

03-1880-CD
BANK OF AMERICA N.A. vs. WILLIAM J. ANDRES, et al.

~~6/23/04~~
called Rev 11:20
4-23-04 (2) LFT msg.

Susan Andres
371-6515

590-6640 ←

Mon - 4-26-100

BURTON NEIL & ASSOCIATES, P.C.

By: Burton Neil, Esquire

Identification No. 11348

26 South Church Street

West Chester, PA 19380

(610) 696-2120

Attorney for Plaintiff

BANK OF AMERICA, N.A., (USA)

4161 Piedmont Parkway, Greensboro, NC 27410

Plaintiff

v.

WILLIAM J ANDRES and

SUSAN D. ANDRES

215 Treasure Lake, Du Bois PA 15801-9005

Defendants

: IN THE COURT OF COMMON PLEAS

: CLEARFIELD COUNTY, PENNSYLVANIA

: NO. 03-1880-C

: 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. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

**LAWYER REFERENCE AND
INFORMATION SERVICE**

David S. Meholic

Court Administrator

Clearfield County Courthouse

Clearfield, PA 16830

Telephone No. 814-765-2641 Ext. 5982

FILED

DEC 22 2003

William A. Shaw
Prothonotary/Clerk of Courts

55419

BURTON NEIL & ASSOCIATES, P.C.

By: Burton Neil, Esquire

Identification No. 11348

26 South Church Street

West Chester, PA 19382

610-696-2120

Attorney for Plaintiff

BANK OF AMERICA, N.A., (USA)
4161 Piedmont Parkway, Greensboro, NC 27410

Plaintiff

v.

WILLIAM J ANDRES AND
SUSAN D ANDRES
215 Treasure Lake, Du Bois PA 15801-9005

Defendants

: IN THE COURT OF COMMON PLEAS
: CLEARFIELD COUNTY, PENNSYLVANIA
: NO.
: CIVIL ACTION - LAW

Complaint

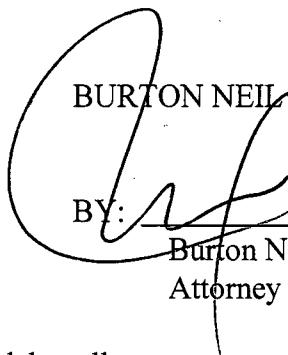
1. The plaintiff is Bank of America, N.A. (USA) with place of business located at 4161 Piedmont Parkway, Greensboro, North Carolina.
2. The defendants are William J. and Susan D. Andres, who reside at 215 Treasure Lake, DuBois, Clearfield County, Pennsylvania.
3. At the defendants' request, plaintiff issued the defendants a credit card bearing account number 4356024105675419 for the defendants' use in making credit purchases and securing cash advances subject to the terms and conditions governing the use of the credit card. A true and correct copy of the terms and conditions of the account is attached hereto and marked Exhibit A
4. The defendants accepted the credit card and the terms and conditions governing its use for the purchase of goods, merchandise and services and/or for cash advances from vendors who accepted plaintiff's credit cards. In using the credit card, the defendants agreed to comply with the terms and conditions governing its use which included the obligation to pay plaintiff for all charges made in full upon receipt of the statement or in installments subject to monthly finance charges.
5. The defendants utilized the credit cards 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 late and/or finance charges. The balance due for the charges made by the defendants including any late or finance charges is \$14,051.53.

6. Defendants did not pay the balance due upon receipt of the billing statements and are in default of the terms and conditions governing the use of the credit card.

7. Although demand has been made by plaintiff upon the defendants to pay the sum of \$14,051.53, the defendants failed and refused to pay all or any part thereof.

8. Plaintiff alleges it is entitled to recovery of its attorneys fees from the defendants pursuant to the terms and conditions governing the account. Plaintiff seeks recovery of attorneys fees in the sum of \$2,810.30.

Wherefore, plaintiff demands judgment against the defendants in the sum of \$14,051.53, attorneys fees in the sum of \$2,810.30 and the costs of this action.


BURTON NEIL & ASSOCIATES, P.C.
BY: _____
Burton Neil, Esquire
Attorney for Plaintiff

The law firm of Burton Neil & Associates is a debt collector.

65
Solen Card. Number on your billing statement. Otherwise, you may be liable for

Transactions With Merchant

- If you make a purchase, and the merchant discloses a policy such as "no credit," "no refund," "no return" or "credit without receipt," as is, "store credit only," or "all sales final," you may be bound by that policy.
- When using your American Express card to make travel or lodging reservations, you should obtain the merchant's cancellation policy and follow it. If you do not, the merchant may charge you unless you can provide disclosure of the cancellation code which the merchant is required to give you.
- If you authorize a merchant to charge your Account for repeat transactions with your credit card, you must notify the merchant when you want to discontinue the repeat transactions, or if your Account is closed or a new Account number is issued by us.
- If you disagree with a transaction on your billing statement, you will provide us for any resulting loss we have unless prohibited by applicable law.

Default Your Account is in default if you fail to comply with any of the terms of this Agreement or any other loan agreement, with us or anyone else; in the event of your death, insolvency, bankruptcy, insolvency, fraud or misrepresentation; or if we reasonably believe that you will be unwilling or unable to pay debts you owe to anyone. If you are in default, we may close your Account without notice, and you must immediately pay your unpaid balance, plus interest, any time without prior notice except as required by law. You will be obligated to pay the outstanding balance on your Account. You will still be liable for any cards on your Account.

If we receive a request from any Account holder to close an Account or remove an Account holder from the Account, we may honor or refuse the request without prior notice.

Change of Terms We may change any term, condition, service or feature of your Account at any time. We will notify you with notice of the change to the extent required by law. Unless we state otherwise, a new term will apply to your Account's unpaid balance and to new activity on your Account. If we need your consent to the new term, we will inform you of the effective date of the new term and the time period in which you can notify us of the new term. If you do not notify us, that will mean that you accept the new term.

Dispute Resolution If you or we request your controversy with us will be decided by arbitration, reference or a court, as described below.

(a) Arbitration—A controversy involving 1 account, or 2 or more accounts with at least 1 common owner, will be decided by arbitration under the Commercial Arbitration Rules of the American Arbitration Association.

(b) Dispute—A controversy that is not subject to arbitration under (a) above and that is brought in the State of California will be decided by arbitration under the California Code of Civil Procedure section 9610 and related sections. A referee who is an active attorney or retired judge will be appointed by the procedure for selecting arbitrators.

(c) Court Trial—A controversy that is not subject to arbitration under (a) above and that is not brought in the State of California under (b) above will be decided in a court trial according to applicable rules of civil procedure.

Payment Method "Paid in Full". We may accept trailers, checks, or other types of payment showing "payment in full" or using other language to indicate satisfaction of your debt, without waiving any of our rights to receive full payment under this Agreement. You must send any such communication to us for less than the full amount due prior to the date of your debt.

Our authorized employees.

Foreign Currency Transactions Visa or MasterCard will convert to U.S. dollars any charge or credit made to your Account in currency other than U.S. dollars. The conversion rate will be determined under Visa or MasterCard regulations. The conversion rate may differ from the rate on the date of your transaction. Currently Visa and MasterCard use a currency conversion rate of either: (1) a wholesale market rate, or (2) a government mandated rate. In some cases, Visa and MasterCard use the rate in effect one day before the currency conversion date. We may also charge a percentage as shown in your Additional Disclosure. We will post to your Account the converted U.S.-dollar amount determined by Visa or MasterCard.

Payments in Foreign Currency For all amounts you owe your Account, you will pay us in U.S. dollars. All checks must be drawn from funds on deposit in a U.S. foreign currency or checks drawn on non-U.S. banks. If we do, we may impose service and collection charges. Our determination of service and collection charges will be final.

Telephone Monitoring Our supervisory personnel may listen to and record telephone calls between you and our employees for the purpose of monitoring and improving the quality of service you receive.

Enforceability Our failure to exercise any of our rights under this Agreement will not waive any of our rights in the future. If any term of this Agreement is found to be unenforceable, the merchant's provisions will remain in full force.

Information or Assistance We Reasonably Request Otherwise, you will provide us for any resulting loss we have unless prohibited by applicable law.

YOUR BILLING RIGHTS

KEEP THIS NOTICE FOR FUTURE USE

This notice contains important information about your rights and our responsibilities under the Fair Credit Billing Act.

Notify Us in Case of Errors or Questions About Your Bill

If you think your bill is wrong, or if you need more information about a transaction on your bill, write us in a separate letter at the "Billing Inquiries" address on your bill, as soon as possible. We must hear from you no later than 60 days after we send you the first bill on which the error or problem appeared. You can telephone us, but do not do so to preserve your rights. (To preserve your rights under the law, you must write to us.)

In your letter, give us the following information: Your name, address, account number and shareholder amount of the suspected error. Describe the error and explain, the item you feel is not correct.

If you have authorized us to pay your bill automatically from your savings or checking account, you can stop payment on any amount that you think is wrong. In stop payment, your biller must furnish us, at least 3 business days before the automatic payment is scheduled to occur.

Your Rights and Our Responsibilities After We Receive Your Written Notice We must acknowledge your letter within 30 days, unless we have corrected the error by then. Within 90 days, we must either contact the error or explain why we believe your bill was correct.

