

05-855-CD
Citibank vs. Kelly J. Royer

Citibank v. Kelly Royer
2005-855-CD

Date: 04/05/2006

Clearfield County Court of Common Pleas

User: LMILLER

Time: 08:49 AM

ROA Report

Page 1 of 1

Case: 2005-00855-CD

Current Judge: Fredric Joseph Ammerman

Citibank (South Dakota) N.A. vs. Kelly J. Royer

Civil Other

Date		Judge
06/16/2005	New Case Filed.	No Judge
	Filing: Civil Complaint Paid by: Neil, Esq., Burton (attorney for Citibank South Dakota, N.A.) Receipt number: 1903073 Dated: 06/16/2005 Amount: \$85.00 (Check) 1 Cert. to Sheriff	No Judge
07/06/2005	Answer to Complaint, filed by s/ Marc A. Berringer, Defendant. No CC	No Judge
08/19/2005	Sheriff Return, June 23, 2005 served the within Complaint on Kelly J. Royer. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm Shff Hawkins costs pd by atty for plff \$30.00.	No Judge
02/24/2006	Motion of Plaintiff Citibank (South Dakota) n.A. for judgment on the pleadings, filed by s/ Burton Neil, esquire. No cc	No Judge
02/28/2006	Rule To Show Cause, NOW, this 27th day of Feb., 2006, upon consideration of plaintiff's Motion for Judgment of the Pleadings, it is Ordered that: A rule is issued, argument to be held on April 4, 2006 at 2:30 p.m. in Courtroom 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Atty. Neil	Fredric Joseph Ammerman
03/10/2006	Certificate of Service, filed. Served a true and correct copy of the Rule to Show Cause, Motion for Judgment on the Pleadings, proposed Order, and Memorandum of Law on pro se defendant, Kelly J. Royer, filed by s/ Burton Neil Esq. No CC.	Fredric Joseph Ammerman
03/27/2006	Motion of Defendant to Oppose Plaintiff's Motion for Judgment, filed by s/ Kelly Jo Royer, Def. No CC	Fredric Joseph Ammerman

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.
701 East 60th Street North, Sioux Falls, SD
Plaintiff
v.

: IN THE COURT OF COMMON PLEAS

: CLEARFIELD COUNTY, PENNSYLVANIA

: NO. 2005 - 855 - 00

KELLY J ROYER

820 Barclay Street, Clearfield PA 16830-1204

Defendant

: 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. Meholick

Court Administrator

Clearfield County Courthouse

Clearfield, PA 16830

Telephone No. 814-765-2641 Ext. 5982

FILED

JUN 16 2005

m/3:20
William A. Shaw

Prothonotary/Clerk of Courts

1 cent to ATT.

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.
701 East 60th Street North, Sioux Falls, SD
Plaintiff

: IN THE COURT OF COMMON PLEAS

: CLEARFIELD COUNTY, PENNSYLVANIA

v.

: NO.

KELLY J ROYER

820 Barclay Street, Clearfield PA 16830-1204

Defendant

: CIVIL ACTION - LAW

Complaint

1. The plaintiff is Citibank South Dakota N.A., with place of business located at 701 East 60th Street North, Sioux Falls, South Dakota.

2. The defendant is Kelly J Royer, who resides at 820 Barclay Street, Clearfield, Clearfield County, Pennsylvania.

3. Plaintiff, a national banking association, engages in various types of banking business including consumer lending through the issuance of credit cards.

4. Plaintiff furnished consumer credit to the defendant by means of a credit card with account number 5424180484599813 hereinafter referred to as the credit card account.

5. Plaintiff maintained an accurate and running record of all debits and credits to the credit card account in its books of account.

6. Plaintiff mailed defendant a written statement each month which accurately stated the debits and credits to the credit card account for the prior billing period.

7. Defendant received the monthly statements from plaintiff for the credit card account including the statement attached hereto as Exhibit A statement without protest, dispute or objection.

8. Defendant in not protesting, disputing or objecting to the statements including the Exhibit A statement thereby assented and agreed to the correctness of the balance due on the credit card account so as to constitute an account stated.

9. The amount due plaintiff on the account stated, less credits, if any issued subsequent to the Exhibit A statement, is \$14,076.64.

Wherefore, plaintiff demands judgment against defendant for the sum of \$14,076.64, 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, P.C. is a debt collector.

