

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 No. 03-1225-CD

VS. COMPLAINT IN CIVIL ACTION

ROBERT B. NEPTUNE

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	\$0.00
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:  
1-800-262-1993

Send payments to:

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

Send inquiries to:

Capital One Services  
P.O. Box 85015  
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

	Balance rate applied to	Periodic rate	Corresponding APR	FINANCE CHARGE
PURCHASES CASH	\$1,137.74 \$58.93	05425% 05425%	19.80% 19.80%	\$19.13 \$.99

#### ANNUAL PERCENTAGE RATE applied this period

19.80%

65367P

PLEASE RETURN PORTION BELOW WITH PAYMENT.

001 000 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	

EXHIBIT

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

063367  


ROBERT B NEPTUNE  
RD3 LPV  
APT BC  
CLEARFIELD PA 16830-9803

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 other charges you pay your bill. New purchases will be due on the 26th day. **Important Notice:** Payments below and in time for it to be credited by your next statement closing date. There is no grace period on cash advances and special transfers.

**b. Purchases, Special Purchases and Other Charges.** If you make a purchase, special purchase or other charge on this statement closing date, finance charges will occur on new purchases, new special purchases and other charges from the first day of your billing period. You may reduce the amount of your finance charge by paying more than the minimum payment.

**c. Cash Advances and Special Transfers.** Cash advances and special transfers are assessed a finance charge from the date of the transaction until the transaction date on 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 earlier than the end of your payment period.

**d. Minimum Finance Charge.** You will be charged a minimum of \$1.00 if you do not make a payment that amount or more than 50.50 minimum and the difference will be billed to the purchase segment of your account.

**2. Average Daily Balance (including New Purchases).**

**a. To calculate finance charge, we multiply the daily balance of each segment by your account's cash advance segment purchase amount, special purchase segment, transfer segment, by your daily periodic rate(s). We then add all these amounts together to get the total finance charge for the month. To calculate the daily balance for the current billing cycle, we take the beginning balance of each segment each day, add any new transactions and the daily finance charge calculated on the previous day, and then add the balance of the previous day to the balance of the current day. This will give us the separated daily balance for each segment. To calculate your total finance charge, multiply the "Average Daily Balance Applied To," which equals your averaged daily balance, by the daily periodic rate(s) for each segment times the billing period. Due to rounding and possible errors, there may be a slight variance between this calculation and the amount of finance charge actually assessed.**

**b. If the code 2 or 3 appears on the front of this statement.** If the code 2 or 3 appears on the front of this statement, it means that you have an average daily balance for each segment by your monthly periodic rate. To obtain the average daily balance for the bill, you must divide by this statement, we take the beginning balance for each segment each day, add any new transactions and the daily finance charge calculated on the previous day, and then add the balance of the previous day to the balance of the current day. This will give us the total finance charge for the month. Due to rounding and possible errors, there may be a slight variance between this calculation and the amount of finance charge actually assessed.

**c. Segment.** Then we add up 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 Rates (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 (Special) 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 current rates of the Prime, LIBOR, or Certificate of Deposit. These changes will be effective on the first day of your billing period covered by the periodic rate mentioned in the months of January, April, July and October.**

**c. If the code R (Retail), L (LIBOR), or C (CD) LIBOR (Retail or LIBOR) appears on the front of this 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 code (Retail, LIBOR, or CD) 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, balance transfer fee, minimum finance charge, purchase check fee, account opening fee and pre-authorized withdrawal fee) are not included in the average daily balance for finance with the terms of your Custom Agreements or any special offer we may have made to you. Including some of these fees in the finance charge may cause the "ANNUAL PERCENTAGE RATE" applied to this Period to exceed the "Corresponding APR" for this segment to which the fee was billed.

**5. Assessment of Late, Overlimit and Returned Check Fees.** Your account will be assessed one or more than two fees listed here if applicable during any billing period.

