

04-1398-CD
DISCOVER BANK
VS. EATHEL L. MCCULLEY

Discover Bank et al vs Eathel McCulley
2004-1398-CD

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DISCOVER BANK, ISSUER OF DISCOVER
CARD, BY ITS AGENT DISCOVER FINANCIAL
SERVICES, INC.,

Plaintiff,

vs.

CIVIL DIVISION

No. 04-1348-C

EATHEL L. MCCULLEY,

Defendant

COMPLAINT

Filed on behalf of Plaintiff, Discover Bank,
Issuer of Discover Card, by its Agent Discover
Financial Services, Inc.

Counsel of Record for this party:

STOCK & GRIMES, LLP
PA I.D. #13657

BY: PAUL V. RESSLER, ESQUIRE
RESSLER & RESSLER, P.C.
PA I.D. #25626
FIRM # 739

NOTICE TO PLEAD:

To Defendant:

**YOU ARE HEREBY NOTIFIED
TO FILE A RESPONSE TO THE
COMPLAINT FILED HEREIN
WITHIN TWENTY (20) DAYS OF
SERVICE OF SAME OR JUDGMENT
MAY BE ENTERED AGAINST YOU.**

21 Yost Boulevard, Suite 301
Pittsburgh, PA 15221-5283
(412)824-6944

FILED
M/2/2004
SEP 09 2004
Atty pd.
William A. Shaw
Prothonotary/Clerk of Courts
85.00

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

DISCOVER BANK, BY ITS AGENT :
DISCOVER FINANCIAL SERVICES, INC., :
Plaintiff, :
vs. :
EATHEL L. MCCULLEY, :
Defendant. :
No.

NOTICE TO DEFEND

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any 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 OR KNOW A LAWYER, THEN YOU SHOULD GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

**LAWYER REFERRAL SERVICE
COURT ADMINISTRATOR
CLEARFIELD COUNTY COURTHOUSE
SECOND & MARKET STREETS
CLEARFIELD, PA 16830
TELEPHONE: 814-765-2641 EXT. 50-51**

COMPLAINT

AND NOW, comes the plaintiff, DISCOVER BANK, BY ITS AGENT DISCOVER FINANCIAL SERVICES, INC., by and through its attorneys, STOCK & GRIMES, LLP., BY RESSLER & RESSLER, P.C. AND PAUL V. RESSLER, ESQUIRE, 21 YOST BOULEVARD, SUITE 301, PITTSBURGH, PA 15221 and makes the following statement:

1. The plaintiff, DISCOVER BANK, BY ITS AGENT DISCOVER FINANCIAL SERVICES, INC., is a duly authorized banking institution under the laws of the State of Delaware and authorized to do business in the Commonwealth of Pennsylvania and, for purposes of this litigation, maintaining a place of business, c/o Stock & Grimes, LLP, By Ressler & Ressler, P.C., 21 Yost Boulevard, Suite 301, Pittsburgh, PA 15221.

2. The defendant, EATHEL L. MCCULLEY, is an adult individual who presently resides at 2538 Punkin Ridge Road, La Jose, CLEARFIELD County, Pennsylvania 15753-7315.

3. The defendant purchased various merchandise and/or cash advances from the plaintiff on the following line of credit: Discover Bank, by its agent Discover Financial Services, Inc. Account No. 6011 0028 4050 1431.

4. The defendant has refused to pay, and now refuses to pay, the balance due and owing on the aforesaid account in the sum of NINE THOUSAND SIX HUNDRED TWENTY SIX AND 61/100 (\$9,626.61) plus costs of this action and reasonable attorney fees in the sum of \$2,406.65, as provided by the Discover® Financial Services Card Cardmember Agreement, a copy of which is attached hereto as Plaintiff's Exhibit "A".

WHEREFORE, Plaintiff prays this Honorable Court to enter judgment in favor of Plaintiff and against defendant, in the sum of NINE THOUSAND SIX HUNDRED TWENTY SIX AND 61/100 (\$9,626.61) plus costs of this action, and reasonable attorney fees in the sum of \$2,406.65.