After we receive your letter, we cannot try to collect any amount you question, nor report you delinquent. We can continue to bill you for the amount you question, including finance charges, and we can apply any unpaid amount against your credit line. You do not have to pay any questioned amount while we are investigating, but you are still obligated to pay the parts of your bill that are not in question.

If we find that we initially misinformed you, you will not be liable for any finance charges resulting from the misinformed amount. If we did not make a mistake on the questioned amount, you will be liable for any misinformed payments you have to us. You will be liable for any finance charges resulting from the misinformed amount. If we did not make a mistake, you may have to pay finance charges, and you will be liable for any misinformed amount you owe until the date that it is due.

If you fail to pay the amount that we think you owe, we may report you as delinquent. However, if our explanation does not satisfy you and you write us within 10 days telling us that you still refuse to pay, we must tell you why we report you to that you have a question about your bill. And, we must tell you the name of anyone we report between us when it finally is.

If we do not follow these rules, we cannot collect the first \$50 of the questioned amount, even if your bill was correct.

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 contact the provider of the merchant, you may have the right not to pay the remaining amount due on the property or services. There are two limitations on this right:

(A) You must have made the purchase in your home state or, if not within your home state, within 100 miles of your current mailing address; and

(B) The purchase price must have been more than \$50.

These limitations do not apply if we own or operate the merchant, or if we mailed you the advertisement for the property or services.

**VISA® OR MASTERCARD®
CARDMEMBER AGREEMENT**

This is your Agreement with Bank of America, N.A. (USA) for your Visa® or MasterCard® credit card account ("Account").

In this Agreement, "we," "us" and "our" refer to Bank of America, N.A. (USA) or credit grantor and card issuer for your Account. "You," "your" and "yours" refer to: (1) each Account holder (whose name appears on your Account billing statement); (2) any person bound by this Agreement; and (3) any person who uses your Account, including those you authorize. By applying for or using your Account, you accept the terms of this Agreement.

This Agreement consists of the following terms and conditions, the Additional Disclosure, any document referenced in the Additional Disclosure, and any other document(s) that we refer to as part of your Cardmember Agreement.

YOUR ACCOUNT

Your Account is a revolving line of credit which you may use for each of the following consumer transactions:

- Purchase of goods or services.
- Cash Advances, including:
 - Cash Disbursement. Cash disbursement from a participating, franchised institution or merchant (except ATMs).
 - ATM Advance. Cash from an automated teller machine (ATM) with your Personal Identification Number (PIN), or ATM transfer of funds from your Account to your Bank of America deposit account, where available.
 - Overdraft Protection. In those instances, you may link your Account to your personal checking account for Overdraft Protection as shown in your Additional Disclosure.
- Account Check. Purchase of money orders, travelers checks, foreign lottery tickets, casino chips or cash, race-track wagers, or vouchers redeemable for cash, and similar items that Visa U.S.A. Inc., ("Visa") or MasterCard International Incorporated ("MasterCard") designate.
- Balance Transfer. Occasionally, we may make balance transfer of funds from our transfer will be included with our offer. Balance transfers will post to your account as either a purchase or a cash advance depending on our offer.

YOUR CREDIT LINE

If your Account has a Credit Line, as shown on your credit card or billing statement, you will not harm your unpaid balance to exceed it. Even if we authorize transactions which cause you to exceed your Credit Line, you will still be responsible to pay us for any amounts over your Credit Line.

If, at any Credit Line Increase requested by us, you may request us to change Credit Advance Limit. We may set a Credit Advance Limit for your Account that would be lower than your Credit Line. Your Account billing statement will show your "Cash Credit Limit" and "Available Credit" (the amount of unused Credit Line available for a transaction) is withheld.

AUTHORIZATIONS

Some of your Purchases and Cash Advances will require our prior authorization, and certain daily dollar limits will apply to your ATM Cash Advances. We may limit the number of authorizations we give your Account on any day or deny authorization for security or other reasons. We are not liable if a merchant, financial institution or ATM does not accept your card or Account Number, or if a transaction for a transaction is withheld.

use your Account. Notice to any of you will be considered notice to you, unless otherwise specified. Persons mentioned in this Agreement are referred to as "you" or "your".

Change of Personal Information. You will notify us in writing if you change your name, address, or home or business telephone number.

Credit Information. We may periodically review your credit standing by obtaining information from credit reporting agencies and others concerning your accounts. We may also release information about your Account to our affiliates and others such as Visa, MasterCard or your other credit card. You will provide updated financial information upon our request.

Credit Insurance. If you purchase credit insurance to have your outstanding balance insured up to a specified limit in the event of your death, or to pay a monthly insurance benefit to your Account if you become disabled or involuntarily unemployed through our program, your credit insurance premium will be based on your New Balance on each Billing Date and will appear on your billing statement. Terms and limitations of coverage are in the Certificate of Insurance which the insurance carrier will mail you after it approves your application for insurance.

Credit Reporting. You have the right to dispute the accuracy of information we have reported to a consumer reporting agency. If you wish to do so, write to us at P.O. Box 53105, Dept. #4524, Phoenix, AZ 85072-3105. Please include your name, address, account number, telephone number, social security number and a brief description of the problem. If available, please include a copy of the credit report in question.

Checking Payment on Account Checks. To stop payment on an Account Check you will call us or Customer Service number shown on your billing statement with all of the following information: the exact dollar amount of the check; the check number; your Account number; the name of the party to whom the check was written and the name of the person who signed the check.

We will stop payment on the check if we receive your stop payment request by the business day before the day we pay your check. The date we pay the Account Check may be before the date it posts to your Account. The stop payment order will remain effective for 6 months. You may write us to cancel the order at any time.

Affiliate Information-Sharing. Federal law permits us to share with Bank of America or its affiliates information about you or your Account. In addition, we may share with our affiliates information received from outside sources, including information in your Account application ("Outside information"). If you do not wish us to share Outside information, you must write to Bank of America, P.O. Box 27025, Richmond, VA 23261-7025 to do so, and include your name, address, telephone number, Account number(s) and social security number.

Information-Sharing. We carefully select providers of quality products and services to offer you discount savings and other valuable benefits, arranged specially for our cardmembers. For this purpose, we provide them identifying information about your Account, including transaction-category information. If you accept an offer and authorize a product or service provider to charge a purchase to your Account, your Account number is provided under confidential conditions.

If you prefer that we not share information about you like this, please write us at the "Billing Inquiries" address on your billing statement and include your name and Account number, or call 1-800-747-1331. Customer Service number on your billing statement. When we include your information, we will prominently state that we stop any offers from coming to you as soon as practicable.

Authorized Users. You may allow Authorized Users on your Account in the following ways: (1) by notifying us that you want someone added to your Account as an Authorized User; (2) by losing your credit card or Account Number to another; or (3) by any other way in which you would be legally precluded from denying another to use your Account or to be legally allowed anyone to become an Authorized User. By doing so, you authorize the person to use your Account to the same extent you can, including but not limited to making any Purchases and Cash Advances and allowing others to do so. You give us the right to limit the nature of the amount of authority you give to any Authorized User. That person's authority will continue until you notify us that you are terminating the authority and until you physically retrieve the credit card. If you cannot retrieve the card, you will remain liable for any transactions which we cannot prevent after you notify us.

If your credit card is lost or stolen, or if you think your Account is being used without your permission, you must notify us immediately by calling the lost or stolen number on the back of your card.

— 3 —

Periodic Finance Charge on Cash Advances;
Periodic Finance Charge on Promotional Balances (see below);
Cash Advance Fees; and
Any Minimum Finance Charge as shown in your Additional Disclosure.

Cash Advance Fee. For each Cash Advance, a Cash Advance Fee, a one-time Finance Charge, in the amount described in the Additional Disclosure, will apply to the advance. When you obtain an ATM Advance, the ATM owner may charge you a fee for the transaction in addition to our Cash Advance Fee. We have no control over the ATM owner's fee.

Periodic Rate. The Periodic Rate and the corresponding Annual Percentage Rate are shown in the Additional Disclosure. Those rates are used to calculate the Annual Percentage Rate and the types of transactions to which it will apply as described in the promotional offer we make.

At our option, if at any time we do not receive at least your Minimum Payment Due by the 31st day after the Payment Due Date for any payment, the Annual Percentage Rate on your existing balances and any new transactions will increase on the next Billing Date to the initial plus 12.5% percentage points (with a 19.8% minimum for Cash Advances and Any Old Balance). The current Annual Percentage Rate and corresponding Daily Periodic Rate are shown in the Additional Disclosure. This is a variable rate. The higher rate will continue to apply until we receive from you 7 consecutive monthly payments of at least the Minimum Payment Due by the Payment Due Date. After 7 consecutive monthly payments, the Annual Percentage Rate will decrease on the next Billing Date to the then current rate that applies to your Account for timely payment performance, as stated in these terms and conditions or any subsequent amendment.

From time to time, you may offer promotional rates on certain transactions. The Annual Percentage Rate and the types of transactions to which it will apply will be described in the promotional offer we make.

Payment Performance. At our option, if at any time we do not receive at least your Minimum Payment Due by the 31st day after the Payment Due Date for any payment, the Annual Percentage Rate on the next Billing Date to the initial plus 12.5% percentage points (with a 19.8% minimum for Cash Advances and Any Old Balance). The current Annual Percentage Rate and corresponding Daily Periodic Rate are shown in the Additional Disclosure. This is a variable rate. The higher rate will continue to apply until we receive from you 7 consecutive monthly payments of at least the Minimum Payment Due by the Payment Due Date. After 7 consecutive monthly payments, the Annual Percentage Rate will decrease on the next Billing Date to the then current rate that applies to your Account for timely payment performance, as stated in these terms and conditions or any subsequent amendment.

