

04-1009-CD
CITIBANK VS SUSAN D ANDRES

Citibank vs Susan Andres
2004-1009-CD

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100390
NO: 04-1009-CD
SERVICE # 1 OF 2
WRIT OF EXECUTION; INTERROGATORIES TO

GARNISHEE

PLAINTIFF: CITIBANK (SOUTH DAKOTA) N.A.

vs.

DEFENDANT: SUSAN D. ANDRES

SHERIFF RETURN

NOW, April 15, 2005 AT 1:00 PM SERVED THE WITHIN WRIT OF EXECUTION; INTERROGATORIES TO GARNISHEE ON COUNTY NATIONAL BANK DEFENDANT AT 1 S. 2nd ST., CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO CYNTHIA PEARCE, ADMINISTRATIVE ASST. A TRUE AND ATTESTED COPY OF THE ORIGINAL WRIT OF EXECUTION; INTERROGATORIES TO GARNISHEE AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: SNYDER /

FILED
04/19/2005
APR 19 2005

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100390
NO: 04-1009-CD
SERVICE # 2 OF 2
WRIT OF EXECUTION; INTERROGATORIES TO

GARNISHEE

PLAINTIFF: CITIBANK (SOUTH DAKOTA) N.A.

vs.

DEFENDANT: SUSAN D. ANDRES

SHERIFF RETURN

NOW, April 15, 2005 AT 10:23 AM SERVED THE WITHIN WRIT OF EXECUTION; INTERROGATORIES TO GARNISHEE ON NATIONAL CITY BANK DEFENDANT AT 200 LIBERTY BLVD., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO WILLIAM KURTZ, BRANCH MGR. A TRUE AND ATTESTED COPY OF THE ORIGINAL WRIT OF EXECUTION; INTERROGATORIES TO GARNISHEE AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: NEVLING /

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100390
NO: 04-1009-CD
SERVICES 2
WRIT OF EXECUTION; INTERROGATORIES TO

GARNISHEE

PLAINTIFF: CITIBANK (SOUTH DAKOTA) N.A.

vs.

DEFENDANT: SUSAN D. ANDRES

SHERIFF RETURN

RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	NEIL	21699	20.00
SHERIFF HAWKINS	NEIL	21699	43.76

Sworn to Before Me This

So Answers,

____ Day of _____ 2005


Chester A. Hawkins
Sheriff

CITIBANK (SOUTH DAKOTA) N.A.
VS.
SUSAN D. ANDRES
COUNTY NATIONAL BANK
NATIONAL CITY BANK

Plaintiff

Defendant

Garnishees

: IN THE COURT OF COMMON PLEAS
: CLEARFIELD COUNTY, PENNSYLVANIA
: NO. 04-1009-CD

: CIVIL ACTION - LAW

MONEY JUDGMENT

WRIT OF EXECUTION

COMMONWEALTH OF PENNSYLVANIA, COUNTY OF CLEARFIELD
TO THE SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA

To satisfy the judgment, interest and costs against SUSAN D. ANDRES Defendant:

1. You are directed to levy upon the property of the defendant(s) and to sell his, her or their interest therein;
2. You are also directed to attach the property of the defendant not levied upon in the possession of COUNTY NATIONAL BANK & NATIONAL CITY BANK Garnishees per property description attached.

NO LEVY-GARNISHMENT ONLY

Serve interrogatories on County National Bank at: 1 S. 2nd Street, Clearfield, PA 16830

Serve interrogatories to National City Bank at: 200 Liberty Blvd., Du Bois, PA 15801

and to notify Garnishee(s) that:

- a. an attachment has been issued;
- b. the garnishee(s) is enjoined from paying any debt to or for the account of the defendant(2) and from delivering any property of the defendant(s) or otherwise disposing thereof.

3. If property of the defendant(s) not levied upon and subject to attachment is found in the possession of anyone other than the named garnishee(s), you are directed to notify him that he has been added as a garnishee and is enjoined as stated above.

Amount Due \$9,988.96

Interest from 9/20/04 \$ 243.02

Balance Due: \$10,231.98*

*Plus writ costs

125.00 **Prothonotary costs**

Clearfield County Prothonotary:

By:  2/22/05

SEAL

The firm of Burton Neil & Associates, P.C. is attempting to collect a debt.

Received 2/22/05 & 2/22/05
Chester A. Hamlin by Marilyn Hearn

CITIBANK (SOUTH DAKOTA) N.A. : IN THE COURT OF COMMON PLEAS
Plaintiff
VS. : CLEARFIELD COUNTY, PENNSYLVANIA
SUSAN D. ANDRES Defendant : NO. 04-1009-CD
COUNTY NATIONAL BANK
NATIONAL CITY BANK

Garnishees : CIVIL ACTION - LAW

MONEY JUDGMENT

WRIT OF EXECUTION

COMMONWEALTH OF PENNSYLVANIA, COUNTY OF CLEARFIELD
TO THE SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA

To satisfy the judgment, interest and costs against SUSAN D. ANDRES Defendant:

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Clearfield County Prothonotary:

By:  2/22/05

SEAL

The firm of Burton Neil & Associates, P.C. is attempting to collect a debt.

Received 2/22/05 @ 2:00pm
Chester A. Hawley/Mary Hasker

CITIBANK (SOUTH DAKOTA) N.A. : IN THE COURT OF COMMON PLEAS
Plaintiff : CLEARFIELD COUNTY, PENNSYLVANIA
VS. : NO. 04-1009-CD
SUSAN D. ANDRES
Defendant
COUNTY NATIONAL BANK
NATIONAL CITY BANK

Garnishees : CIVIL ACTION - LAW

MONEY JUDGMENT

WRIT OF EXECUTION

COMMONWEALTH OF PENNSYLVANIA, COUNTY OF CLEARFIELD
TO THE SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA

To satisfy the judgment, interest and costs against SUSAN D. ANDRES Defendant:

1. You are directed to levy upon the property of the defendant(s) and to sell his, her or their interest therein;
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*Plus writ costs

125.00 **Prothonotary costs**

Clearfield County Prothonotary:

By:  2/22/05

SEAL

The firm of Burton Neil & Associates, P.C. is attempting to collect a debt.