Respectfully submitted,
STOCK & GRIMES, LLP

BY:


RESSLER & RESSLER, P.C.
Paul V. Ressler, Esquire
PA I.D. #25626
Attorney for Plaintiff
Discover Bank

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

DISCOVER BANK, ISSUER OF DISCOVER CARD,
BY ITS AGENT DISCOVER FINANCIAL
SERVICES, INC., }
Plaintiff, }
vs. }
EATHEL L. MCCULLEY, }
Defendant }
Docket No. 113

VERIFICATION

The undersigned, PAUL V. RESSLER, is an authorized agent of the plaintiff and verifies that the facts set forth in this complaint are true and correct to the best of my knowledge, information, and belief, which knowledge, information and belief is based upon and has been obtained from a review of the facts and information contained in the business records of the plaintiff supplied to us by the Plaintiff. This statement is made subject to the penalties of Section 4904 of the Crimes Code (18 P.A.S.C.A. § 4904) related to unsworn falsification to authorities.

Respectfully submitted,

Discover Bank

By:

RESSLER & RESSLER, P.C.
Paul V. Ressler, Esquire
PA I.D. #25626
Attorney for Plaintiff
Discover Bank

ATTORNEY: Stock & Grimes LLP
ACCOUNT NUMBER: 6011002840501431
BALANCE: \$9626.61
CARDMEMBER (S): EATHEL L MCCULLEY

STATE OF OHIO
COUNTY OF FRANKLIN

A. Dutton, personally appeared before me, this day and after being duly sworn, according to law, upon his/her oath and says:

I am a Legal Placement Account Manager for **DISCOVER FINANCIAL SERVICES INC.**, the servicing agent of **DISCOVER BANK**, an FDIC insured Delaware State Bank.

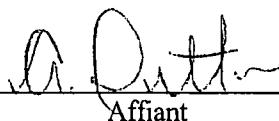
THAT this affidavit is made on the basis of my personal knowledge and in support of Plaintiff's suit on account against the Debtor(s)

THAT, in my capacity as Legal Placement Account Manager, I have control over and access to records regarding the Discover Card Account of the above referenced Debtor(s), further, that I have personally inspected said Account and statements regarding the balance due on said account. **DISCOVER FINANCIAL SERVICES, INC.** maintains these records in the ordinary course of business.

THAT the annexed statement of account is a true and correct statement of what is now due and owing Discover Bank on the account, and exhibit A is a copy of the Cardmember Agreement between Discover Bank and the above referenced Debtor(s). The Cardmember Agreement governs the terms and conditions of the relationship between Discover Bank and the Debtor(s) in connection with the account.

Based on my review of the account records, to the best of my knowledge and belief the above referenced Debtor(s) is not engaged in active duty in the military service of the United States and is a resident of the State and of the Country in which this action has been filed.

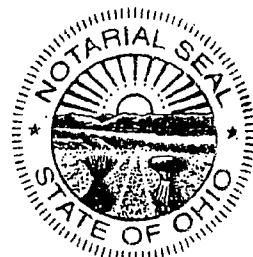
I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.


A. Dutton

Affiant

Sworn and Subscribed before me,
This day of Friday, March 19, 2004.


TERESA L. CALDWELL
NOTARY



TERESA L. CALDWELL
Notary Public
In and for the State of Ohio
My Commission Expires
June 10, 2006



CARDMEMBER AGREEMENT

Please read this Agreement carefully before using your Discover® Card Account. It contains the terms and conditions of your Account, some of which may have changed from earlier materials provided to you. In the event of any differences, this Agreement shall control.

AGREEMENT TERMS: The word "Account" means your Discover Card Account. The word "Card" means any one or more Discover Cards issued to you or someone else with your authorization. The words "you", "your", or "yours" refer to, in addition to you, the Cardmember, any other person or persons who are also contractually liable under this Agreement. The words "we", "us" and "our" refer to Greenwood Trust Company, the Issuer of your Discover Card.