HOW WE DETERMINE YOUR AMOUNT SUBJECT TO PERIODIC RATE

Each Account billing statement will describe Account activity during a billing cycle, which is a period of about one month ending on the Billing Date. During a billing cycle, you will have a grace period in which you will not incur additional Finance Charge on the Purchase portion of the Account if we received your full payment of the New Balance on your prior billing statement by the Payment Due Date on that statement (unless you have a "Non-Grace" product, in which case there is no Grace Period for Purchases). If you pay less than the New Balance, you will owe periodic Finance Charge based on the Average Daily Balance of Purchases. For Cash Advances, there is no grace period, and you will owe a periodic Finance Charge based on the Average Daily Balance of Cash Advances.

Here's how we determine the periodic Finance Charge: On the Billing Date, we calculate your daily balance by starting with the outstanding balance for each day in the billing cycle. Next, we add all new charges and subtract daily payments and credits. This remaining amount is the daily balance. We add all daily balances and divide by the number of days in the billing cycle to arrive at the Average Daily Balance which is the Account's Periodic Rate.

This calculation separately for each product and each periodic Finance Charge to the daily balance to which it applies. Then less and charges described in the "Other Fees and Charges" section are added to the Purchase daily balance on the date they are assessed.)

For each transaction that has a limited duration, we assess Finance Charge from its Transaction Date. If, however, the Transaction Date exceeds the billing cycle in which the Purchase or Cash Advance made to your Account, we assess Finance Charge from the first day of the billing cycle.

OTHER FEES AND CHARGES

Annual Fee. If we charge you a non-refundable Annual Fee, it will be shown in the Additional Disclosure and apply each year that your Account is open, whether or not you use your Account.

Late Charge. If we do not receive the Minimum Payment Due by the Payment Due Date on your billing statement, we may charge you a Late Charge in the amount shown in the Additional Disclosure.

Overlimit Fee. If your unpaid balance exceeds your Credit Line at any time during

the month, we will charge you a fee. This fee will be the amount of the overlimit balance multiplied by the Overlimit Fee rate shown in the Additional Disclosure.

Minimum Payment Due. You will pay at least the Minimum Payment Due in the amount shown in your Additional Disclosure by the Payment Due Date on your billing statement.

OTHER IMPORTANT INFORMATION

Signature. You must sign the back of your credit card as you receive it. Unsecured Credit. This Agreement is not valid as a security interest in Purchases you charge to your Account or any other property you own.

Verification

Constance Curtis (Name of authorized representative) is Agent (Title or Position)

for, Bank of America, N.A., the within Plaintiff in this action, and that the statements of fact made in the foregoing Complaint are true and correct to the best of the undersigned verifier's 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: 12-2-03

Constance Curtis
Name

William J & Susan D Andres
4356024105675419

FILED

JAN 26 2004

William A. Shaw
Prothonotary/Clerk of Courts

Susan D. Andres
c/o 215 Treasure Lake
Dubois, Pennsylvania [15801]
814-834-3606

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

BANK OF AMERICA, N.A., (USA),	)	CASE NO. 03-1880-CA
)	
)	
Plaintiff	)	MOTION TO DISMISS
)	
WILLIAM J. ANDRES AND)	
SUSAN D. ANDRES,)	
Defendant)	
)	

MOTION TO DISMISS

1. Susan D. Andres, an aggrieved party, petitions the Court under authority of Pennsylvania Rules of Civil Procedure.
2. Truth in Lending act was passed to prevent unsophisticated consumer from being misled as to total cost of financing. Truth in Lending Act, Section 102, 15 U.S.C.A. Section 1601. Griggs v. Provident Consumer Discount Co., 680 F.2d 927, certiorari granted, vacated 103 S.Ct. 400, 459 U.S. 56, 74 L.Ed.2^d 225, on remand 699 F. 2d 642.
3. Questions of whether lender's Truth in Lending Act disclosures are inaccurate, misleading or confusing ordinarily will be for the fact finder, however, where confusing, misleading and inaccurate character of disputed disclosure is so clear that it cannot be reasonably disputed, summary judgment for plaintiffs is appropriate. Truth in Lending Act Section 102 et. Seq.; Truth in Lending Regulations, Regulation Z, Section 226.1 et. seq., 15 U.S.C.A. foll. Sectioin 1700 Griggs v. Provident Consumer Discount Co., 503 F. Supp. 246, appeal dismissed 672 F.2d. 903, appeal after remand 680 F.2d. 927, certiorari granted, vacated 103 S.Ct. 400, 459 U.S. 56, 74 L.Ed.2d 225, on remand 699 F.2d 642.

Under the facts at hand the Plaintiff Bank has patently violated the Truth in Lending Act. At all times the Bank mislead and attempted to confuse Defendant. The Bank did not provide appropriate disclosure as required by the Truth in Lending Act in a substantive and technical manner.

Defendant prays for relief from this Court with an Order to Dismiss, as supported by Defendants' Brief in Support of Truth in Lending Violations. (See attached.)

Susan D. Andres
Susan D. Andres
215 Treasure Lake
Dubois, Pennsylvania [15801]
814-834-3606

Susan D. Andres
c/o 215 Treasure Lake
Dubois, Pennsylvania [15801]
814-834-3606

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

BANK OF AMERICA, N.A., (USA),	)	CASE NO. 03-1880-CA
4161 Piedmont Parkway, Greensboro, NC 27410)	
)	
Plaintiff	)	ORDER TO DISMISS
)	
WILLIAM J. ANDRES AND)	
SUSAN D. ANDRES,)	
Defendant)	
)	

ORDER OF COURT

AND NOW, upon consideration of plaintiffs' **Motion to Dismiss**, the Motion is hereby granted in the above referenced proceeding.

BE IT SO ORDERED.

Judge

Date

CERTIFICATE OF SERVICE

I, Susan D. Andres, hereby certify that on the date indicated below, I served the foregoing document on the Defendant by mailing a copy thereof, contained in a sealed envelope, with postage prepaid, addressed to its attorneys as shown below, and deposited in the post office at Dubois, PA 15801.

Burton Neil, Esq.
Burton Neil and Assoc. P.C.
26 South Church Street
West Chester, PA 19380
BURTON NEIL & ASSOCIATES, P.C.

DATED this 24th day of January, 2004

BY: Susan Diane Andres
Susan Diane Andres

FILED

JAN 26 2004

William A. Shaw
Prothonotary/Clerk of Courts

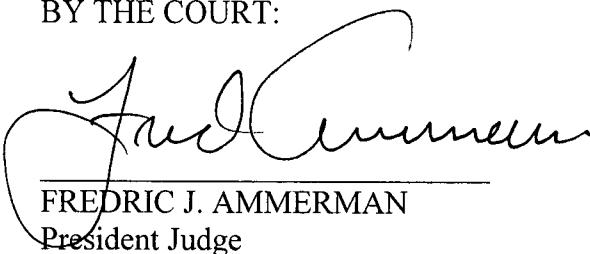
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

BANK OF AMERICA, N.A. :
:
vs. : No. 03-1880-CD
:
WILLIAM J. ANDRES and :
SUSAN D. ANDRES :
:

O R D E R

AND NOW, this 28 day of January, 2004, it is the ORDER of the Court that argument on Defendant, Susan D. Andres' Motion to Dismiss in the above matter has been scheduled for Monday, February 23, 2004 at 10:00 A.M., in Courtroom No. 1, Clearfield County Courthouse, Clearfield, PA. Plaintiff's reply Brief will be due on or before Wednesday, February 18, 2004.

BY THE COURT:


FREDRIC J. AMMERMAN
President Judge

FILED

JAN 28 2004

William A. Shaw
Prothonotary/Clerk of Courts

FILED 2cc & Memo Re: Service
JAN 28 2004 to Susan Andres, 215 Treasures Lake,
William A. Shaw
Prothonotary/Clerk of Courts
Dubois, PA 15801

BANK OF AMERICA (USA) N.A. : IN THE COURT OF COMMON PLEAS
Plaintiff : CLEARFIELD COUNTY, PENNSYLVANIA
v.
: NO. 03-1880-CA
WILLIAM J. ANDRES and
SUSAN D. ANDRES
Defendants : CIVIL ACTION - LAW

ORDER

AND NOW, this _____ day of February 2004, on consideration of plaintiff's preliminary objections, it is hereby **ORDERED** and **DECREED** that:

The preliminary objections to the Defendant's Motion to dismiss are hereby sustained pursuant to PA RCP 1028(a)(2) and (a)(3) and said motion is hereby stricken.

The preliminary objections to Defendant's Notice of Acceptance of Contract are hereby sustained pursuant to PA RCP 1028(a)(2) and (a)(3) and said Notice of Acceptance of Contract is hereby stricken.

Defendant shall file an answer to the complaint within twenty (20) days from the date of this Order

J.