Received 2/22/05
Chesler A. Hanley, Esq. Marilyn Hanley

CITIBANK (SOUTH DAKOTA) N.A. : IN THE COURT OF COMMON PLEAS
Plaintiff : CLEARFIELD COUNTY, PENNSYLVANIA
VS. : NO. 04-1009-CD
SUSAN D. ANDRES
Defendant
COURT NATIONAL BANK
NATIONAL CITY BANK
Garnishees : CIVIL ACTION - LAW
MONEY JUDGMENT

WRIT OF EXECUTION

COMMONWEALTH OF PENNSYLVANIA, COUNTY OF CLEARFIELD
TO THE SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA

To satisfy the judgment, interest and costs against SUSAN D. ANDRES Defendant:

1. You are directed to levy upon the property of the defendant(s) and to sell his, her or their interest therein;
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Balance Due: \$10,231.98*

*Plus writ costs

125.00 **Prothonotary costs**

Clearfield County Prothonotary:

By:  2/22/05

SEAL

The firm of Burton Neil & Associates, P.C. is attempting to collect a debt.

Received 2/22/05 at 2:00pm
Clerk A. Neufeld by Marilyn Hearn

CITIBANK (SOUTH DAKOTA) N.A.
VS.
SUSAN D. ANDRES
COUNTY NATIONAL BANK
NATIONAL CITY BANK

Plaintiff

Defendant

Garnishees

: IN THE COURT OF COMMON PLEAS
: CLEARFIELD COUNTY, PENNSYLVANIA
: NO. 04-1009-CD

: CIVIL ACTION - LAW

MONEY JUDGMENT

WRIT OF EXECUTION

COMMONWEALTH OF PENNSYLVANIA, COUNTY OF CLEARFIELD
TO THE SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA

To satisfy the judgment, interest and costs against SUSAN D. ANDRES Defendant:

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Balance Due: \$10,231.98*

*Plus writ costs

125.00 Prothonotary costs

Clearfield County Prothonotary:

By:

 2/22/05

SEAL

The firm of Burton Neil & Associates, P.C. is attempting to collect a debt.

*Received 2/22/05 @ 2:00pm
Chester A. Haunfusky, Mgmt. Hrrn*

FILED

APR 19 2005

William A. Shaw
Prothonotary/Clerk of Courts

BURTON NEIL & ASSOCIATES, P.C.
By: Burton Neil
Identification No. 11348
1060 Andrew Drive, Suite 170
West Chester, PA 19380
610-696-2120
Attorney for Plaintiff

FILED

JUL 01 2004

William A. Shaw
Prothonotary/Clerk of Courts

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

Plaintiff

: IN THE COURT OF COMMON PLEAS

: CLEARFIELD COUNTY, PENNSYLVANIA

v.

SUSAN D ANDRES
215 TREASURE LAKE
DU BOIS, PA

Defendant

: NO. 04-1009-CJ

: 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, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. 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
Court Administrator
Clearfield County Courthouse,
Clearfield, PA 16830
814-765-2641
10018.034.6911

SUSAN D ANDRES
Account 5491 1303 2663 0555
October 6 - November 4, 2003

Page 2 of 3



In the return envelope, please:

- 1 Enclose your check or money order.** Include your account number and name on the front of your check or money order. Please, no cash or foreign currency.
- 2 Enclose your payment coupon.** Do not staple or tape it to your payment. Insert the payment coupon so that the entire AT&T Universal Card address appears through the window of your remittance envelope.



AT&T Universal MasterCard Activity

Purchases.....	0.00
Cash Advances and Checks.....	0.00
Finance Charges.....	218.05
Fees.....	70.00
Total MasterCard Activity.....	\$288.05



Purchases

Total MasterCard Purchases..... \$0.00



Cash Advances

Cash Advance Limit..... \$2,000.00* *This represents a portion of your total credit line.

Finance Charge Information

Nominal APR	Periodic Rate	x	Days in Billing Period	x	Balance Subject to Finance Charge	=	Periodic FINANCE CHARGE	+ Transaction Fee/ FINANCE CHARGE	ANNUAL PERCENTAGE RATE
PURCHASES									
Standard Purch	27.990%	.07668%(D)	x	29	x	\$6,476.99	=	\$144.03 + \$0.00	27.990%
Offer 5	27.990%	.07668%(D)	x	29	x	\$3,328.79	=	\$74.02 + \$0.00	27.990%
CASH ADVANCES									
Standard Adv	27.990%	.07668%(D)	x	29	x	\$0.00	=	\$0.00 + \$0.00	27.990%
Total FINANCE CHARGE = \$218.05									

Fees

Standard Purch

Trans	Post	Description	Amount
	11/04	LATE FEE - OCT PAYMENT PAST DUE	35.00
	11/04	OVER CREDIT LIMIT FEE	35.00
Total Fees			\$70.00

AT&T Services Summary

AT&T Universal Calling Card Calls..... \$0.00

Verification

Jennifer Sison is an attorney management specialist for Citibank (South Dakota), N.A. and Citicorp Credit Services, Inc., wholly owned subsidiaries of Citigroup, the within Plaintiff in this action. She/he verifies that the statements of fact made in the foregoing Complaint are true and correct to the best of her knowledge and belief. The undersigned understands that the statements made herein are subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities.

Date: 10/15/04

Jennifer Sison
Name

Account number: 5491130326630555
Defendant: SUSAN D ANDRES

FILED Aug 6. 2004
M 14:00 PM
JUL 01 2004 100585
Fay

William A. Shaw
Prothonotary/Clerk of Courts

In The Court of Common Pleas of Clearfield County, Pennsylvania

CITIBANK

VS.

ANDRES, SUSAN D.

COMPLAINT

Sheriff Docket # 15917

04-1009-CD

SHERIFF RETURNS

NOW JULY 8, 2004 AT 9:55 AM SERVED THE WITHIN COMPLAINT ON SUSAN D. ANDRES, DEFENDANT AT RESIDENCE, 215 TREASURE LAKE, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO SUSAN ANDRES A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN TO HER THE CONTENTS THEREOF. SERVED BY: MCCLEARY

Return Costs

Cost	Description
32.62	SHERIFF HAWKINS PAID BY: ATTY CK# 19875
10.00	SURCHARGE PAID BY: ATTY CK# 19876

Sworn to Before Me This

14 Day Of July 2004

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

So Answers,

Chester A. Hawkins
W. Maurer Hawn
Chester A. Hawkins
Sheriff

FILED
03:50pm
JUL 14 2004
WAS

William A. Shaw
Prothonotary

1 Susan Diane Andres
2 c/o 215 Treasure Lake
3 Du Bois, Pennsylvania

FILED

16
M 1-29-04
JUL 14 2004

William A. Shaw
Prothonotary/Clerk of Courts

5

6 CITIBANK (SOUTH DAKOTA) N.A., 701) IN THE COURT OF COMMON PLEAS
7 EAST 60TH STREET NORTH, SIOUX)
8 FALLS, SOUTH DAKOTA,) CLEARFIELD COUNTY, PENNSYLVANIA
9 Plaintiff,)
vs.)
10 SUSAN D ANDRES) Case No.: 04-1009-CD
11 215 TREASURE LAKE,)
DU BOIS, PENNSYLVANIA,) DEFENDANT'S ANSWER TO
12 Defendant) COMPLAINT
13)
14)