ACCEPTANCE OF AGREEMENT. The use of your Account or a Card, by you or anyone whom you authorize or permit to use your Account or a Card, means you accept this Agreement.

USE OF YOUR ACCOUNT. Your Account may be used for:

- Purchases - to purchase or lease goods or services from NOVUS® Network merchants by presenting your Card or account number.
- Cash Advances - to obtain cash advances at NOVUS Cash Network® automated teller machines, from participating financial institutions or other locations, or by means of checks which we may furnish to you, all in accordance with such additional terms and conditions as may be imposed from time to time.
- Balance Transfers - to transfer balances from other credit card accounts by means of balance transfer coupons or checks, in accordance with such additional terms and conditions of offers that are made from time to time.

In addition, your Account may be used to guarantee hotel reservations at participating establishments. You will be liable for guaranteed reservations that are not canceled prior to the time specified by the establishment.

You agree that you will only use your Account for personal, family, household and charitable purposes. Your Account may not be used for business or commercial purposes or to obtain loans to purchase, carry or trade in securities. In addition, your Account may not be used to pay any amount you owe under this Agreement. Prior to its use, each Card must be signed by the person to whom it is issued. We are not responsible for the refusal of anyone to accept or honor a Card or to accept checks that we have provided you. You must return any Card or unused checks to us upon request.

AUTHORIZED CARD USERS. If you want to cancel the authorized or permitted use of your Account by another person, you must notify us in writing or by telephone and destroy any Card in that person's possession.



3307 HATTI REV. 7/96

LIABILITY FOR UNAUTHORIZED USE. If a Card is lost or stolen, or if you think that someone is using your Account or a Card without your permission, notify us immediately. You can notify us by telephoning 1-800-DISCOVER (1-800-347-2863), or by writing DISCOVER CARD, PO Box 15156, Wilmington, DE 19886-1002. You may be liable for the unauthorized use of a Card or your Account. You will not be liable for unauthorized use that occurs after you notify us, by phone or in writing, of the loss, theft, or possible unauthorized use. In any case, your liability will not exceed \$50.00.

CREDIT LIMIT. We will advise you of your credit limit. We may increase or decrease your credit limit from time to time. You agree not to exceed or attempt to exceed your credit limit. You will exceed your credit limit if you allow your unpaid balance, including finance charges and fees, to exceed your credit limit. Your credit limit will not include the amount of any credit balance in your Account.

PROMISE TO PAY. You agree to pay us in U.S. Dollars for all purchases, cash advances and balance transfers including applicable finance charges and other charges or fees, incurred by you or anyone you authorize or permit to use your Account or a Card, even if you do not notify us that others are using your Account or a Card. We will convert purchases and cash advances made in a foreign currency to U.S. Dollars at a rate existing on the date of conversion. If you pay us in other than U.S. Dollars, we may refuse to accept the payment or charge your Account our cost to convert your payment to U.S. Dollars. All checks must be drawn on funds on deposit in the U.S.

If your Account is a joint Account, each of you agrees to be liable individually and jointly for the entire amount owed on your Account. We can accept late payments or partial payments or checks and money orders marked "payment in full" or with any other restrictive endorsement without losing any of our rights under this Agreement.

MONTHLY BILLING STATEMENT. We will send you a billing statement after each monthly billing period in which you have a debit or credit balance of \$1.00 or more. The billing statement will show all purchases, cash advances, balance transfers, finance charges and other charges or fees and all payments or other credits posted to your Account during the billing period. It will show your New Balance, Minimum Payment Due and Payment Due Date.

MONTHLY PAYMENT OPTIONS. You may at any time pay the entire New Balance shown on your billing statement, but each month you must pay at least the Minimum Payment Due. All payments must be mailed or delivered to us in Delaware at PO Box 6011, Dover, DE 19903-6011 or by using the envelope enclosed with such statement. All payments will be applied as determined in our discretion. We reserve the right to apply payments to balances subject to lower Annual Percentage Rates, such as special rate balance transfers, prior to balances subject to higher Annual Percentage Rates.

