# 8093314
10.00	SURCHARGE PAID BY: ATTY CK# 8093313

Sworn to Before Me This

24th Day Of Sept. 2003



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

So Answers,


Chester A. Hawkins
Sheriff

FILED

SEP 24 2003


William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

CAPITAL ONE BANK,
Plaintiff,

CIVIL DIVISION

vs.

No. 03-1225-CD

ROBERT B. NEPTUNE,
Defendant.

PRAECIPE FOR APPEARANCE

Filed on Behalf of:

Robert B. Neptune, Defendant

Counsel of Record For This Party:

JOSEPH COLAVECCHI, ESQUIRE
Pa. I. D. No. 06810

Colavecchi & Colavecchi
221 East Market Street
P. O. Box 131
Clearfield, PA 16830
Phone: 814/765-1566

LAW OFFICES OF
COLAVECCHI
& COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

FILED

OCT 08 2003
m/1:20pm
William A. Shaw
Prothonotary/Clerk of Courts
No. 06810

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

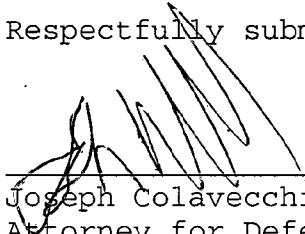
CAPITAL ONE BANK, :
 :
Plaintiff, :
 :
vs. : No. 03-1225-CD
 :
ROBERT B. NEPTUNE, :
Defendant. :

PRAECIPE FOR APPEARANCE

To: William Shaw, Prothonotary

Please enter my appearance on behalf of Robert B.
Neptune, Defendant.

Respectfully submitted,



Joseph Colavecchi, Esquire
Attorney for Defendant

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

CAPITAL ONE BANK

Plaintiff

vs.

ROBERT B NEPTUNE

Defendant

No. 03-1225-CD

PRAECIPE TO SETTLE, DISCONTINUE
AND END WITHOUT PREJUDICE TO REFILE

FILED ON BEHALF OF
Plaintiff

COUNSEL OF RECORD OF
THIS PARTY:

William T. Molczan, Esquire
PA I.D. #47437
WELTMAN, WEINBERG & REIS CO., L.P.A.
2718 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219
(412) 434-7955

WWR#03050192

FILED

DEC 22 2003

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

CAPITAL ONE BANK

Plaintiff

vs.

Civil Action No. 03-1225-CD

ROBERT B NEPTUNE

Defendant

PRAECIPE TO SETTLE, DISCONTINUE
AND END WITHOUT PREJUDICE TO REFILE

TO THE PROTHONOTARY OF CLEARFIELD COUNTY:

SIR:

Settle, Discontinue and End the above-captioned matter upon the records of the Court without
prejudice to refile and mark the costs paid.

WELTMAN, WEINBERG & REIS CO., L.P.A.

By: 

Attorney for Plaintiff
2718 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219
(412) 434-7955
WWR#03050192

SWORN TO AND SUBSCRIBED

before me this 16 day

of Dec, 2003


NOTARY PUBLIC

Notarized Seal
Wendy L. Gault, Notary Public
City Of Pittsburgh, Allegheny County
My Commission Expires July 15, 2005

FILED

*M 1:28 PM REC & Out to Atty.
copy to CH*

DEC 22 2003

William A. Shaw
Prothonotary

**IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA**

CIVIL DIVISION

Capital One Bank

Vs.

No. 2003-01225-CD

Robert B. Neptune

CERTIFICATE OF DISCONTINUATION

Commonwealth of PA
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County and Commonwealth aforesaid do hereby certify that the above case was on December 22, 2003, marked:

Discontinued, Settled and Ended without prejudice.

Record costs in the sum of \$119.00 have been paid in full by Attorney.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 22nd day of December A.D. 2003.