15 COMES NOW DEFENDANT SUSAN D ANDRES, hereinafter Defendant, with
16 Answers to CITIBANK (SOUTH DAKOTA) N.A.'S Complaint, hereinafter Plaintiff.
17 Defendant's answers to the complaint are as follows:

1. Defendant neither agrees with or denies Plaintiff's Item No. 1.
2. Defendant agrees with Item No. 2.
3. Defendant neither agrees with or denies Plaintiff's Item No. 3.
4. Defendant neither agrees with or denies Plaintiff's Item No. 4.
5. Defendant has no proof of the accuracy in Plaintiff's statement and has disputed
all of the records in the alleged account.
6. Defendant has no proof of the alleged accuracy in Plaintiff's Item No. 6.
7. Defendant denies the alleged assumptions made in Plaintiff's No. 7.
8. Defendant denies the allegations and assumptions in Plaintiff's Item No. 8.
9. Defendant denies the assumption in Plaintiff's Item No. 9.

1
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3 Dated this 12th day of July, 2004
4

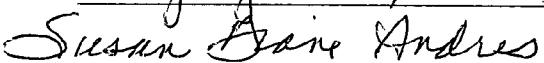
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7 Susan Diane Andres
8 c/o 215 Treasure Lake
9 Du Bois, Pennsylvania
10
11

12 **CERTIFICATION OF MAILING**

13 I, Susan Diane Andres, do hereby attest that on this 13 day of July, 2004, I did mail by USPS
14 First Class Mail this document, Defendant's Answer to Complaint to the following:
15

16 BURTON NEAL, ESQUIRE
17 BURTON NEIL & ASSOCIATES, P.C.
18 1060 Andrew Drive, Suite 170
19 West Chester, PA 19380
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26 Dated July 13th, 2004
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28 Susan Diane Andres
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FILED

JUL 14 2004

William A. Shaw
Prothonotary, Clerk of Courts

1 Susan Diane Andres
2 c/o 215 Treasure Lake
3 Du Bois, Pennsylvania

FILED
M 12 9 2004
JUL 14 2004

William A. Shaw
Prothonotary/Clerk of Courts

6 CITIBANK (SOUTH DAKOTA) N.A., 701) IN THE COURT OF COMMON PLEAS
7 EAST 60TH STREET NORTH, SIOUX)
8 FALLS, SOUTH DAKOTA,) CLEARFIELD COUNTY, PENNSYLVANIA
9 Plaintiff,)
10 vs.)
11 SUSAN D ANDRES) Case No.: 04-1009-CD
12 215 TREASURE LAKE,)
13 DU BOIS, PENNSYLVANIA,) DEFENDANT'S FIRST REQUEST FOR
14 Defendant) PRODUCTION OF DOCUMENTS
15)
16) CIVIL ACTION - LAW
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15 **DEFENDANT'S FIRST REQUEST FOR DOCUMENT PRODUCTION**

17 NOW COME, the Defendant, Susan Diane Andres, requesting the Plaintiff to produce
18 and permit the Defendant to inspect and photograph each of the following documents herinafter
19 Described. The Defendant requests that the documents be made available for this inspection and
20 copying at the office of Susan Diane Andres located at 215 Treasure Lake, Du Bois,
21 Pennsylvania 15801 within thirty (30) days of service of this request of the Plaintiff, and
22 continuing thereafter until completed. Tentative date is August 15, 2004. Unless otherwise
23 notified, Mrs. Andres will expect the arrival of the plaintiffs at the above stated address at 10:00
24 A.M. EST.
25

DOCUMENTS:

1. The Original alleged agreement containing the signature of Susan Diane Andres upon it.
2. The contract authorizing BURTON NEIL, debt collector, to conduct and proceed in this civil action.
3. Proof that the “defendant is indebted...from purchases” as per paragraph 1 of the Complaint.

CERTIFICATION OF MAILING *TB*

I, Susan Diane Andres, do hereby attest that on this 13 day of July, 2004, I did mail by USPS First Class Mail this document, Defendant's First Request for the Production of Documents to the following:

BURTON NEAL, ESQUIRE
BURTON NEIL & ASSOCIATES, P.C.
1060 Andrew Drive, Suite 170
West Chester, PA 19380

Dated July 13, 2004
Susan Diane Andres
Susan Diane Andres

DOCUMENTS:

1. The Original alleged agreement containing the signature of Susan Diane Andres upon it.
2. The contract authorizing BURTON NEIL, debt collector, to conduct and proceed in this civil action.
3. Proof that the “defendant is indebted...from purchases” as per paragraph 1 of the Complaint.

1 4. A signed validation, under seal/oath, by the president of the bank and Senior accountant of the
2 bank, of said named plaintiff in this civil action of the "amount of \$9988.96as per Item No. 9 of
3 the complaint.

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10 5. The Banks Corporate Charter in its entirety: specifically addressing the banks policy and
11 procedures concerning loan originations.

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18 6. The bookkeeping entries concerning Mrs. Andres's alleged account; Specifically indicating
19 "defendant has defaulted" as per Item No. 7 of the complaint.

1 7. The bookkeeping entries concerning Mrs. Andres's alleged account; Specifically
2 indicating that the named plaintiff in this action did in fact originate a valid and lawful loan.

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8. "The demand for payment" as per Item No. 8 of the complaint.

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15 9. Produce the names of the Board of Directors of the Bank.

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Dated this 12th day of July, 2004


Susan Diane Andres
c/o 215 Treasure Lake
Du Bois, Pennsylvania

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CERTIFICATION OF MAILING *TB*

I, Susan Diane Andres, do hereby attest that on this 13 day of July, 2004, I did mail by USPS First Class Mail this document, Defendant's First Request for the Production of Documents to the following:

BURTON NEAL, ESQUIRE
BURTON NEIL & ASSOCIATES, P.C.
1060 Andrew Drive, Suite 170
West Chester, PA 19380

Dated July 13, 2004
Susan Diane Andres
Susan Diane Andres

BURTON NEIL & ASSOCIATES, P.C.