BURTON NEIL & ASSOCIATES, P.C.
Burton Neil, Esquire, Id. no. 11348
26 S. Church Street, West Chester, PA 19382
610-692-2120

Attorney for Plaintiff

BANK OF AMERICA (USA) N.A. : IN THE COURT OF COMMON PLEAS
Plaintiff : CLEARFIELD COUNTY, PENNSYLVANIA
v. : NO. 03-1880-CA
WILLIAM J. ANDRES and
SUSAN D. ANDRES
Defendants : CIVIL ACTION - LAW

Preliminary Objections to Motion to Dismiss

Now comes plaintiff Bank of America (USA), N.A. by and through counsel Burton Neil, Esquire and files the following preliminary objections to the documents filed by the defendants which are styled a Motion to Dismiss and Notice of Acceptance to Contract.

I. Defendants' Motion to Dismiss

Although it is not clear what procedural rule defendants were attempting to use in filing the motion to dismiss, plaintiff perceives the same to be a preliminary objection and does, hereby, imposes the following preliminary objections in opposition thereto:

A. Failure of a Pleading to Conform to Rule of Court PA R. C. P 1028(a)(2)

1. The defendants' motion to dismiss alleges a violation of the Truth in Lending Act (hereinafter "TILA").
2. Defendants' averred that "under the facts at hand, the Plaintiff Bank has patently violated" TILA.
3. Contrary to PA R. C. P. 1019(a), the defendants failed to plead any material facts in a concise and summary fashion in support of their motion.

Wherefore, plaintiff prays your Honorable Court will strike the motion to dismiss.

FILED

FEB 10 2004

William A. Shaw
Prothonotary

B. Legal Insufficiency of a Pleading (Demurrer) [PA R. C. P. 1028(a)(3)]

4. The defendants' motion to dismiss seeks to have plaintiff's complaint dismissed pursuant to TILA.
5. There is no remedy available to the defendants under TILA which would permit plaintiff's complaint to be dismissed.

Wherefore, plaintiff prays your Honorable Court will strike the motion to dismiss.

II. Defendants' Notice of Acceptance to Contract

Defendants, in addition to serving plaintiff's counsel with the aforesaid motion to dismiss separately served counsel with the attached Notice of Acceptance to Contract. This bizarre document (likely purchased by defendants from an internet site promising purchasers that the scheme set forth will enable the purchasers to eliminate or avoid debt) appears to be attempting to state a claim against plaintiff's counsel, his firm and its employees. To the extent this is and/or may be considered an action against plaintiff's counsel and/or a defense to the plaintiff's lawsuit and/or a preliminary objection, plaintiff interposes the following preliminary objections thereto:

A. Legal Insufficiency of a Pleading (Demurrer) [PA R. C. P. 1028(a)(3)]

1. Plaintiff's counsel, his firm, its "partners, associates, paralegals, contractees, assignees, heirs, employees, successors" are not a party to this lawsuit.
2. In the statement of facts in support of whatever this document might be, the defendants' averred that they have not seen any facts alleging liability by them to the plaintiff's law firm. (Query is this plaintiff's law firm or Duane Morris LLP as stated in the definitions section of their document?)
3. Under the facts set forth, the defendants' "pleading" is legally insufficient.

Wherefore, plaintiff prays your Honorable Court will strike the document styled "Notice of Acceptance to Contract."

B. Failure to Conform to Law or Rule of Court [PA R. C. P. 1028(a)(2)]

4. The document is not verified contrary to PA R.C.P. 1024.
5. The document does not contain a caption contrary to PA R.C.P. 1018.
6. The document does not set forth allegations in separately numbered paragraphs contrary to PA R.C.P. 1022.

Wherefore, plaintiff prays your Honorable Court will strike the document styled "Notice of Acceptance to Contract."

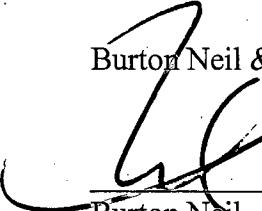
C. Legal Insufficiency of a Pleading (Demurrer) [PA R. C. P. 1028(a)(3)]

7. The defendants' document appears to attempt to state a claim for breach of contract which by its very terms seeks to impose a contractual liability on plaintiff's counsel and his firm and its employees where none previously existed.

8. The defendants' theory for liability appears to be that simply by stating a contract existed even though not previously bargained is sufficient to state a claim for liability.

9. Under the facts set forth, the defendants' "pleading" is legally insufficient.

Burton Neil & Associates, P.C.


Burton Neil
Attorney for Plaintiff

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

BURTON NEIL & ASSOCIATES, P.C.
Burton Neil, Esquire, Id. no. 11348
26 S. Church Street, West Chester, PA 19382
610-692-2120

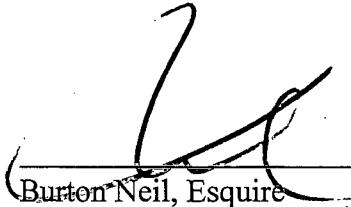
Attorney for Plaintiff

BANK OF AMERICA (USA) N.A. : IN THE COURT OF COMMON PLEAS
Plaintiff : CLEARFIELD COUNTY, PENNSYLVANIA
v. : NO. 03-1880-CA
WILLIAM J. ANDRES and
SUSAN D. ANDRES
Defendants : CIVIL ACTION - LAW

Certificate of Service

Burton Neil, Esquire, being duly sworn according to law, deposes and says that he is attorney for plaintiff Bank of America (USA) N.A., that he served a true and correct copy of plaintiff's Preliminary Objections to Plaintiff's Motion to Dismiss on defendants by first class U.S. Mail, postage prepaid on the date set forth below.

Dated: 2/15/07



Burton Neil, Esquire

The law firm of Burton Neil & Associates is a debt collector.

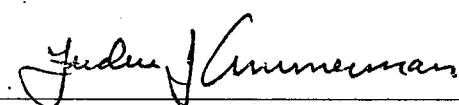
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

BANK OF AMERICA, (USA) N.A. :
:
vs. : No. 03-1880-CD
:
:
WILLIAM J. ANDRES and :
SUSAN D. ANDRES :
:

ORDER

AND NOW, this 11th day of February, 2004, it is the ORDER of the Court that argument on Plaintiff's Preliminary Objections to Motion to Dismiss in the above matter has been scheduled for **Monday, February 23, 2004 at 10:00 A.M.** in Courtroom No. 1, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:


FREDRIC J. AMMERMAN
President Judge



FEB 11 2004

William A. Shaw
Prothonotary

FILED

0 3:31 AM 2004 6757-Neil & Memo

FEB 11 2004 *WES*

William A. Shaw
Prothonotary

In The Court of Common Pleas of Clearfield County, Pennsylvania

BANK OF AMERICA, N.A.

VS.

ANDRES, WILLIAM J. & SUSAN D.

COMPLAINT

Sheriff Docket #

14966

03-1880-CD

SHERIFF RETURNS

NOW DECEMBER 30, 2003 AT 12:25 PM SERVED THE WITHIN COMPLAINT ON SUSAN D. ANDRES, DEFENDANT AT RESIDENCE, 215 TREASURE LAKE, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO SUAN ANDRES A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN TO HER THE CONTENTS THEREOF.

SERVED BY: McCLEARY

NOW DECEMBER 3-, 2004 AT 12:25 PM SERVED THE WITHIN COMPLAINT ON WILLIAM J. ANDRES, DEFENDANT AT RESIDENCE, 215 TREASURE LAKE, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO SUSAN ANDRES, WIFE A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN TO HER THE CONTENTS THEREOF.

SERVED BY: MCCLEARY

Return Costs

Cost	Description
38.05	SHERIFF HAWKINS PAID BY: ATTY CK# 27441
20.00	SURCHARGE PAID BY: ATTY CK# 27442

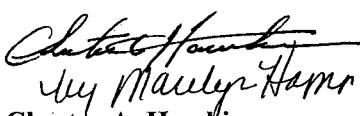
Sworn to Before Me This

20 Day Of Feb 2004



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

So Answers,



Chester A. Hawkins
Sheriff

FILED

FEB 20 2004

0/31/04

William A. Shaw

Prothonotary/Clerk of Courts



Susan D. Andres
c/o 215 Treasure Lake
Dubois, Pennsylvania [15801]
814-371-6515

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

BANK OF AMERICA, N.A., (USA),	)	CASE NO. 03-1880-CA
)	
)	
Plaintiff	)	MOTION FOR
	)	ENLARGEMENT OF TIME
WILLIAM J. ANDRES AND)	
SUSAN D. ANDRES,)	
Defendants)	
)	

1. Susan D. Andres, an aggrieved party, petitions the Court under authority of Pennsylvania Rules of Civil Procedure for a Court approved Enlargement of Time of sixty (60) days for the following reason, to wit.

2. Co-defendant William J. Andres is a fifty-three year old father, husband and provider for his family. On February 02, 2004 he was admitted to the DUBOIS REGIONAL MEDICAL CENTER and has been diagnosed with cancer of the liver having found approximately 30 lesions on his liver. The liver is not the primary cancer site and it has been determined that he has a sizable malignant tumor in his lower bowel which is believed to be the primary cancer site. (See attached Exhibit A, Discharge Summary after a one day stay in the hospital with the preliminary findings.)

3. Considering the allopathic means available for treatment co-defendant's prognosis is very poor. Alternative methods of treating co-defendant do have a chance of changing the current prognosis but are contingent upon concentrated support from co-defendant Susan D. Andres along with a proper attitude on the part of the co-defendant William J. Andres.

3. Suffice to say that both co-defendants' time for the near term is compromised to the extent that sufficient time is not available to prepare for or attend any hearings on Case No. 03-1880-CA.