MINIMUM MONTHLY PAYMENT. The Minimum Payment Due each month will be the sum of any amount past due and the minimum monthly payment. The minimum monthly payment each month will be the greater of \$10.00 or an amount equal to 1/48th of the New Balance, rounded to the next higher whole dollar amount. However, if the New Balance is less than \$10, the minimum monthly payment will be the amount of the New Balance. You can pay ahead. The Minimum Payment Due for each monthly billing period will be reduced by the amount you have paid in excess of the Minimum Payment Due in any of the three previous monthly billing periods, less any portion of the

ccess already used to reduce payments. However, there will be no reduction if you have exceeded your credit limit; or you have paid the entire New Balance shown on your billing statement. There will also be no reduction if your Account is not current, has not generally been paid in an acceptable manner or is otherwise not in good standing.

CREDIT BALANCES. We will refund any credit balance within seven business days from receipt of your written request. If you do not request a refund, we will automatically refund credit balances greater than \$1.00 which remain in your Account after two billing periods.

BALANCE TRANSFERS. We may periodically offer you the opportunity to transfer balances from other credit card accounts to your Account. Each offer will contain an initial special rate, which will be the Annual Percentage Rate that will apply to transferred balances for the time period specified in the offer. After the expiration of this time period, the Annual Percentage Rate that applies for purchases will apply to transferred balances. Balance transfers subject to the initial special rate are referred to as special rate balance transfers; balance transfers for which the initial special rate has expired are referred to as purchase rate balance transfers.

Each offer will contain an expiration date. If you attempt to transfer balances by means of a check after the expiration date, we will treat the transaction as a cash advance. We will not make balance transfers attempted by means of a coupon after the expiration date.

PERIODIC FINANCE CHARGES. Except as explained below, Periodic Finance Charges are imposed on purchases, cash advances and balance transfers from the date the transaction occurs to the date of repayment. If the transaction is posted to your Account after the close of the billing period in which it occurs, we will treat the transaction as having occurred on the first day of the billing period in which it is posted to your Account. We will assess Periodic Finance Charges as follows:

(1) **Current Billing Period**

Periodic Finance Charges are imposed for the current billing period on purchases, cash advances and balance transfers unless you paid, by the Payment Due Date, the New Balance shown on your previous billing statement. We compute Periodic Finance Charges each day by multiplying your daily balances of purchases, cash advances and balance transfers by the applicable Daily Periodic Rates. Only special rate balance transfers are included in the daily balance of balance transfers; purchase rate balance transfers are included in the daily balance of purchases. At the end of the billing period, we add up the results of these daily calculations to determine your Periodic Finance Charges for the billing period.

For purchases, the daily balance is calculated on each day by first adding the following to the previous day's daily balance: purchases made that day, fees charged that day (with the exception of Transaction Fee Finance Charges) and Periodic Finance Charges charged on the previous day's daily balance; and by then subtracting any credits and payments that are applied against the balance of purchases and purchase rate balance transfers on that day. On the first day of the billing period we also add to the balance those balance transfers that become purchase rate balance transfers on that day.

For cash advances, the daily balance is calculated on each day by first adding the following to the previous day's daily balance: cash advances made that day, Transaction Fee Finance Charges for cash advances made that day, and Periodic Finance Charges charged on the previous day's

daily balance; and by then subtracting any credits and payments that are applied against the balance of cash advances on that day.

For balance transfers, the daily balance is calculated on each day by first adding the following to the previous day's daily balance: balance transfers made that day and Periodic Finance Charges charged on the previous day's daily balance; and by then subtracting any credits and payments that are applied against the balance of balance transfers on that day. On the first day of the current billing period we also subtract from the balance those balance transfers that become purchase rate balance transfers on that day.