Burton Neil, Esquire

Identification No: 11348

1060 Andrew Drive, Suite 170

West Chester, PA 19380

610-692-2120

Attorney for Plaintiff

CITIBANK (SOUTH DAKOTA) N.A.

: IN THE COURT OF COMMON PLEAS

Plaintiff

: CLEARFIELD COUNTY, PENNSYLVANIA

v.

: No. 04-1009CD

SUSAN D ANDRES

Defendant CIVIL ACTION - LAW

Certificate of Service

Burton Neil, Esquire, being duly sworn according to law, deposes and says that he is attorney for plaintiff Susan D Andres, that he served a true and correct copy of the Rule to Show Cause on defendant, Susan D Andres, by first class mail, postage pre-paid on the date set forth below.

Dated: 8/4/04


Burton Neil, Esquire

In making this communication, we advise that this office is a debt collector.

EGK
FILED
M 11 01 2004
AUG 10 2004
16 cc

William A. Shaw
Prothonotary/Clerk of Courts

184911

COPY

BURTON NEIL & ASSOCIATES, P.C.
Burton Neil, Esquire, Id. no. 11348
1060 Andrew Drive, Suite 170
West Chester, PA 19380
610-696-2120

Attorney for Plaintiff

CITIBANK (SOUTH DAKOTA) N.A. : IN THE COURT OF COMMON PLEAS
Plaintiff : CLEARFIELD COUNTY, PENNSYLVANIA
v. : NO. 04-1009CD

SUSAN D. ANDRES

Defendant : CIVIL ACTION - LAW

RULE TO SHOW CAUSE

AND NOW, this 28th day of July, 2004, upon consideration of plaintiff's **Motion for Judgment of the Pleadings**, it is hereby ordered that:

(1) A rule is issued upon the respondent to show cause why the petitioner is not entitled to the relief requested;

(2) The respondent shall file an answer to the petition within (20) days of service upon the respondent;

(3) Argument to be held on August 30, 2004, at 2:30 P.M. in Courtroom 1 before the Honorable Judge Ammerman in the Clearfield County Courthouse;

(4) Notice of the entry of this order shall be provided to all parties by the petitioner.

BY THE COURT:

/s/ Fredric J. Ammerman

PER CURIAM.

I hereby certify this to be a true and attested copy of the original statement filed in this case.

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

JUL 29 2004

Attest.

William L. Ammerman
Prothonotary/
Clerk of Courts

FILED

AUG 10 2004

William A. Shaw
Prothonotary/Clerk of Courts

BURTON NEIL & ASSOCIATES, P.C.

Burton Neil, Esquire, Id. no. 11348

1060 Andrew Drive, Suite 170

West Chester, PA 19380

610-696-2120

Attorney for Plaintiff

CITIBANK (SOUTH DAKOTA) N.A.

Plaintiff

: IN THE COURT OF COMMON PLEAS

: CLEARFIELD COUNTY, PENNSYLVANIA

v.

: NO. 04-1009CD

SUSAN D. ANDRES

Defendant : CIVIL ACTION - LAW

RULE TO SHOW CAUSE

AND NOW, this 28th day of July, 2004, upon consideration of plaintiff's **Motion for Judgment of the Pleadings**, it is hereby ordered that:

(1) A rule is issued upon the respondent to show cause why the petitioner is not entitled to the relief requested;

(2) The respondent shall file an answer to the petition within (20) days of service upon the respondent;

(3) Argument to be held on August 30, 2004, at 2:30 P.M. in Courtroom 1 before the Honorable Judge Ammerman in the Clearfield County Courthouse;

(4) Notice of the entry of this order shall be provided to all parties by the petitioner.

BY THE COURT:


PER CURIAM

FILED

JUL 29 2004

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

William A. Shaw
Prothonotary/Clerk of Courts

FILED
OCT 29 2004
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cc
Amy Net

William A. Shaw
Prothonotary/Clerk of Courts

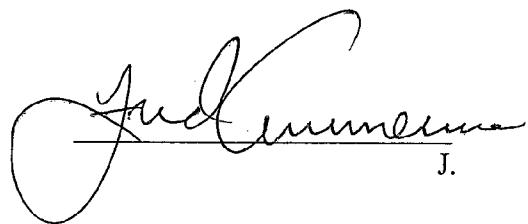
CITIBANK (SOUTH DAKOTA) N.A. : IN THE COURT OF COMMON PLEAS
Plaintiff : CLEARFIELD COUNTY, PENNSYLVANIA
v.
: NO. 04-1009CD

SUSAN D. ANDRES
Defendant : CIVIL ACTION - LAW

ORDER

AND NOW, this 30th day of August, 2004, upon consideration of the Motion of Plaintiff for Judgment on the Pleadings, it is hereby Ordered, Adjudged and Decreed that judgment on the pleadings shall be and is hereby entered on behalf of Plaintiff and against Defendant in the sum of \$9,988.96 plus the costs of the action.

By the Court:



J. Klemens
J.

FILED

AUG 30 2004
012451
William A. Shaw
Prothonotary
2 cases to ATT

BURTON NEIL & ASSOCIATES, P.C.

Burton Neil, Esquire, Id. no. 11348

1060 Andrew Drive, Suite 170

West Chester, PA 19380

610-696-2120

Attorney for Plaintiff

CITIBANK (SOUTH DAKOTA) N.A.

Plaintiff

: IN THE COURT OF COMMON PLEAS

: CLEARFIELD COUNTY, PENNSYLVANIA

v.

: NO. 04-1009CD

SUSAN D. ANDRES

Defendant : CIVIL ACTION - LAW

Motion of Plaintiff for Judgment on the Pleadings

Now comes plaintiff by its undersigned attorneys, and moves this Honorable Court pursuant to Rule 1034 of the Pennsylvania Rules of Civil Procedure, for judgment on the pleadings and in support thereof states:

1. Plaintiff filed a complaint against defendant for the credit card account balance due it.
2. Defendant filed a *pro se* answer.
3. The pleadings are closed.
4. There are neither factual nor legal issues before the Court creating a need for trial.

Therefore, plaintiff is entitled to judgment as a matter of law.

Wherefore, plaintiff moves this Honorable Court for judgment on the pleadings

BURTON NEIL & ASSOCIATES, P.C.

BY:

Burton Neil, Esquire
Attorney for Plaintiff

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

FILED NO
m12:59pm
JUL 23 2004

William A. Shaw
Prothonotary/Clerk of Courts

BURTON NEIL & ASSOCIATES, P.C.
Burton Neil, Esquire, Id. no. 11348
1060 Andrew Drive, Suite 170
West Chester, PA 19380
610-696-2120

Attorney for Plaintiff

CITIBANK (SOUTH DAKOTA) N.A.
Plaintiff

v.