4. Co-defendant Susan D. Andres hereby prays upon this Court for relief in this instant matter by Court approving an Enlargement of Time of at least sixty days.

Susan D. Andres
Susan D. Andres
215 Treasure Lake
Dubois, Pennsylvania [15801]
814-371-6515

SYSTEM COPY - NOT FROM CHARTED ORIGINAL
THIS IS NOT AN OFFICIAL AND LEGAL DOCUMENT

Patient Name: ANDRES, WILLIAM J
Unit Number: 000344311
Account Number: 403300345

DISCHARGE SUMMARY

DUBOIS REGIONAL MEDICAL CENTER
DUBOIS, PENNSYLVANIA

09/24/1950

PATIENT NAME: ANDRES, WILLIAM J 0403300345 - 000344311IP

ADMISSION DATE: 02/02/2004 DISCHARGE DATE: 02/03/2004

DISCHARGE DIAGNOSIS: Multiple liver lesions, probable metastases.

DISCHARGE MEDICATIONS: None.

CONSULTATION: While in the hospital, including Dr. Malik and Dr. Marchioli.

BRIEF HISTORY AND PHYSICAL: On the day of admission the patient is a 53-year-old white male presented to the emergency room with 3-4 week history of intermittent right upper quadrant pain. The patient stated right upper quadrant pain significantly worsened over the last 3-4 days. While in the emergency room a CT scan was done of his abdomen and showed multiple lesions on his liver, and patient was admitted for cancer workup.

HOSPITAL COURSE: The patient was admitted and treated for abdominal pain. Chest x-ray was done, proved to be negative. The patient eventually was taken to the operating room for liver biopsy to try to find out where the lesions are coming from. The patient was eventually discharged home in stable condition, to be followed up with Dr. Marchioli as an outpatient, to be followed up with Dr. Malik for colonoscopy as an outpatient. Patient to call me or his family physician if having any problem.

D: 02/04/2004 10:33 A
F: 02/05/2004 1:45 P PW/src
DOCUMENT NO: 400403
Job/Tape

ID:000041510

:c: Phuong Wirths, D.O.

Phuong Wirths, D.O.

ACTIVITY REPORT

TIME : 02/21/2004 09:52

DATE	TIME	FAX NO./NAME	DURATION	PAGE(S)	RESULT	COMMENT
02/07	11:49	17248671614		23	01	TX ECM
02/07	12:02	15122332649		03:01	06	TX ECM
02/07	12:08	18667534230		34	01	TX
02/11	15:36	15122332649		01:06	03	TX ECM
02/11	15:56	14137783567		02:37	05	TX ECM
02/11	16:01	15094725201		02:08	06	TX ECM
02/12	13:19	15094725201		03:21	04	TX ECM
02/19	14:55	15094725201		33	01	TX ECM
02/21	09:45	7657649		01:36	04	TX ECM
02/21	09:50	16106964111		01:31	04	TX ECM

BUSY: BUSY/NO RESPONSE
NG : POOR LINE CONDITION
CV : COVERPAGE
CA : CALL BACK MSG
POL : POLLING
RET : RETRIEVAL

Fax

To: Judy **From:** Susan D. Andres

Fax: 814-765-7649 **Pages:** 4

Phone: 814-765-2641 X1300 **Date:** 2/20/2004

Re: Motion for Enlargement of Time **CC:** Burton Neil & Assoc. PC

X Urgent **For Review** **Please Comment** **Please Reply** **Please Recycle**

Please act upon the Motion for Enlargement of Time to follow.

To be mailed today so that you will have an original.

Susan D. Andres

Susan D. Andres
c/o 215 Treasure Lake
Dubois, Pennsylvania [15801]
814-371-6515

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

BANK OF AMERICA, N.A., (USA),	)	CASE NO. 03-1880-CA
)	
)	
Plaintiff	)	MOTION FOR
	)	ENLARGEMENT OF TIME
WILLIAM J. ANDRES AND)	
SUSAN D. ANDRES,)	
Defendants)	
)	

1. Susan D. Andres, an aggrieved party, petitions the Court under authority of Pennsylvania Rules of Civil Procedure for a Court approved Enlargement of Time of sixty (60) days for the following reason, to wit.
 2. Co-defendant William J. Andres is a fifty-three year old father, husband and provider for his family. On February 02, 2004 he was admitted to the DUBOIS REGIONAL MEDICAL CENTER and has been diagnosed with cancer of the liver having found approximately 30 lesions on his liver. The liver is not the primary cancer site and it has been determined that he has a sizable malignant tumor in his lower bowel which is believed to be the primary cancer site. (See attached Exhibit A, Discharge Summary after a one day stay in the hospital with the preliminary findings.)
 3. Considering the allopathic means available for treatment co-defendant's prognosis is very poor. Alternative methods of treating co-defendant do have a chance of changing the current prognosis but are contingent upon concentrated support from co-defendant Susan D. Andres along with a proper attitude on the part of the co-defendant William J. Andres.
 3. Suffice to say that both co-defendants' time for the near term is compromised to the extent that sufficient time is not available to prepare for or attend any hearings on Case No. 03-1880-CA.

4. Co-defendant Susan D. Andres hereby prays upon this Court for relief in this instant matter by Court approving an Enlargement of Time of at least sixty days.

Susan D. Andres

Susan D. Andres
215 Treasure Lake
Dubois, Pennsylvania [15801]
814-371-6515

SYSTEM COPY - NOT FROM CHARTED ORIGINAL
THIS IS NOT AN OFFICIAL AND LEGAL DOCUMENT

Patient Name: ANDRES, WILLIAM J
Unit Number: 000344311
Account Number: 403300345

DISCHARGE SUMMARY

DUBOIS REGIONAL MEDICAL CENTER
DUBOIS, PENNSYLVANIA

09/24/1950

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DISCHARGE DIAGNOSIS: Multiple liver lesions, probable metastases.

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BRIEF HISTORY AND PHYSICAL: On the day of admission the patient is a 53-year-old white male presented to the emergency room with 3-4 week history of intermittent right upper quadrant pain. The patient stated right upper quadrant pain significantly worsened over the last 3-4 days. While in the emergency room a CT scan was done of his abdomen and showed multiple lesions on his liver, and patient was admitted for cancer workup.

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DOCUMENT NO: 400403
Job/Tape

ID:000041510

C: Phuong Wirths, D.O.

Phuong Wirths, D.O.

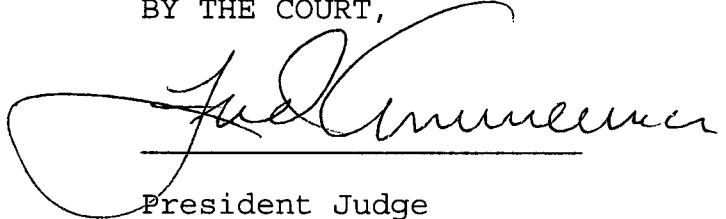
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

BANK OF AMERICA, N.A. :
VS. : NO. 03-1880-CD
WILLIAM J. ANDRES AND :
SUSAN D. ANDRES :

O R D E R

NOW, this 20th day of February, 2004, in
consideration of the Motion for Extension of Time received this
date, it is the ORDER of this Court that said motion be and is
hereby granted. The Court Administrator is directed to
reschedule the argument on the Motion to Dismiss in
approximately sixty (60) days.

BY THE COURT,



Jud A. Munroe
President Judge

FILED

FEB 23 2004

William A. Shaw
Prothonotary

FILED

O 1-39 AM 10a Atty Neil
200. Gibson Andrew Hale
FEB 23 2004 215+ measure taken
Dubai, P.M. 15801

William A. Shaw
Prothonotary

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

BANK OF AMERICA, (USA) N.A. :
:
vs. : No. 03-1880-CD
:
:
WILLIAM J. ANDRES and :
SUSAN D. ANDRES :
:

ORDER

AND NOW, this 3rd day of March, 2004, it is the ORDER of the
Court that argument on the Motion to Dismiss in the above matter has been
scheduled for Monday, April 26, 2004 at 10:00 A.M., in Courtroom No. 1, Clearfield
County Courthouse, Clearfield, PA.

BY THE COURT:

Judge Ammerman
FREDERIC J. AMMERMAN
President Judge

FILED

MAR 03 2004

William A. Shaw
Clerk/Notary

FILED

01014110
1cc Letter Neil
1cc Wm Umphres
215+treasure Lake
Wm Umphres P.O. 15801

William A. Shaw
Prothonotary

W.A. Shaw

FILED

01/14/04
APR 20 2004

William A. Shaw
Prothonotary/Clerk of Courts

Susan D. Andres
c/o 215 Treasure Lake
DuBois [15801]
Pennsylvania
814-834-3606

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

BANK OF AMERICA, N.A.,(USA),
4161 Piedmont Parkway, Greensboro,
N.C.27410,
Plaintiff,

vs.

WILLIAM J ANDRES AND , SUSAN D
ANDRES, 215 Treasure Lake, Du Bois, PA
15801-9005,
Defendants

WILLIAM J ANDRES AND , SUSAN D
ANDRES

Counterclaimants

vs.