(2) **Previous Billing Period**

Periodic Finance Charges are imposed for the previous billing period on previous billing period purchases, cash advances and balance transfers unless Periodic Finance Charges were already imposed for that billing period, or you paid the New Balance shown on your previous billing statement by the Payment Due Date. To compute these charges, we use the same method of calculation that we use in calculating the Periodic Finance Charges for the current billing period, as described above, except that the applicable Daily Periodic Rates are applied to daily balances of purchases, cash advances and balance transfers for each day of the previous billing period. These daily balances are also computed as described above, with the "previous day's daily balance" considered to have been zero on the first day of the billing period.

(3) **Daily Periodic Rates and Annual Percentage Rates**

The Daily Periodic Rates applicable to purchases and cash advances for the current billing period and the previous billing period are based on the Annual Percentage Rate in effect for each billing period as determined below. The Daily Periodic Rates for each billing period are 1/365th of the Annual Percentage Rates in effect for the billing period. The Annual Percentage Rate for purchases may be changed based on changes in the rate level for which you qualify, as explained below.

The Annual Percentage Rates are determined in part by the Prime Rate. For purposes of this Agreement, the Prime Rate is the highest rate of interest listed as the "prime rate" in the money rates section of the Wall Street Journal on the last business day of the month. When the Prime Rate changes, the Annual Percentage Rates will change beginning on the first day of the first billing period which begins in the calendar month following the change in the Prime Rate. Increases in the Prime Rate may cause the Daily Periodic Rates, Periodic Finance Charges and Minimum Payment Due each month to increase. The Prime Rate is merely a pricing index and does not represent the lowest or best interest rate available to a borrower at any particular bank at any given time.

(4) **Annual Percentage Rate for Purchases**

We may have offered you an introductory rate on purchases. The introductory rate is the fixed Annual Percentage Rate that will apply to purchases for the time period specified in the offer. After expiration of this time period, the Annual Percentage Rate for purchases will be as described below.

The three Annual Percentage Rate levels for purchases are: the Standard Rate, the Better Rate and the Best Rate. The rate level for which you qualify is based on the total amount of purchases that you make during an annual period, as explained below. Purchases which comprise this annual total are sometimes referred to as qualified purchases. We make certain appropriate adjustments to qualified purchases in respect of

activity (e.g., a credit issued for a returned purchase). You will qualify for the Standard Rate if total qualified purchases are less than \$100.00, the Better Rate if total qualified purchases are \$500.00 or more but less than \$1000.00, and the Best Rate if total qualified purchases are \$1000.00 or more.

You will qualify for and receive the Best Rate until your first Anniversary Date, subject to disqualification. We refer to the date that is the last day of the twelve billing period after your Account was opened, and each annual anniversary of that date, as your Anniversary Date. On each Anniversary Date, we will determine your rate level based on total qualified purchases for the preceding 12 billing periods. The rate level will apply to purchases (including the outstanding purchase balance) beginning on the next day, subject to disqualification. You will not be eligible for the Better Rate or the Best Rate if on your Anniversary Date you have failed to make the Minimum Payment Due by the Payment Due Date for two consecutive billing periods.

If at any time you fail to make the Minimum Payment Due by the Payment Due Date for two consecutive billing periods, you will be disqualified from the Better Rate or the Best Rate and we will change your rate level to the Standard Rate. The Standard Rate will apply to purchases (including the outstanding purchase balance) from the first day of the second billing period in which you failed to make the Minimum Payment Due by the Payment Due Date until your next Anniversary Date.

If your Account is closed, the rate level (that is, the Standard Rate, the Better Rate or the Best Rate) in effect on the date your Account is closed will apply until your Account is paid in full, subject to disqualification as set forth above.

The Standard Rate is an ANNUAL PERCENTAGE RATE of (a) 19.8% when the Prime Rate is lower than 10.9%, and (b) Prime Rate plus 8.9 percentage points, when the Prime Rate is 10.9% or more. The Better Rate is an ANNUAL PERCENTAGE RATE of Prime Rate plus 10.9 percentage points, but never exceeding the Standard Rate. The Best Rate is an ANNUAL PERCENTAGE RATE of Prime Rate plus 8.9 percentage points. The Better and Best Rates have a minimum of 12.9%. The Daily Periodic Rates and corresponding Annual Percentage Rates in effect on the date this Agreement is furnished to you are set forth in the enclosed "Additional Disclosure" or card carrier.