: IN THE COURT OF COMMON PLEAS
: CLEARFIELD COUNTY, PENNSYLVANIA
: NO. 04-1009CD

SUSAN D. ANDRES

Defendant : CIVIL ACTION - LAW

Certificate of Service

Burton Neil, Esquire, being duly sworn according to law, deposes and says that he is attorney for plaintiff Citibank (South Dakota) N.A., that he served a true and correct copy of plaintiff's Rule to Show Cause, Motion for Judgment on the Pleadings, supporting Memorandum of Law and proposed Order on defendant by first class U.S. Mail, postage prepaid on the date set forth below.

Dated: 7/20/04



Burton Neil, Esquire

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

FILED

JUL 23 2004

William A. Shaw
Prothonotary/Clerk of Courts

FILED

M 1:26 BA

Notice to Daf
Stat to Actg.

SEP 20 2004

BURTON NEIL & ASSOCIATES, P.C.
BY: Burton Neil, Esquire
Identification No. 11348
1060 Andrew Drive, Suite 170
West Chester, PA 19380
610-696-2120
ATTORNEY FOR: Plaintiff

William A. Shaw
Prothonotary

CITIBANK SOUTH DAKOTA N.A.

: IN THE COURT OF COMMON PLEAS

Plaintiff

: CLEARFIELD COUNTY, PENNSYLVANIA

VS.

: NO. 04-1009CD

SUSAN D ANDRES

Defendant

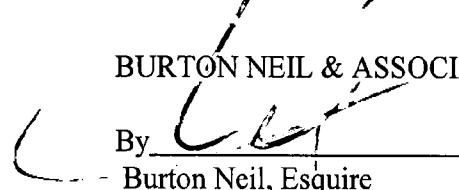
: CIVIL ACTION - LAW

Praecipe for Entry of Judgment on Order of Court

To the Prothonotary:

Enter judgment on order of court on behalf of the plaintiff, Citibank South Dakota N.A., and against the defendant, Susan D Andres, and assess damages in the sum of \$9,988.96.

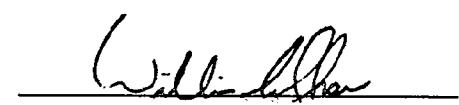
BURTON NEIL & ASSOCIATES, P.C.

By 

Burton Neil, Esquire
Attorneys for Plaintiff

And now, this 20th day of September, 2004 judgment is entered on behalf of the plaintiff, Citibank South Dakota N.A. and against the defendant, Susan D Andres, and assess damages in the sum of \$9,988.96.

Prothonotary of Clearfield County


Deputy

In making this communication, we advise that this office is a debt collector.

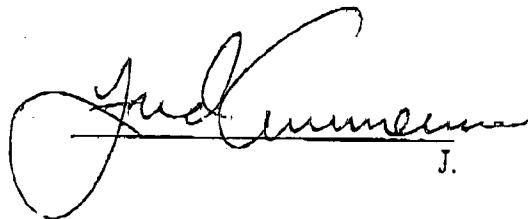
18.6911

CITIBANK (SOUTH DAKOTA) N.A. : IN THE COURT OF COMMON PLEAS
Plaintiff : CLEARFIELD COUNTY, PENNSYLVANIA
v. :
: NO. 04-1009CD
SUSAN D. ANDRES
Defendant : CIVIL ACTION - LAW

ORDER

AND NOW, this 30th day of August, 2004, upon consideration of the Motion of Plaintiff for Judgment on the Pleadings, it is hereby Ordered, Adjudged and Decreed that judgment on the pleadings shall be and is hereby entered on behalf of Plaintiff and against Defendant in the sum of \$9,988.96 plus the costs of the action.

By the Court:



J.

I hereby certify this to be a true and attested copy of the original statement filed in this case.

AUG 30 2004

Attest.


Prothonotary/
Clerk of Courts

BURTON NEIL & ASSOCIATES, P.C.

BY: Burton Neil, Esquire

Identification No. 11348

1060 Andrew Drive, Suite 170

West Chester, PA 19380

610-696-2120

ATTORNEY FOR: Plaintiff

CITIBANK SOUTH DAKOTA N.A.

: IN THE COURT OF COMMON PLEAS

701 E 60th Street N

Sioux Falls, SD 57117

Plaintiff

: CLEARFIELD COUNTY, PENNSYLVANIA

VS.

: NO. 04-1009CD

SUSAN D ANDRES

215 Treasure Lake

Du Bois, PA 15801-9005

Defendant

: CIVIL ACTION - LAW

Certification of Address and
Affidavit of Non-Military

Understanding that false statements herein are subject to penalty under 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities, I verify that:

1. The above are the precise last-known addresses of the judgment creditor and debtor.

2. Pursuant to Section 201(b)(1)(A) of the Service members Civil Relief Act of 2003 (SCRA) the defendant is not in the military service of the United States based on information received from the defendant and/or the Department of Defense website.

BURTON NEIL & ASSOCIATES, P.C.

By: 

Burton Neil, Esquire
Attorney for Plaintiff

In making this communication, we advise that this office is a debt collector.

BURTON NEIL & ASSOCIATES, P.C.
BY: Burton Neil, Esquire
Identification No. 11348
1060 Andrew Drive, Suite 170
West Chester, PA 19380
510-696-2120
ATTORNEY FOR: Plaintiff

COPY

CITIBANK SOUTH DAKOTA N.A.

: IN THE COURT OF COMMON PLEAS

Plaintiff

: CLEARFIELD COUNTY, PENNSYLVANIA

VS.

: NO. 04-1009CD

SUSAN D ANDRES

Defendant

: CIVIL ACTION - LAW

Rule of Civil Procedure No. 236 (Revised)

Notice is given that a JUDGMENT in the above captioned matter has been entered against you
on 9/20/04.

Prothonotary of Clearfield County


Deputy

If you have any questions concerning the above, please contact:

Burton Neil, Esquire
Attorney for Party Filing
1060 Andrew Drive, Suite 170
West Chester, PA 19380
Phone: 610-696-2120

In making this communication, we advise that this office is a debt collector.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY ,
PENNSYLVANIA
STATEMENT OF JUDGMENT

Citibank (South Dakota) N.A.
Plaintiff(s)

No.: 2004-01009-CD

COPY

Real Debt: \$9,988.96

Atty's Comm: \$

Vs.