BANK OF AMERICA, N.A.,(USA)

Counter Defendant

COMES NOW, Susan Diane Andres, Codefendant and Co-counterclaimant, hereinafter Counterclaimant with a Counterclaim against and a demand for production of records of BANK OF AMERICA, N.A., (USA), Plaintiff and Counter defendant, hereinafter Counter defendant pursuant to P.R.C.P. RULE 1031. COUNTERCLAIM and P.R.C.P. RULE 4009.1

PRODUCTION OF DOCUMENTS AND THINGS. GENERAL PROVISIONS, and P.R.C.P.
RULE 4009.26. SUBPOENA TO PRODUCE DOCUMENTS.

Counterclaimant has prior to action on the part of Counter defendant regarding this instant matter, demanded verification of the alleged debt. To date Counter defendant has not provided said verification in the form necessary to establish that there is a debt owed to Counter defendant by Counterclaimant; that a contract exists between Counterclaimant and Counter defendant; that Counter defendant has provided a form of substance and not credit, which if this is the case, is unlawful as no bank has authority by any state or federal statute to loan said bank's credit.

Counter defendant has violated The Truth in Lending Act, and The Fair Debt and Collection Practices Act by not fully disclosing all pertinent details of the alleged contract prior to consummation of said contract. Counter defendant is unjustly enriched while lending its credit rather than it own funds.

Counter defendant has violated one of the most important conditions in contract law and that is that counter defendant did not provide consideration for the contract. By not providing consideration and not disclosing this fact there was not a meeting of the minds by Counterclaimant and Counter defendant which also make any alleged contract void *ab initio*.

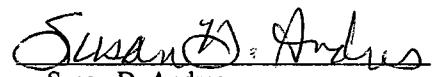
Counterclaimant, therefore demands that Counter defendant provide this Court with Counter defendant's Record of Ledger for the aforementioned contract, showing all of the transactions that may have taken place during this alleged contract to include where the funds originated before being allocated on Counterclaimant's behalf, following Generally Accepted Accounting Principles, hereinafter GAAP. (See attached Subpoena for Production of Documents.)

SUMMARY

Counterclaimant prays that this Court will prohibit Counter defendant from further collection actions against Counterclaimant. Further, that this Court will award damages in the amount of Counter defendant's claim plus reasonable legal fees to Counterclaimant should Counter defendant not provide this Court with evidence to the contrary of the facts alleged above by Counterclaimant.

Respectfully submitted,

Dated this 20th day of April, 2004



Susan D. Andres
c/o 215 Treasure Lake
DuBois [15801]
Pennsylvania
814-834-3606

Susan D. Andres
c/o 215 Treasure Lake
DuBois [15801]
Pennsylvania
814-834-3606

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

BANK OF AMERICA, N.A.,(USA),
4161 Piedmont Parkway, Greensboro,
N.C.27410,

Plaintiff,

vs.

WILLIAM J ANDRES AND , SUSAN D
ANDRES, 215 Treasure Lake, Du Bois, PA
15801-9005,

Defendants

WILLIAM J ANDRES AND , SUSAN D
ANDRES

Counterclaimants

vs.

BANK OF AMERICA, N.A.,(USA)

Counter Defendant

COMES NOW, Susan Diane Andres, Codefendant and Co-counterclaimant, hereinafter Counterclaimant with a Counterclaim against and a demand for production of records of BANK OF AMERICA, N.A., (USA), Plaintiff and Counter defendant, hereinafter Counter defendant, pursuant to P.R.C.P. RULE 4009.1 PRODUCTION OF DOCUMENTS AND THINGS.

GENERAL PROVISIONS, and P.R.C.P. RULE 4009.26. SUBPOENA TO PRODUCE DOCUMENTS.

NOTICE TO PRODUCE	
To <u>BANK OF AMERICA, N.A.,(USA)</u> (Name(s) of Party/Parties)	
You are directed to produce the following: <u>1. Original signed contract between Counterclaimant and Counter defendant.</u> <u>2. Records of the Ledger to include source of funds before being transferred into Counterclaimant's transaction account.</u>	
at <u>Clearfield County Court of Common Pleas</u> (Courtroom or other place) (Address) Pennsylvania, on <u>April 26th</u> at <u>10</u> o'clock <u>A</u> M.	
If you fail to produce the documents or things required by this notice to produce, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure.	
Date: <u>April 20th, 2004</u>	

(Party or Party's Attorney)
Burton Neil, Esquire
BURTON NEIL & ASSOCIATES, P.C.

(Address)

26 South Church Street

610-696-2120

Dated this 20th day of April, 2004

Susan D. Andres

Susan D. Andres
c/o 215 Treasure Lake
DuBois [15801]
Pennsylvania
814-834-3606

**COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CLEARFIELD**

Bank of America, N.A. (USA)
Plaintiff(s)

11

No. 2003-01880-CD

William J. Andres
Susan D. Andres
Defendant(s)

1

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO
RULE 4009.22

TO: Bank of America, N.A., (USA)
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:

- 1) Original signed contract between Counterclaimant and Counter defendant
- 2) Records of the ledger to include source of funds before being transferred into Counterclaimant's transaction account.

(Address)

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Susan D. Andres
ADDRESS: 825 Treasure Lake
Dubois [15801] Pennsylvania
TELEPHONE: 814-834-3606
SUPREME COURT ID #
ATTORNEY FOR:

BY THE COURT:

William A. Shaw
Prothonotary/Clerk, Civil Division

DATE: Tuesday, April 20, 2004
Seal of the Court

Deputy

~~William A. Shaw
Prothonotary
My Commission Expires
1st Monday in Jan. 2006
Clearfield Co., Clearfield, PA~~

Susan D. Andres
c/o 215 Treasure Lake
DuBois [15801]
Pennsylvania
814-834-3606

: IN THE COURT OF COMMON PLEAS
: CLEARFILED COUNTY, PENNSYLVANIA

BANK OF AMERICA, N.A.,(USA),
4161 Piedmont Parkway, Greensboro,
N.C.27410,
Plaintiff,

vs.

WILLIAM J ANDRES AND , SUSAN D
ANDRES, 215 Treasure Lake, Du Bois, PA
15801-9005,
Defendants

WILLIAM J ANDRES AND SUSAN D
ANDRES

Counterclaimants

vs.

BANK OF AMERICA, N.A.,(USA)

Counter Defendant

FILED

APR 21 2004

William A. Shaw
Prothonotary/Clerk of Courts

COMES NOW, Susan Diane Andres, Codefendant and Co-counterclaimant,
hereinafter Counterclaimant with a MOTION FOR CONTINUANCE pursuant to P.C.R.P. Rule
216.(A)(2) Grounds for Continuance. Illness of counsel of record, a material witness, or a party.

STATEMENT OF FACTS

1. Codefendant and Co-counterclaimant, William J. Andres is battling for his life and remains very ill for several days after each chemotherapy treatment. During this time Co-counterclaimant, Susan Diane Andres, has to spend many hours each day attending to William J. Andres' needs.

2. Although it is a reality that William J. Andres will not be able to attend court for some time and it is not the intent of either Co-counterclaimant to cause an unwarranted delay in these proceedings it is asked that there be a continuance granted by this Court for another thirty days so that Co-counterclaimant Susan Diane Andres can adequately prepare for a hearing and also to allow for the production of documents by Plaintiff so that all matters regarding this case be addressed in an efficient manner.

CONCLUSION

3. Counterclaimant, Susan Diane Andres, prays for relief in this case from this Court by Court granting a thirty day continuance from the date of the scheduled hearing in said case.

Respectfully submitted,

Dated this 21st day of April, 2004



Susan D. Andres

CERTIFICATE OF SERVICE

I, Susan Diane Andres, did send a true and correct copy of this document, MOTION FOR CONTINUANCE, by _____ to:

Burton Neil, Esquire
BURTON NEIL & ASSOCIATES, P.C.
1060 Andrew Drive, Suite 170
West Chester, PA 19381

Dated: ____ April, 2004

Susan Diane Andres

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

BANK OF AMERICA, N.A. : :

VS. : NO. 03-1880-CD

WILLIAM J. ANDRES and : :

SUSAN D. ANDRES : :

O R D E R

NOW, this 26th day of April, 2004, the parties being before the Court relative the oral motion made by counsel for the Defendant to quash the subpoena to produce documents which was issued and dated April 20, 2004; following argument thereon, the Court having included in its Order of this date language requiring the Defendant to provide any signed contract in the event that the same would exist; and the Court also believing that the second item being requested is not appropriate, it is the ORDER of this Court that said subpoena be and is hereby quashed.

BY THE COURT,



President Judge

FILED

APR 29 2004

William A. Shaw
Prothonotary/Clerk of Courts

FILED acc Atty Neil

Of Counsel
APR 29 2004 Rec William & Susan Andres
William A. Shaw Esq 215 Treasure Lake
Prothonotary/Clerk of Courts Dubois, PA 15801

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FILED

APR 29 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

BANK OF AMERICA, N.A.

:

VS.