**6. Credit Balances.** If your statement indicates a credit balance, you can request a refund or a credit adjustment. Please call or write to us at the address on the statement.

**7. Renewing Your Account.** If a membership fee appears on the front of this statement, you have 30 days from the date of this statement was mailed to you to pay the membership fee or such fee elected by you. If you do not pay your account, Delta will close your account and continue to use your account with the following notice: "To cancel your account, you must notify us in writing at the address for renewals shown on the back of this statement and pay your New Balance Bill (excluding the membership fee), prior to the end of the 30-day period."

#### BILLING RIGHTS SUMMARY

**(In Case Of Error Or Question About Your Bill.)**  
If you have a question about your bill, you can send a written or electronic message to us. Please include as much information as possible about your bill, including the front of this statement, as possible. We must hear from you no later than 60 days after we sent you the first statement. If you do not hear back from us within 30 days, you may call our Customer Relations number, building 2000, preserving your rights. In your letter, give us the following information: your name and account number, the dollar amount of the disputed amount, a description of the amount in dispute, the reason you believe the amount is in error, or if you are an administrator, a description of the item you are using about. You do not have to pay any amount in question while we are investigating it, but you are responsible to pay the parts of your bill that are not in question. We will investigate your dispute within 60 days of receiving your letter and take action to collect the amount you are questioning.

**1. 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 merchant an amount due on the property or services. You have this right if the merchant fails to correct the problem within 60 days of the purchase was made in your home state or within 120 miles of your mailing address, if we own or operate the merchant, or if we mailed you an advertisement for the property or services, all purchases are covered regardless of the amount or location of purchase.)

Please remember to sign all correspondence.

*Does not apply to non-credit card accounts*

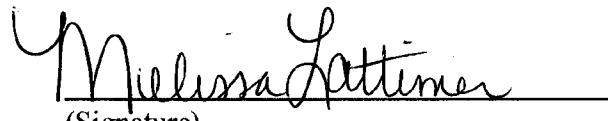
*Does not apply to business credit cards*

**Capital One supports information privacy protection; see our website at [www.capitalone.com](http://www.capitalone.com).**

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.

  
Melissa Lattimer  
(Signature)

WWR#\_\_\_\_\_

FILED 1cc Shff  
M 8:30 AM  
AUG 18 2003 Aug pd. 85.00

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**

<b>Cost</b>	<b>Description</b>
<b>24.00</b>	<b>SHERIFF HAWKINS PAID BY: ATTY CK# 8093314</b>
<b>10.00</b>	<b>SURCHARGE PAID BY: ATTY CK# 8093313</b>

**Sworn to Before Me This**

24<sup>th</sup> Day Of Sept. 2003  
WILLIAM A. SHAW

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

**So Answers,**

Chester A. Hawkins  
by Muller, Harris

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, CIVIL DIVISION  
Plaintiff,

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

FILED

OCT 08 2003  
m/1:20/lms  
William A. Shaw  
Prothonotary/Clerk of Courts  
No. 16ns

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 No. 03-1225-CD

vs.

ROBERT B NEPTUNE

Defendant 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: W.L. Gault  
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

Notary Seal  
Wendy L. Gault, Notary Public  
City Of Pittsburgh, Allegheny County  
My Commission Expires July 15, 2006

FILED

M 1.24 642 2003  
Copy to CJA

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

---

Signature

---

Print Name

---

Title

---

SWORN TO AND SUBCRIBED  
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

FILED

DEC 03 2003

073-001

William A. Shaw

Prothonotary/Clerk of Courts

3 cent to Army

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

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.

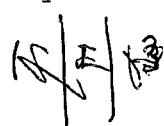
6. Plaintiff's Complaint is insufficient on its face and should be dismissed because Plaintiff failed to produce a copy of the original Agreement and a detailed statement of the account setting out purchases made and costs incurred so that Defendant is able to calculate the details leading to the conclusion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



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

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