(5) Annual Percentage Rate for Cash Advances

The ANNUAL PERCENTAGE RATE for cash advances is (a) 19.8%; when the Prime Rate is lower than 10.9%, and (b) Prime Rate plus 8.9 percentage points, when the Prime Rate is 10.9% or more. The Daily Periodic Rate and corresponding Annual Percentage Rate in effect on the date this Agreement is furnished to you are set forth in the enclosed "Additional Disclosure" or card carrier.

(6) Annual Percentage Rate for Balance Transfers

The Daily Periodic Rate and corresponding Annual Percentage Rate in effect for special rate balance transfers will be set forth in the offer from us under which you make the balance transfer. As indicated in the Balance Transfers Section above, purchase rate balance transfers will be subject to the Daily Periodic Rate and corresponding Annual Percentage Rate that apply to purchases. If you received an offer prior to your receipt of this Agreement, the Daily Periodic Rates and Annual Percentage Rates in effect on the date this Agreement is furnished to you are set forth in the enclosed "Additional Disclosure" or card carrier.

TRANSACTION FEE FINANCE CHARGES. We will charge you a Transaction Fee Finance Charge of 2.5% of the amount of each new cash advance. There is a minimum Transaction Fee FINANCE CHARGE of \$2.00 and no maximum Transaction Fee FINANCE CHARGE. The imposition of Transaction Fee Finance Charges may result in an Annual Percentage Rate for cash advances that is higher than the nominal Annual Percentage Rate. All forms of cash advances, including the use of Discover Card checks, regardless of the purpose for which used, are subject to Transaction Fee Finance Charges. To obtain the total finance charge on cash advances for each billing period, we add any Transaction Fee Finance Charges for the billing period charged under this section to any Periodic Finance Charges calculated under the Periodic Finance Charges section above.

MINIMUM PERIODIC FINANCE CHARGE. We will charge you a minimum periodic FINANCE CHARGE of \$.50 for any billing period in which some Periodic FINANCE CHARGE of less than \$.50 would otherwise be imposed.

RETURNED CHECK FEE. We will charge you a Returned Check Fee of \$15.00 each time you pay us with a check that is returned unpaid. This fee will also apply if a debit transaction to a deposit account from which you have authorized us in writing to periodically deduct all or a part of an amount you owe us under this Agreement is returned unpaid.

LATE FEE. We will charge you a Late Fee of \$20.00 if you fail to make a required payment within 20 days after the Payment Due Date in any month. **RESEARCH FEE.** We may charge you a Research Fee of \$5.00 for each copy of a billing statement or sales slip that you request. However, we will not charge a fee if you request copies in connection with a billing error.

OVERLIMIT FEE. We will charge you an Overlimit Fee of \$15.00 for each billing period in which you exceed your credit limit. This fee may be charged, even if the transaction which causes you to exceed your credit limit is authorized by us or if you exceed your credit limit due to the posting of finance charges or fees to your Account.

DEFAULT-COLLECTION COSTS. You are in default if you become insolvent, if you file a bankruptcy petition or have one filed against you, or if you fail to comply with the terms of this Agreement, including failing to make a required payment when due or exceeding your credit limit. If you are in default and we refer the collection of your Account to an attorney, we may charge you reasonable attorneys' fees and court or other collection costs as permitted by law and as actually incurred by us.

CANCELLATION. You may cancel your Account by notifying us in writing or by telephone and returning or destroying every Card and unused check that we have provided you. Of course, you will still be responsible to pay any amount you owe us according to the terms of this Agreement. If your Account is a joint Account, each of you may cancel your Account. We may cancel or suspend your Account at any time without notice. We may also declare the entire balance of your Account immediately due and payable without notice. If you are in default, if we have a reasonable belief that you are unable or unwilling to repay your obligations to us, if you are insolvent, if you file a bankruptcy petition or have one filed against you or if you die, we may choose not to renew your Account (beyond the expiration date shown on the face of a Card) without notice.