Costs: \$

Susan D. Andres
Defendant(s)

Entry: \$20.00

Instrument: Default Judgment

Date of Entry: September 20, 2004

Expires: September 20, 2009

Certified from the record this 20th day of September 2004

William A. Shaw, Prothonotary

SIGN BELOW FOR SATISFACTION

Received on _____, _____, of defendant full satisfaction of this Judgment, Debt,
Interest and Costs and Prothonotary is authorized to enter Satisfaction on the same.

Plaintiff/Attorney

PRAECIPE FOR WRIT OF EXECUTION (MONEY JUDGMENT)
Pa.R.C.P. § 3103 to 3149

CITIBANK (SOUTH DAKOTA) N.A. : IN THE COURT OF COMMON PLEAS
Plaintiff
VS. : CLEARFIELD COUNTY, PENNSYLVANIA
SUSAN D. ANDRES
Defendant : NO. 04-1009-CD
COUNTY NATIONAL BANK
NATIONAL CITY BANK
Garnishees : CIVIL ACTION - LAW

To the Prothonotary: ISSUE A WRIT OF EXECUTION IN THE ABOVE MATTER

1. Directed to the Sheriff of Clearfield County, Pennsylvania
2. against SUSAN D. ANDRES, Defendant(s)
3. and against COUNTY NATIONAL BANK, NATIONAL CITY BANK, Garnishee(s)
4. and index this writ
 - (a) against _____ Defendant(s)
 - (b) against _____ Garnishee(s)

as a lis pendens against the real property of the defendant(s) in the name of the Garnishee(s) as follows:
(specifically describe property)

NO LEVY-GARNISHMENT ONLY

Serve interrogatories on County National Bank at: 1 S. 2nd Street, Clearfield, PA 16830
Serve interrogatories to National City Bank at: 200 Liberty Blvd., Du Bois, PA 15801

5. Amount Due \$9,988.96
Interest from 9/20/04 \$ 243.02
Total \$10,231.98*

*Plus writ costs

Dated: February 14, 2005

105.00 **Prothonotary costs** *100.00*
Yale D. Weinstein, Esquire
Attorney for Plaintiff

NOTE: Under paragraph 1 when the writ is directed to sheriff of another county as authorized by Rule 3103(b), the county should be indicated. Under Rule 3103(c) a writ issued on a transferred judgment may be directed only to the sheriff of the count in which issued. Paragraph 3 above should be completed only if indexing of the execution in the county of issuance is desired as authorized by Rule 3104(a). When the writ issued to another county indexing is required as of course in that county. See Rule 3104(b). Paragraph 4(b) should be completed only if real property in the name of the garnishee is attached and indexing as a lis pendens is desired. See Rule 3104(c).

The firm of Burton Neil & Associates, P.C. is attempting to collect a debt.

FILED *100.00*
64 M 204 B/ *12 wnts*
to Shff
FEB 22 2005 *Atty pd.*
William A. Shaw *20.00*
Prothonotary/Clerk of Courts

FILED

FEB 22 2005

William A. Shaw
Prothonotary/Clerk of Courts

CITIBANK (SOUTH DAKOTA) N.A.
Plaintiff
VS.
SUSAN D. ANDRES
Defendant
COUNTY NATIONAL BANK
NATIONAL CITY BANK
Garnishees

: IN THE COURT OF COMMON PLEAS
: CLEARFIELD COUNTY, PENNSYLVANIA
: NO. 04-1009-CD
: CIVIL ACTION - LAW
MONEY JUDGMENT

COPY

WRIT OF EXECUTION

COMMONWEALTH OF PENNSYLVANIA, COUNTY OF CLEARFIELD
TO THE SHERIFF OF CLEARFIELD COUNTY, PENNSYLVANIA

To satisfy the judgment, interest and costs against SUSAN D. ANDRES Defendant:

1. You are directed to levy upon the property of the defendant(s) and to sell his, her or their interest therein;
2. You are also directed to attach the property of the defendant not levied upon in the possession of COUNTY NATIONAL BANK & NATIONAL CITY BANK Garnishees per property description attached.

NO LEVY-GARNISHMENT ONLY

Serve interrogatories on County National Bank at: 1 S. 2nd Street, Clearfield, PA 16830
Serve interrogatories to National City Bank at: 200 Liberty Blvd., Du Bois, PA 15801

and to notify Garnishee(s) that:

- a. an attachment has been issued;
- b. the garnishee(s) is enjoined from paying any debt to or for the account of the defendant(2) and from delivering any property of the defendant(s) or otherwise disposing thereof.

3. If property of the defendant(s) not levied upon and subject to attachment is found in the possession of anyone other than the named garnishee(s), you are directed to notify him that he has been added as a garnishee and is enjoined as stated above.

Amount Due \$9,988.96
Interest from 9/20/04 \$ 243.02
Balance Due: \$10,231.98*

*Plus writ costs

125.00 **Prothonotary costs**

Clearfield County Prothonotary:

By: William H. Hagan 2/22/05

SEAL

The firm of Burton Neil & Associates, P.C. is attempting to collect a debt.

BURTON NEIL & ASSOCIATES, P.C.
Burton Neil, Esquire, Id. no. 11348
1060 Andrew Drive, Suite 170
West Chester, PA 19380
610-696-2120

Attorney for Plaintiff

CITIBANK (SOUTH DAKOTA) N.A.
Plaintiff

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

v.

: NO. 04-1009CD

SUSAN D. ANDRES

Defendant : CIVIL ACTION - LAW

Plaintiff's Brief in Support of Judgment on the Pleadings Against Defendant

I. Facts and Procedural History

Plaintiff filed an a complaint against defendant to recover the balance past due on a credit card account. Plaintiff's action is based on an account stated between it and defendant. Defendant filed *apro se*¹ answer. The averments of the answer, plaintiff contends, are all admissions under Pa R.C.P. 1029(b). The pleadings in this action are closed. The matter is before the Court on plaintiff's motion for judgment on the pleadings under Pa.R.C.P. 1034(a).

II. Question Presented

Whether defendant's answer effectively admitted all of the allegations of the complaint so as to justify the entry of judgment on the pleadings?

III. Argument

A. Standard for Decision of Motion

Pa.R.C.P. 1034 provides:

RECEIVED

JUL 23 2004

**COURT ADMINISTRATOR'S
OFFICE**

¹That defendant is *pro se* does not entitle her to more lenient application of court rules, absolve her of adherence to them or free her from the risk of adverse consequences for failure to do so. Peters Creek Sanitary v. Welch, 545 Pa. 309, 681 A.2d 167, 170 (1996); Jones v. Rudenstein, 401 Pa. Super. 400, 585 A.2d 520 (1991) appeal den, 529 Pa. 634, 600 A. 2d 954 (1991); Faretta v. California, 422 US 806, 834 n. 46, 955 S.Ct. 2525, 2540 n.46, 45 L.Ed.2d 562, 581 n 46 (1975).