William A. Shaw, Prothonotary

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF CLEARFIELD

OATH

I DO SOLEMNLY SWEAR THAT I WILL SUPPORT, OBEY AND DEFEND THE
CONSTITUTION OF THE UNITED STATES AND THE CONSTITUTION OF THIS
COMMONWEALTH AND THAT I WILL DISCHARGE THE DUTIES OF MY OFFICE
WITH FIDELITY.

Signature

Print Name

Title

SWORN TO AND SUBSCRIBED
BEFORE ME THIS _____
DAY OF _____, 2000.

(Seal)

Prothonotary
My commission expires:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CAPITAL ONE BANK,

Plaintiff

Vs.

ROBERT B. NEPTUNE,

Defendant

CIVIL DIVISION

No. 03 - 1225 - cd

DEFENDANT'S PRELIMINARY
OBJECTIONS TO PLAINTIFF'S
COMPLAINT

Filed on Behalf of:

Defendant, ROBERT B. NEPTUNE

Counsel of Record for This
Party:

JOSEPH COLAVECCHI, ESQUIRE
Pa. I.D. #06810

COLAVECCHI & COLAVECCHI
221 East Market Street
P.O. Box 131
Clearfield, PA 16830

814/765-1566

LAW OFFICES OF
COLAVECCHI
& COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

FILED

DEC 03 2003

013204
William A. Shaw

Prothonotary/Clerk of Courts

3 cert to Atty
RET

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

CAPITAL ONE BANK, :
Plaintiff : No. 03 - 1225 - CD
Vs. :
ROBERT B. NEPTUNE, :
Defendant :

**DEFENDANT'S PRELIMINARY OBJECTIONS TO
PLAINTIFF'S COMPLAINT**

Defendant, Robert B. Neptune, through his attorney, Joseph Colavecchi, Esquire, files Preliminary Objections to Plaintiff's Complaint and respectfully avers as follows:

1. Plaintiff filed a Complaint in the Court of Common Pleas of Clearfield County, Pennsylvania, on or about August 18, 2003, alleging that Defendant applied for and received a credit card issued by Plaintiff and made use of said card and has a balance owing to Plaintiff as of April 15, 2000, in the amount of \$1,207.09.

2. Plaintiff further alleged in their Complaint that Defendant is in default of the terms of the cardholder Agreement and further stated that the Agreement provides for finance charges at the rate of 19.80% per annum on the unpaid balance.

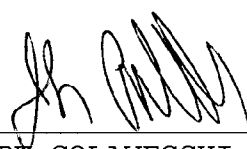
3. This action amounts to an alleged breach of contract by Defendant.

4. Plaintiff has failed to produce the original Agreement which Plaintiff alleges that Defendant breached.

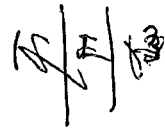
5. Plaintiff has failed to produce detailed statements of the account showing all purchases made on said account and how Plaintiff calculates the balance that they claim is due.

6. Plaintiff's Complaint is insufficient on its face and should be dismissed because Plaintiff failed to produce a copy of the original Agreement and a detailed statement of the account setting out purchases made and costs incurred so that Defendant is able to calculate the details leading to the conclusion of the Plaintiff and enter into a proper defense of Plaintiff's claim.

WHEREFORE, Defendant respectfully requests that Plaintiff's Complaint be stricken pursuant to Pennsylvania Rule of Civil Procedure 1028 on the grounds of legal insufficiency.



JOSEPH COLAVECCHI, ESQUIRE
Attorney for Plaintiff



CA

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.
CIVIL DIVISION
No. 03 - 1225 - CD

CAPITAL ONE BANK,
Plaintiff

vs.

ROBERT B. NEPTUNE,
Defendant

DEFENDANT'S PRELIMINARY OBJECTIONS
TO PLAINTIFF'S COMPLAINT

COLAVECCHI
RYAN & COLAVECCHI
ATTORNEYS AT LAW
221 EAST MARKET STREET
(ACROSS FROM COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA 16830

FILED

DEC 03 2003

William A. S.
Prothonotary, Clerk of Court