PRIVACY. We may investigate your credit, employment and income records and verify your credit references. We also may report to credit reporting agencies and other creditors the status and payment history of your Account including negative credit information. We normally report to such credit reporting agencies each month. We will not release this information about your

Account to any other party without your prior written permission or legal process. However, if you are in default, you violate the terms of this Agreement or you file a bankruptcy petition or have one filed against you, we may release information about your Account to third parties who may assist us in enforcing our rights under this Agreement. We may also include your name and address and other identifying information on lists of Cardmembers furnished to companies selling products or services that may be of interest to you. Our supervisory personnel may listen to or record telephone calls between you and our representatives in order to evaluate the quality of our service to our Cardmembers without notice to you. We may use automated telephone equipment or prerecorded telephone calls to contact you about your Account.

CREDIT AUTHORIZATIONS. Certain purchases and cash advances will require our authorization prior to completion of the transaction. In some cases, you may be asked to provide identification. If our authorization system is not working, we may not be able to authorize a transaction. We will not be liable to you if any of these events happen.

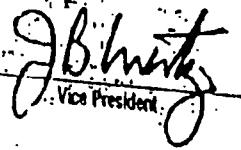
CHANGE OF TERMS. We may change any term or part of this Agreement, including any finance charge rate, fee or method of computing any balance upon which the finance charge rate is assessed, by sending you a written notice at least 30 days before the change is to become effective. We may apply any such change to the outstanding balance of your Account on the effective date of the change and to new charges made after that date. If you do not agree to the change, you must notify us in writing within 30 days after the mailing of the notice of change of the address provided in the notice of change, in which case your Account will be closed and you must pay us the balance that you owe us under the existing terms of the unchanged Agreement. Otherwise, you will have agreed to the changes in the notice. Use of your Account after the effective date of the change will be deemed acceptance of the new terms as of such effective date, even if you previously notified us that you did not agree to the change.

CHANGE OF ADDRESS. If you change your address you must notify us of your new address within 15 days.

ASSIGNMENT OF ACCOUNT. We may sell, assign or transfer your Account or any portion thereof without notice to you. You may not sell, assign or transfer your Account without first obtaining our prior, written consent.

GOVERNING LAW. This Agreement will be governed by the laws of the State of Delaware and applicable federal laws. If any part of this Agreement becomes unenforceable, it will not make any other part unenforceable.

Greenwood Trust Company
DISCOVER CARD


J. B. Smith
Vice President

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

DISCOVER BANK, ISSUER OF DISCOVER
CARD, BY ITS AENT DISCOVER FINANCIAL
SERVICES, INC.,

CIVIL DIVISION

PLAINTIFF,

NO. 04-1398-CD

VS.

EATHEL L. Mc CULLEY

DEFENDANT.

ANSWER TO
COMPLAINT

Filed on behalf of
EATHEL L. Mc CULLEY

COUNSEL OF RECORD:

JERRY PURCELL, ESQ.
P. O. BOX 429
CHAMPION, PA 15622
(724) 593-7229
PA I.D. # 10030

FILED NO
M 11:32 AM
OCT 18 2004

William A. Shaw
Prothonotary Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

DISCOVER BANK, ISSUER OF DISCOVER
CARD, BY ITS AENT DISCOVER FINANCIAL
SERVICES, INC.,

CIVIL DIVISION

PLAINTIFF,

NO. 04-1398-CD

VS.

EATHEL L. Mc CULLEY

DEFENDANT.

ANSWER TO COMPLAINT

AND NOW, comes the Defendant Eathel L. Mc Culley, by and through
her attorney, Jerry Purcell, and respectfully represents as follows:

1. The allegations of Paragraph 1 are admitted.
2. The allegations of Paragraph 2 are admitted.
3. The allegations of Paragraph 3 are admitted.
4. The allegations of Paragraph 4 are denied as Defendant is not
indebted to Plaintiff in the amount of \$9,626.61 and Defendant does
not know how Plaintiff computes said balance as no information or
accounting is given. Defendant further denies that Exhibit "A" is an
agreement between Plaintiff and Defendant. Defendant further

avers that she is not responsible for attorney's fees as she never agreed to pay same and the amount is not reasonable.