(a) After the relevant pleadings are closed, but within such time as not to unreasonably delay the trial, any party may move for judgment on the pleadings. *Note:* Only the pleadings between the parties to the motion for judgment on the pleadings must be closed prior to filing the motion.

(b) The court shall enter such judgment or order as shall be proper on the pleadings.

“The motion for judgment on the pleadings should be granted only in clear cases, which are free from doubt, and where there are no issues of fact. The deciding court should grant judgment only where the case is so clear that a trial would clearly be a fruitless exercise.”⁶ Standard Pennsylvania Practice 2d Section 31:45 and the cases cited therein. Even under this stringent standard, plaintiff is entitled to judgment since the defendant’s answer effectively admitted plaintiff’s case. Proceeding to trial despite those admissions would indeed be a fruitless exercise.

B. Defendant’s Denials to Factual Complaint Averments Are Admissions Under the Pennsylvania Fact Pleading System.

Pa R.C.P. 1029(a) provides:

A responsive pleading shall admit or deny each averment of fact in the preceding pleading or any part thereof to which it is responsive. A party denying only part of a pleading shall specify so much of it as is admitted and shall deny the remainder. Admissions and denials in a responsive pleading shall refer specifically to the paragraph in which the averment admitted or denied is set forth.

A review of defendant’s answer reveals that defendant denied (with the exception of paragraph 2) all of the averments in the complaint with statements such as “neither agrees with or denies” “has no proof of the accuracy” “denies the alleged assumptions” etc. These statements were not sufficient to deny the allegations of the complaint Pa.R.C.P. 1029(b) provides:

Averments in a pleading to which a responsive pleading is required are admitted when not denied specifically or by necessary implication. A general denial or a demand for proof, except as provided by subdivisions (c) and (e) of this rule, shall have the effect of an admission.

Therefore, unless defendant’s denials fall within one of the exceptions to Rule 1029(b), defendant will be deemed to have admitted the allegations of fact plead by plaintiff. There is no

provision in the pleading rules for a response of "defendant neither agrees nor denies." This was defendant's response to paragraphs 1, 3 and 4 of the complaint. Defendant therefore admitted the facts that Citibank (South Dakota) N.A. is the plaintiff, that it is in the banking business and that it furnished consumer credit to the defendant.

As to paragraphs 7, 8 and 9 of the complaint, defendant's responses are seen as classic general denials which are admissions under Rule 1029(b). The Superior Court in Swift v. Milner, 371 Pa. Super. 302; 538 A.2d 28, (Pa. Super., 1988) applied the PA R.C.P. 1029(b) standard to a pleading where the response was "denied." The Court stated:

Instantly, paragraphs three through ten of Appellant's Answer merely contain the single word "Denied". We agree with the trial court's conclusion that these general denials effectively manifested. Appellant's admission to the facts averred in paragraphs three through ten of Appellee's Complaint... In the case at bar, paragraphs three through ten of the Complaint encompassed all of the allegations on which Appellee based his claim. *By failing to comply with Rule 1029(b), the admission of all allegations and averments resulted in the absence of material issues of fact on the issue of liability. Thus, we find that the trial court correctly granted the partial judgment on the pleadings.* (Emphasis added.)

See also Ritchie Bldg & Ln. Assn v. Armstrong, 103 Pa. Super. 585, 157 A.2d 371 (1931). As stated in Bogley, Harting & Reese, Inc. v. Stuart, 11 Pa. D. & C.3d 303 (1979), "The word "denied" repeatedly has been held an insufficient responsive pleading, tantamount to an admission. See, 2 Goodrich-Amram 2d §1029(b):3."

By pleading in this fashion to complaint paragraphs 7 through 9, defendant admitted receipt of monthly statements from plaintiff for the credit card account including Exhibit A and that no protest, dispute or objection was made, that defendant assented to the account stated and that amount due is that sum set forth in Exhibit A.

As to paragraphs 5 and 6 of the complaint, defendant responded simply she had no proof. It is not up to defendant "to have proof." Defendant's obligation is to admit or deny the factual averments of the complaint unless, as noted in Rule 1029(b) set forth above, an exception to the pleading requirement exists. Pa. R.C.P. 1029(c) provides:

A statement by a party that after reasonable investigation the party is without knowledge or information sufficient to form a belief as to the truth of an averment shall have the effect of a denial.

Note: Reliance on subdivision (c) does not excuse a failure to admit or deny a factual allegation when it is clear that the pleader must know whether a particular allegation is true or false. See Cercone v. Cercone, 254 Pa.Super.381, 386 A.2d 1 (1978).

In Cercone v. Cercone, 254 Pa.Super.381, 386 A.2d 1 (1978), the Superior Court stated: “Medusa Portland Cement v Marion Coal & Supply, Pa. Super., 201 A. 2d 285 (1964) and Frazier v. Ruskin, 203 Pa.Super. 525, 199 A.2d 513 (1964)] make clear that a defendant may not rely upon Rule 1029(c)(1) to excuse a failure to make a specific denial of factual allegations contained in a complaint when it is clear that the defendant must know whether a particular allegation is true or false.” See Lee v. Tierney, 1 Phila. 295 (1978). So we see her response to paragraph 6 which alleged plaintiff mailed her statements each month is patently specious. Who else but defendant would know whether she received these statements? Of course, she did not aver that a reasonable investigation was made as required by Rule 1029(c) and it is argued that this omission itself is fatal.

Finally, we look at paragraph 5 of the answer which was similar in response to paragraph 6 but added “has disputed all of the records in the alleged account.” The “has no proof” portion of paragraph 5 is an admission. The rest is also an admission. “Although no fixed rule can be stated for determining whether a denial is specific, generally for a denial to be specific, it must deny what is averred and then must affirmatively aver what did occur in place of the facts as averred.” 5 Standard Pennsylvania Practice 2d Section 26:40 and the cases cited therein.

In Acme Cotton Products Co. v. Michael McDonough, Inc., 61 Pa. D. & C.2d 608 (1972); affirmed, *per curiam*, 225 Pa. Super. 701, 306 A.2d 351 (1973), the Court directed a verdict finding the answer was actually admissions under Pa. R.C. P. 1029(b):

Nowhere in defendant's answer does he allege that the goods received did not conform to the terms of the agreement. Neither does he even attempt to articulate any specific defect in the goods received; his answer amounts to bald statements that the goods were in a defective condition and unsaleable. As a consequence of this admitted ‘badly drafted Answer,’ the allegations in the complaint are deemed admitted. See Pa. R. C. P. 1029(b).