02/21/05 \$14076.64 \$9999.99

SITE:KC-CL

TM:CO-5000

ACID:KCB7150

PMT DUE DATE

NEW BALANCE

MIN AMT DUE

05/13/05

20:25:17:

KELLY J ROYER
820 BARCLAY ST
CLEARFIELD
16830-1204000

PA

CITI CARDS
P.O. BOX 8118
S HACKENSACK, NJ
07606-8118

Citi® Platinum Select® Card



Account Number

5424 1804 8459 9813

Customer Service:

1-800-950-5114

BOX 6500

SIOUX FALLS, SD

57117

Total Credit Line

\$12200

Available Credit Line

\$0

Cash Advance Limit

\$7320

Available Cash Limit

\$0

New Balance

\$14076.64

Statement/
Closing Date

01/26/2005

Amount Over
Credit Line

\$1876.64 +

Past Due

\$1533.86

Purch/Adv
Minimum Due

\$326.52

Minimum
Amount Due

\$14076.64

Sale Date	Post Date	Reference Number	Activity Since Last Statement	Amount
	1/26		Standard Purch	
	1/26		LATE FEE - DEC PAYMENT PAST DUE	35.00
	1/26		66 0000	0000000000
	1/26		OVER CREDIT LIMIT FEE	35.00
	1/26		62 0000	0000000000
	1/26		PURCHASES*FINANCE CHARGE*PERIODIC RATE	275.30
	1/26		84 0000	0000000000
	1/26		Standard Adv	
	1/26		ADVANCES*FINANCE CHARGE*PERIODIC RATE	46.22
	1/26		84 0000	0000000000

Help is available! Please call the toll-free number shown above to learn about our special payment options. Call Monday - Friday, 7 am to 9 pm, or Saturday, 8 am to 5 pm, Central Time. Please give us the opportunity to assist you.

EXHIBIT

A

Account Summary	Previous Balance	(+) Purchases & Advances	(-) Payments & Credits	(+) FINANCE CHARGE	(=) New Balance
PURCHASES	\$11,717.77	\$70.00	\$0.00	\$275.30	\$12,063.07
ADVANCES	\$1,967.35	\$0.00	\$0.00	\$46.22	\$2,013.57
TOTAL	\$13,685.12	\$70.00	\$0.00	\$321.52	\$14,076.64

Days This Billing Period: 29

Rate Summary	Balance Subject to Finance Charge	Periodic Rate	Nominal APR	ANNUAL PERCENTAGE RATE
PURCHASES				
Standard Purch	\$11,850.14	0.08011%(D)	29.240%	29.240%
ADVANCES				
Standard Adv	\$1,989.57	0.08011%(D)	29.240%	29.240%

Verification

I, Aminda Carter am an employee of Citicorp Credit Services, Inc., (USA) which is by contract the service provider for plaintiff CITIBANK SOUTH DAKOTA N.A. retained to perform services including but not primarily limited to collecting delinquent debt. I am authorized to make this verification as attorney-in-fact for plaintiff under powers of attorney from plaintiff to Citicorp Credit Services, Inc. (USA) and to me. The foregoing averments of fact in the within pleading are true and correct to the best of my knowledge, information and belief. I understand that the statements made herein are subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to the authorities.

Date: 04/28/05

Aminda Carter
Signature

Kelly J Royer
5424180484599813

Kelly J Royer
Marc A Berringer
820 Barclay Street
Clearfield, Pa. 16830

FILED ^{NO} CC
m/j: 3761
JUL 06 2005
William A. Shaw
Prothonotary/Clerk of Courts

Court Of Common Pleas

State of Pennsylvania, Clearfield County

Cause/Case No. 2005 - 855 - ^{CD} ~~EN~~

Citibank South Dakota N.A.
701 East 60th Street Norht, Sioux Falls, SD
Plaintiff
v.

Kelly J Royer
Marc A Berringer
820 Barclay Street, Clearfield Pa. 16830
Defendants

Kelly J Royer and Marc A Berringer ("Defendants"), hereby answers the complaint of Citibnk South Dakota N.A. ("Plaintiff") for it's self alone as follows and generally acknowledges the allegations of the complaint:

First Affirmative Defense

I acknowledge the fact that I do owe this debt to the plaintiff. This debt was incurred on my Citibank credit card. I have no intention of denying the plaintiff's claim and I am currently trying to resolve the claim.

Second Affirmative Defense

The reason I owe the debt is due to the sudden unemployment of my wife Kelly J Royer. We had been making payments on time up to and including the time of her manufacturing plant shutdown. After a few months of paying this debt, a mortgage, a car payment, utilities, and basic needs, and other expenses, we realized that we could not keep up the payments. We could not even afford to pay the minimum payments. The best alternative we found to bankruptcy was a debt settlement company.