: NO. 03-1880-CD

WILLIAM J. ANDRES and

:

SUSAN D. ANDRES

:

O R D E R

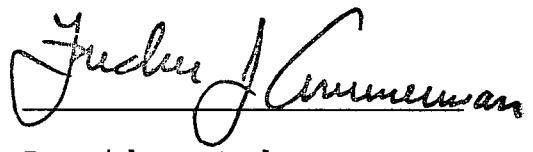
NOW, this 26th day of April, 2004, following argument on the Motion to Dismiss; with the Court noting that counsel for the Plaintiff has participated via telephone conference call; upon consideration of the issues and the Court taking into account that the Defendants are attempting to proceed pro se, it is the ORDER of this Court as follows:

1. The Motion to Dismiss is hereby denied as being premature. However, the Court further notes that the Court is interpreting certain provisions of the said Motion to Dismiss to be requesting more specific information. In this regard, it is the further Order of this Court that the Plaintiff file an Amended Complaint within no more than twenty (20) days from this date setting forth specifically the transactions that are claimed to have occurred that resulted in the debt and also detailing any costs, fees, expenses or other charges which constitute the amount in controversy. The Amended Complaint shall also have statements attached thereto. The Plaintiff shall also attach thereto any contract which may have been

signed between the parties relative the issuance of credit card. In the event there is no signed contract or application, the complaint shall specify how the agreement was entered into.

2. The Plaintiff's Preliminary Objection to the Defendant's Motion to Dismiss is dismissed as moot.

BY THE COURT,



President Judge

FILED

2cc Amy Neel

Q118781
APR 28 2004

2 cc Defs.

William A. Shaw
Prothonotary/Clerk of Courts
215 Treasure Lake
Mt. Lubbois, PA 15801

BURTON NEIL & ASSOCIATES, P.C.
BY: Yale D. Weinstein, Esquire
Identification No. 89678
1060 Andrew Drive, Suite 170
West Chester, PA 19380
610-696-2120
ATTORNEY FOR: Plaintiff

BANK OF AMERICA, N.A. (USA) : IN THE COURT OF COMMON PLEAS
Plaintiff : CLEARFIELD COUNTY, PENNSYLVANIA
VS. : NO. 03-1880-CD
WILLIAM J ANDRES
SUSAN D ANDRES
Defendants : CIVIL ACTION - LAW

PRAECIPE TO DISCONTINUE

TO THE PROTHONOTARY:

Kindly discontinue the above-captioned action without prejudice.

BURTON NEIL & ASSOCIATES, P.C.

BY:

Yale D. Weinstein, Esquire
Attorney for Plaintiff

The law firm of Burton Neil & Associates is a debt collector.

55419

FILED ^{No cc} *7/1/54/04* *7/30/04* ^{Atty}
JUL 30 2004 Cert. of Disc. to
William A. Shaw
Prothonotary/Clerk of Courts ^{Copy to CIA}

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

COPY

Bank of America, N.A. (USA)

Vs.

No. 2003-01880-CD

William J. Andres

Susan D. Andres

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 July 30, 2004, marked:

Discontinued without Prejudice

Record costs in the sum of \$85.00 have been paid in full by Burton Neil, Esq.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 30th day of July A.D. 2004.

William A. Shaw, Prothonotary

Date: 08/12/2004

Clearfield County Court of Common Pleas

User: ASELFRIIDGE

Time: 01:52 PM

ROA Report

Page 1 of 1

Case: 2003-01880-CD

Current Judge: Fredric Joseph Ammerman

Bank of America, N.A. (USA) vs. William J. Andres, Susan D. Andres

Civil Other

Date	Judge	
07/30/2000	Praeclipe to Discontinue Action. filed by Atty. Weinstein.	Fredric Joseph Ammerman
12/22/2003	Filing: Civil Complaint Paid by: Neil, Esq., Burton (attorney for Bank of America, N.A. (USA)) Receipt number: 1870838 Dated: 12/22/2003 Amount: \$85.00 (Check) 2 CC Shff.	No Judge
01/26/2004	Motion to Dismiss. filed by, s/Susan D. Andres 2 cc to Susan Andres	No Judge
01/28/2004	ORDER: AND NOW, this 28th day of January, 2004, it is the Order of the Court that argument on Defendant's Motion to Dismiss in the above matter has been scheduled for Feb. 23, 2004, at 10:00 AM S/FJA 2 CC & Memo to Susan Andres, 215 Treasure Lake, DuBois, PA 15801	Fredric Joseph Ammerman
02/10/2004	Preliminary Objections to Motion to Dismiss. filed by, s/Burton Neil Certificate of Service no cc	Fredric Joseph Ammerman
02/11/2004	ORDER, AND NOW, this 11th day of Feb., 2004, re; Argument on Plaintiff's Preliminary Objections to Motion to Dismiss scheduled for Feb. 23, 2004, at 10:00 a.m., in Courtroom No. 1. by the Court, s/FJA, P.J. 2 cc Atty Neil & Memo	Fredric Joseph Ammerman
02/20/2004	Sheriff Return, Papers served on Defendant(s). So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm	Fredric Joseph Ammerman
02/23/2004	Motion For Enlargement of Time filed by Defendant Susan D. Andres. No CC.	Fredric Joseph Ammerman
	Order Filed: NOW , this 20th day of February, 2004, in consideration of the Motion for Extension of Time received this date, it is the ORDER of this Court that said motion be and is hereby granted. The Court Administrator is directed to reschedule the argument on the Motion to Dismiss in approximately sixty days. S/FJA 1 CC to Burton Neil, Esq. 2 CC to Defendants. Susan Andres,215 Treasure Lake, DuBois, PA 15801 Copy to CA.	Fredric Joseph Ammerman
03/03/2004	ORDER, AND NOW, this 3rd day of March, 2004, re; Argument on the Motion to Dismiss has been scheduled for Monday, April 26, 2004, at 10:00 a.m. in Courtroom No. 1. by the Court, s/FJA, P.J. 1 cc to Atty Neil, AWm Andres	Fredric Joseph Ammerman
04/20/2004	Miscellaneous Payment: Subpoena Paid by: Andres, Susan D. Receipt number: 1877558 Dated: 04/20/2004 Amount: \$3.00 (Cash)	Fredric Joseph Ammerman
04/21/2004	Counterclaim - Production Of Records. filed by, s/Susan D. Andres	Fredric Joseph Ammerman
04/29/2004	Motion For Continuance, filed by S. Andres 2 cert. to Andres	Fredric Joseph Ammerman
	ORDER, NOW, this 26th day of April, 2004, re: Oral Motion to quash subpoena to produce documents, said subpoena be and is hereby QUASHED. by the Court, s/FJA, P.J. 2 cc Atty Neil, William & Susan Andres	Fredric Joseph Ammerman
	ORDER, NOW, this 26th day of April, 2004, re: Motion to Dismiss. by the Court, s/FJA, P.J. 2 cc Atty Niel, Defendants	Fredric Joseph Ammerman

Susan D. Andres
c/o 215 Treasure Lake
DuBois [15801]
Pennsylvania
814-834-3606

COPY

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

BANK OF AMERICA, N.A.,(USA),
4161 Piedmont Parkway, Greensboro,
N.C.27410,

Plaintiff,

vs.

WILLIAM J ANDRES AND , SUSAN D
ANDRES, 215 Treasure Lake, Du Bois, PA
15801-9005,

Defendants

WILLIAM J ANDRES AND , SUSAN D
ANDRES

Counterclaimants

vs.

BANK OF AMERICA, N.A.,(USA)

Counter Defendant

COMES NOW, Susan Diane Andres, Codefendant and Co-counterclaimant, hereinafter Counterclaimant with a Counterclaim against and a demand for production of records of BANK OF AMERICA, N.A., (USA), Plaintiff and Counter defendant, hereinafter Counter defendant, pursuant to P.R.C.P. RULE 4009.1 PRODUCTION OF DOCUMENTS AND THINGS.

GENERAL PROVISIONS, and P.R.C.P. RULE 4009.26. SUBPOENA TO PRODUCE DOCUMENTS.

NOTICE TO PRODUCE	
To	
<u>BANK OF AMERICA, N.A.,(USA)</u>	
(Name(s) of Party/Parties)	
You are directed to produce the following:	
<u>1. Original signed contract between Counterclaimant and Counter defendant.</u>	
<u>2. Records of the Ledger to include source of funds before being transferred into</u>	
<u>Counterclaimant's transaction account.</u>	
at _____	
(Courtroom or other place) (Address)	
Pennsylvania, on _____ at _____ o'clock _____ M.	
If you fail to produce the documents or things required by this notice to produce, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure.	
Date: _____	

(Party or Party's Attorney)
Burton Neil, Esquire
BURTON NEIL & ASSOCIATES, P.C.
(Address)