WHEREFORE, Defendant request that the Complaint be dismissed.

Respectfully submitted,



JERRY PURCELL
ATTORNEY FOR
EATHEL L. MC CULLEY

VERIFICATION

**THE UNDERSIGNED DEPOSES AND SAYS SUBJECT TO THE PENALTIES
OF SECTION 4904, RELATING TO UNSWORN FALSIFICATION TO
AUTHORITIES THAT THE FACTS SET FORTH IN THE FOREGOING ARE
TRUE AND CORRECT TO HIS/HER INFORMATION AND BELIEF.**

Date: 10/14/04


EATHEL L. MC CULLEY

In The Court of Common Pleas of Clearfield County, Pennsylvania

DISCOVER BANK

VS.

MCCULLEY, EATHEL L.

COMPLAINT

Sheriff Docket # 16252

04-1398-CD

SHERIFF RETURNS

NOW OCTOBER 1, 2004 AT 11:46 AM SERVED THE WITHIN COMPLAINT ON EATHEL L. MCCULLEY, DEFENDANT AT EMPLOYMENT, DDJ MANUFACTURING, RT 53, MADERA, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO EATHEL L. MCCULLEY A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN TO HER THE CONTENTS THEREOF.

SERVED BY: DAVIS/MORGILLO

Return Costs

| Cost | Description |
|-------|--------------------------------------|
| 94.50 | SHERIFF HAWKINS PAID BY: <i>atty</i> |
| 10.00 | SURCHARGE PAID BY: ATTY CK# 10884 |

Sworn to Before Me This

1st Day Of November 2004
Willie L. Harris

So Answers,

Chester Hawkins
By, Marilyn Harris
Chester A. Hawkins
Sheriff

NOV 01 2004

E61

*Law
City*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DISCOVER BANK, ISSUER OF DISCOVER
CARD, BY ITS AGENT DISCOVER
FINANCIAL SERVICES, INC.,
Plaintiff,

vs.

CIVIL DIVISION

No. 04-1398-CD

EATHEL McCULLEY,
Defendant.

**NOTICE OF BANKRUPTCY
FILING**

Filed on behalf of Plaintiff, Discover
Bank, Issuer of Discover Card, by its
Agent Discover Financial Services, Inc.

Counsel of Record for this party:

STOCK & GRIMES, LLP
PA I.D. #13657

BY: PAUL V. RESSLER, ESQUIRE
RESSLER & RESSLER, P.C.
PA I.D. #25626
FIRM No. 739

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cc
DEC 27 2004

21 Yost Boulevard, Suite 301
Pittsburgh, PA 15221-5283
(412) 824-6944

William A. Shaw
Prothonotary/Clerk of Courts

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

DISCOVER BANK, ISSUER OF DISCOVER CARD, BY ITS AGENT DISCOVER FINANCIAL SERVICES, INC. :
Plaintiff,
vs.
EATHEL McCULLEY, : Docket No. 04-1398-CD
Defendant.

NOTICE OF BANKRUPTCY FILING

Please take notice that the defendant in this case has filed a Bankruptcy Petition and is now protected by the automatic stay pursuant to 11 U.S.C. §362. Please suspend all action on this matter until further notice.


STOCK & GRIMES, LLP
PA I.D. #13657
BY: PAUL V. RESSLER, ESQ.
RESSLER & RESSLER, P.C.
21 YOST BLVD. SUITE 301
PITTSBURGH, PA 15221
(412) 824-6944
ATTORNEY I.D. # 25626
FIRM # 739

~~Plff~~

vs

Eathel L. McCulley

04-1398CD

Paul V. Kessler Esq.

Jerry Purcell, Esq.