Further, the position in pleading this way inherently contradicts the entire credibility of the answer. How can one who asserts in response to allegations of fact that consumer credit was

issued and monthly statements were sent assert that all records were disputed!

Under Rule 1029 defendant's answer constituted admissions of the allegations of the complaint as it is clear that defendant should know whether each of the allegations is true or false. Therefore, defendant cannot now be heard to contradict the complaint's averments. This result flows from the nature of an admission. As stated in Packel & Poulin, Pennsylvania Evidence, 2d Ed., Section 127, p. 30:

Evidentiary admissions are to be distinguished from judicial admissions. Judicial admissions are not evidence at all. *Rather, they are formal concessions in the pleadings in the case or stipulations by a party or its counsel that have the effect of withdrawing a fact from issue and dispensing wholly with the need for proof of the fact.* Thus the judicial admission, unless allowed by the court to be withdrawn is conclusive in the case, whereas the evidentiary admission is not conclusive but is always subject to contradiction or explanation. (Emphasis added.)

In Jewelcor Jewelers & Distributors v. Corr, 373 Pa. Super 536, 542 A.2d 72 (1988), the Superior Court addressed the effect of a judicial admission, as follows:

A judicial admission is an express waiver made in court or preparatory to trial by a party or his attorney, conceding for the purposes of the trial, the truth of the admission. It has the effect of a confessorial pleading, in that the fact is thereafter to be taken for granted, so that the opposing party need offer no evidence to prove it and the party by whom the statement was made is not allowed to disprove it. See 9 Wigmore, *Evidence* Section 2588 (Chadbourne Rev. 1981). It is axiomatic that a judicial admission cannot be contradicted by the party that made it. See Tops Apparel Mfg. Co. v. Rothman, 430 Pa. 583, 244 A.2d 436 (1968).

These admissions are conclusive on debtor's liability for an account stated. The Second Restatement of Contracts defines and states the legal effect of an "account stated" at Section 282 as follows:

(1) An account stated is a manifestation of assent by a debtor and creditor to a stated sum as an accurate computation of an amount due the creditor. **A party's retention without objection for an unreasonably long time of a statement of account rendered by the other party is a manifestation of assent.** (Emphasis added)

(2) The account stated does not itself discharge any duty but is an admission by each party of the facts asserted and a promise by the debtor to pay according to its terms.

Comment c to Section 282 is also instructive:

Effect of account stated. An account stated does not itself result in discharge, but operates as an admission of its contents for evidentiary purposes. It also operates as a promise to pay.

Under Pennsylvania law, "...the essence of a common law action for an account stated is an agreement, either express or implied, based upon prior transactions, between two parties as to the correctness of an amount due." Connolly Epstein Chicco Foxman Engelmyer & Ewing v. Fanslow, 1995 WL 686045 at *5 (E.D.Pa.1995) (applying Pennsylvania law).

In Obermayer et al.v. Banta, 28 Pa. D. & C.4th 225, 234 (1996) the court confirmed that "the acceptance of accounts stated need not be express, but may be implied." "Retention without objection by one party for an unreasonably long time of a statement of account rendered by the other is a manifestation of assent to the amount shown as an accurate computation of the amount due. Donahue v. City of Philadelphia, 157 Pa. Super. 124, 41 A.2d 879 (1945). The existence of an account stated is *prima facie* evidence of the correctness of the account shown in the absence of fraud, mistake or error. Individual items of an account stated are presumed to be correct in the absence of timely objections. Cauffiel v. Glenn, 345 Pa. 181 (1942); Tribulas v. Continental Equitable Title & Trust Co., 331 Pa. 283 (1938).

The defendant having effectively admitted all of the allegations of the complaint, there are no factual issues before this Court which would require a trial.

IV. Conclusion

Plaintiff submits judgment on the pleadings should be entered under Pa.R.C.P. 1034 (a) on its behalf and against Defendant for the sum of \$4,529.35 together with attorney's fees of \$860.61 for a total judgment of \$5,389.96 plus the costs of the action.

BURTON NEIL & ASSOCIATES, P.C.


BY: _____
Burton Neil, Esquire
Attorney for Plaintiff

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

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

CITIBANK (SOUTH DAKOTA), N.A.

Plaintiff
VS.

SUSAN D ANDRES

Defendant
and
COUNTY NATIONAL BANK
Garnishee

: IN THE COURT OF COMMON PLEAS
: CLEARFIELD COUNTY, PENNSYLVANIA
: NO. 04-1009-CD
: CIVIL ACTION - LAW

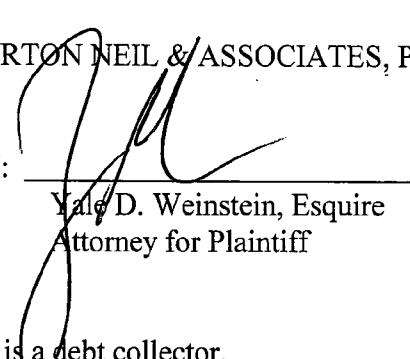
Praeclipe to Dissolve Attachment

To the Prothonotary:

Dissolve the attachment against COUNTY NATIONAL BANK, garnishee.

BURTON NEIL & ASSOCIATES, P.C.

BY:


Yale D. Weinstein, Esquire
Attorney for Plaintiff

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

18.6911

FILED

APR 25 2005

Re
m/3/05/c

William A. Shaw
Prothonotary

1 cent to Attn:

**LAW OFFICES
BURTON NEIL & ASSOCIATES, P.C.**

Burton Neil
Edward J. O'Brien
Jay H. Pressman
Yale D. Weinstein

1060 ANDREW DRIVE, SUITE 170
WEST CHESTER, PENNSYLVANIA 19380
610-696-2120
Facsimile 610-696-4111
Email: Burton.Neil@burt-law.com

April 22, 2005

Refer to File #
18.6911

Prothonotary's Office
Clearfield County
230 East Market Street
Clearfield, PA 16830

RE: Citibank (South Dakota), N.A. V. Susan D Andres
Docket No. 04-1009-CD

FILING COVER SHEET

Enclosed please find an original and one copy of Praeclipe to Dissolve Attachment in connection with the above matter. Kindly file the original with the court and return the copy, time-stamped, to this office in the envelope provided.

Thank you in advance for your cooperation.

BURTON NEIL & ASSOCIATES, P.C.

Enclosure
0.00