26 South Church Street

610-696-2120

Dated this 20th day of April, 2004

Susan D. Andres

Susan D. Andres
c/o 215 Treasure Lake
DuBois [15801]
Pennsylvania
814-834-3606

PACKAGES and more
814-372-4600
OPEN 6 DAYS
MON-FRI 8AM-6PM
SAT 9AM-2PM

FEDEX 16.12
ITEM CT 1
CHARGE 16.12
THANK YOU
FOR
YOUR BUSINESS
04-20-2004 03:17PM
2531 CLERK 1

PACKAGES AND MORE
RT 255 & SHAFFER RD
DUBOIS PA 15801

TERMINAL I.D.: 01222701

MERCHANT #: 2401222701

VISA
4050790000012127

SALE

BATCH: 000505

INVOICE: 336171

DATE: APR 20, 04

TIME: 15:18

RRN: 648249872246

AUTH. NO: 041842

AUS: 0

TOTAL \$16.12

SUSAN DIANE ANDRES

CUSTOMER COPY

PACKAGES and more UPS FedEx US Mail RR #8 Box 6 DuBois, PA 15801-9630 814-372-4600		Received From - Customer Information Name: <u>Susan D. Andros</u> Street: <u>90215 TREASURE LAKE</u> City: <u>DuBois</u> St. <u>pt</u> Zip <u>15801</u> Phone No. <u>814-371-6515</u>																					
<table border="1"> <tr> <td rowspan="2"> Package 1 </td> <td colspan="2"> Send to Address Name: <u>Burton Neil + Assoc., P.c</u> Attn: <u>Burton Neil, Esq.</u> Street: <u>1060 Andrew Drive, Suite 170</u> City: <u>West Chester</u> State: <u>PA</u> Zip: <u>19381</u> Phone #: <u>610-696-2120</u> <small>circle one</small> <input checked="" type="radio"/> Business / Residence </td> <td rowspan="2"> Declared Value Shipping Charge Packaging Charge Contents: </td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td><input checked="" type="checkbox"/></td> </tr> <tr> <td rowspan="2"> 2 </td> <td colspan="2"> Name Attn: Street <small>Track: 790616028944</small> <small>Mode: FedEx Express Standard</small> Date: <u>04/20/2004</u> www.fedex.com Weight: <u>1.00</u> Special: <u>0.43</u> Ins. Value: <u>100.00</u> Total: <u>16.12</u> </td> <td rowspan="2"> Declared Value Shipping Charge Packaging Charge Contents: </td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td><input checked="" type="checkbox"/></td> </tr> <tr> <td colspan="2"> Agent will act only as agent in handling of parcels for its customers. Any and all correspondence resulting from loss/damage claim will be initiated by Agent. Agent will act on behalf of its customers in attempting to resolve a loss/damage claim but will be limited to the following: 1: Agent and its insurance will not be liable in the event of breakage with a customers packaged parcel. 2: Agent will not assume liability for payment of a claim in the event carrier denies claim in full or part. 3: Agent will not be liable for carrier to properly collect C.O.D. monies. 4: Agent will not be liable for failure of carrier to effect a timely delivery. Delivery dates and times are estimates on Agent's part and are based on information given by carrier. </td> <td colspan="2"> 5. Agent will not be liable for any parcel shipped without adequate insurance coverage. 6. Agent cannot be liable for a claim that goes unreported for more than 60 days. 7. In event of damage claim, entire package and packing materials must be retained for inspection by carrier representative. </td> </tr> <tr> <td colspan="2"></td> <td colspan="2"> Customer Signature: <u>Susan D. Andros</u> Date: <u>4-20-04</u> </td> </tr> </table>				Package 1	Send to Address Name: <u>Burton Neil + Assoc., P.c</u> Attn: <u>Burton Neil, Esq.</u> Street: <u>1060 Andrew Drive, Suite 170</u> City: <u>West Chester</u> State: <u>PA</u> Zip: <u>19381</u> Phone #: <u>610-696-2120</u> <small>circle one</small> <input checked="" type="radio"/> Business / Residence		Declared Value Shipping Charge Packaging Charge Contents:	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	2	Name Attn: Street <small>Track: 790616028944</small> <small>Mode: FedEx Express Standard</small> Date: <u>04/20/2004</u> www.fedex.com Weight: <u>1.00</u> Special: <u>0.43</u> Ins. Value: <u>100.00</u> Total: <u>16.12</u>		Declared Value Shipping Charge Packaging Charge Contents:	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Agent will act only as agent in handling of parcels for its customers. Any and all correspondence resulting from loss/damage claim will be initiated by Agent. Agent will act on behalf of its customers in attempting to resolve a loss/damage claim but will be limited to the following: 1: Agent and its insurance will not be liable in the event of breakage with a customers packaged parcel. 2: Agent will not assume liability for payment of a claim in the event carrier denies claim in full or part. 3: Agent will not be liable for carrier to properly collect C.O.D. monies. 4: Agent will not be liable for failure of carrier to effect a timely delivery. Delivery dates and times are estimates on Agent's part and are based on information given by carrier.		5. Agent will not be liable for any parcel shipped without adequate insurance coverage. 6. Agent cannot be liable for a claim that goes unreported for more than 60 days. 7. In event of damage claim, entire package and packing materials must be retained for inspection by carrier representative.				Customer Signature: <u>Susan D. Andros</u> Date: <u>4-20-04</u>	
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		Customer Signature: <u>Susan D. Andros</u> Date: <u>4-20-04</u>																					

[United States Home](#)[Information Center](#) | [Customer Support](#)

Track Shipments

Detailed Results

[Printable Version](#)[Quick Help](#)

Tracking number 790616028944
 Signed for by M.GROGAN
 Ship date Apr 20, 2004
 Delivery date/time Apr 21, 2004 1:29 pm

Delivered to
 Delivery location WEST CHESTER PA
 Service type Standard Envelope

Recept/Frnd desk
 WEST CHESTER PA
 Standard Envelope

You can also track:

- [By Alternative](#)
- [By Email](#)
- [TCN \(Gov't\)](#)

Track other FedEx

- [FedEx Customer Shipments](#)
- [FedEx Traditional Shipments](#)
- [International Shipments](#)

Date/time	Status	Location	Comments
Apr 21, 2004	1:29 pm Delivered	WEST CHESTER PA	
	1:05 pm Left FedEx Ramp	PHILADELPHIA PA	
	8:30 am On FedEx vehicle for delivery	WEST CHESTER PA	
	8:11 am Arrived at FedEx Destination Location	WEST CHESTER PA	
	6:11 am Arrived at FedEx Ramp	PHILADELPHIA PA	
	3:46 am Left FedEx Sort Facility	MEMPHIS TN	
	11:51 pm Left FedEx Sort Facility	MEMPHIS TN	
	11:03 pm Arrived at Sort Facility	MEMPHIS TN	
	10:40 pm Left FedEx Ramp	PITTSBURGH PA	
	10:32 pm Arrived at FedEx Ramp	PITTSBURGH PA	
Apr 20, 2004	6:04 pm Left FedEx Origin Location	STATE COLLEGE PA	
	4:36 pm Picked up by FedEx	STATE COLLEGE PA	

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[Reduce future mistakes](#)
[FedEx Address Checker](#)

[Shipping Freight?](#)
[FedEx has LTL, air, surface and air express](#)
[multi piece packaging](#)
[and ocean freight.](#)

Email your detailed tracking results (optional)

Enter your email, submit up to three email addresses (separated by commas), add your message (optional), and click **Send email**.

Add a message to this email.

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Susan D. Andres
c/o 215 Treasure Lake
DuBois [15801]
Pennsylvania
814-834-3606

COPY

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

BANK OF AMERICA, N.A.,(USA),
4161 Piedmont Parkway, Greensboro,
N.C.27410,

Plaintiff,

vs.

WILLIAM J ANDRES AND , SUSAN D
ANDRES, 215 Treasure Lake, Du Bois, PA
15801-9005,

Defendants

WILLIAM J ANDRES AND , SUSAN D
ANDRES

Counterclaimants

vs.

BANK OF AMERICA, N.A.,(USA)

Counter Defendant

CD
: Case No.: NO. 03-1880-CA
: COUNTERCLAIM - PRODUCTION OF
: RECORDS

COMES NOW, Susan Diane Andres, Codefendant and Co-counterclaimant, hereinafter Counterclaimant with a Counterclaim against and a demand for production of records of BANK OF AMERICA, N.A., (USA), Plaintiff and Counter defendant, hereinafter Counter defendant pursuant to P.R.C.P. RULE 1031. COUNTERCLAIM and P.R.C.P. RULE 4009.1

PRODUCTION OF DOCUMENTS AND THINGS. GENERAL PROVISIONS, and P.R.C.P.
RULE 4009.26. SUBPOENA TO PRODUCE DOCUMENTS.

Counterclaimant has prior to action on the part of Counter defendant regarding this instant matter, demanded verification of the alleged debt. To date Counter defendant has not provided said verification in the form necessary to establish that there is a debt owed to Counter defendant by Counterclaimant; that a contract exists between Counterclaimant and Counter defendant; that Counter defendant has provided a form of substance and not credit, which if this is the case, is unlawful as no bank has authority by any state or federal statute to loan said bank's credit.

Counter defendant has violated The Truth in Lending Act, and The Fair Debt and Collection Practices Act by not fully disclosing all pertinent details of the alleged contract prior to consummation of said contract. Counter defendant is unjustly enriched while lending its credit rather than its own funds.

Counter defendant has violated one of the most important conditions in contract law and that is that counter defendant did not provide consideration for the contract. By not providing consideration and not disclosing this fact there was not a meeting of the minds by Counterclaimant and Counter defendant which also make any alleged contract void *ab initio*.

Counterclaimant, therefore demands that Counter defendant provide this Court with Counter defendant's Record of Ledger for the aforementioned contract, showing all of the transactions that may have taken place during this alleged contract to include where the funds originated before being allocated on Counterclaimant's behalf, following Generally Accepted Accounting Principles, hereinafter GAAP. (See attached Subpoena for Production of Documents.)

SUMMARY

Counterclaimant prays that this Court will prohibit Counter defendant from further collection actions against Counterclaimant. Further, that this Court will award damages in the amount of Counter defendant's claim plus reasonable legal fees to Counterclaimant should Counter defendant not provide this Court with evidence to the contrary of the facts alleged above by Counterclaimant.

Respectfully submitted,

Dated this 20th day of April, 2004



Susan D. Andres
c/o 215 Treasure Lake
DuBois [15801]
Pennsylvania
814-834-3606