Kelly J Royer
Marc A Berringer
820 Barclay Street
Clearfield, Pa. 16830

Third Affirmative Defense

We have sought the help of a debt settlement company known as United Debt Recovery to resolve this debt. I feel it is a viable alternative to bankruptcy and/or civil suits. All that is requested of the creditor is time. Time to build up settlement funds to be used to repay the debt in whole or in part as per a negotiation by United Debt Recovery. I have notified the plaintiff of this both in writing and per phone conversations.

My wife and I are not trying to "get out of paying", we simply cannot pay it off at this point in time. If I had the funds to do so now I would, but at this time it is impossible. The settlement requires a thirty-two month period (of which eight months have passed) the end date would be April of 2007. I realize this is a long time to wait but, I assure the court and the creditor that I want to resolve this matter as soon as possible.

Wherefore, Defendant requests that:

1. The Plaintiff not receive judgment at this time; and
2. The fees for this litigation be waived.

Dated: 2 July 2005

Marc A. Berringer
Marc A. Berringer

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.

701 East 60th Street North, Sioux Falls, SD

Plaintiff

v.

: IN THE COURT OF COMMON PLEAS

: CLEARFIELD COUNTY, PENNSYLVANIA

: NO. 2005 - 855 - cn

KELLY J ROYER

820 Barclay Street, Clearfield PA 16830-1204

Defendant

: 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

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

JUN 16 2005

Attest

William R. ...
P. ...
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.
701 East 60th Street North, Sioux Falls, SD
Plaintiff

: IN THE COURT OF COMMON PLEAS

: CLEARFIELD COUNTY, PENNSYLVANIA

v.

: NO.

KELLY J ROYER
820 Barclay Street, Clearfield PA 16830-1204
Defendant

: CIVIL ACTION - LAW

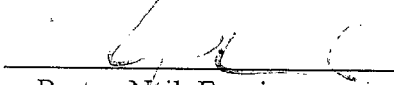
Complaint

1. The plaintiff is Citibank South Dakota N.A., with place of business located at 701 East 60th Street North, Sioux Falls, South Dakota.
2. The defendant is Kelly J Royer, who resides at 820 Barclay Street, Clearfield, Clearfield County, Pennsylvania.
3. Plaintiff, a national banking association, engages in various types of banking business including consumer lending through the issuance of credit cards.
4. Plaintiff furnished consumer credit to the defendant by means of a credit card with account number 5424180484599813 hereinafter referred to as the credit card account.
5. Plaintiff maintained an accurate and running record of all debits and credits to the credit card account in its books of account.
6. Plaintiff mailed defendant a written statement each month which accurately stated the debits and credits to the credit card account for the prior billing period.
7. Defendant received the monthly statements from plaintiff for the credit card account including the statement attached hereto as Exhibit A statement without protest, dispute or objection.
8. Defendant in not protesting, disputing or objecting to the statements including the Exhibit A statement thereby assented and agreed to the correctness of the balance due on the credit card account so as to constitute an account stated.

9. The amount due plaintiff on the account stated, less credits, if any issued subsequent to the Exhibit A statement, is \$14,076.64.

Wherefore, plaintiff demands judgment against defendant for the sum of \$14,076.64, 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, P.C. is a debt collector.

THE SIGNATURE ABOVE CERTIFIES THAT THIS IS A
TRUE AND CORRECT COPY OF THE ORIGINAL FILE IN THIS CAUSE.

02/21/05 \$14076.64 \$9999.99
 PMT DUE DATE NEW BALANCE MIN ADV DUE

SITE:KC-CL TM:CO-5000 ACID:KCB7150
 05/13/05 20:25:17:

KELLY J ROYER
 820 BARCLAY ST
 CLEARFIELD
 16830-1204000

PA

CITI CARDS
 P.O. BOX 8118
 S HACKENSACK, NJ
 07606-8118

Citi® Platinum Select® Card



Account Number
 5424 1804 8459 9813

Customer Service:

1-800-950-5114	Total Credit Line \$12200	Available Credit Line \$0	Cash Advance Limit \$7320	Available Cash Limit \$0	New Balance \$14076.64
BOX 6500	Statement/ Closing Date 01/26/2005	Amount Over Credit Line \$1876.64 +	Past Due \$1533.86	Purch/Adv Minimum Due \$326.52	Minimum Amount Due \$14076.64
SIoux FALLS, SD					
57117					

Sale Date	Post Date	Reference Number	Activity Since Last Statement	Amount
	1/26		Standard Purch LATE FEE - DEC PAYMENT PAST DUE 66 0000	35.00 0000000000
	1/26		OVER CREDIT LIMIT FEE 62 0000	35.00 0000000000
	1/26		PURCHASES*FINANCE CHARGE*PERIODIC RATE 84 0000	275.30 0000000000
	1/26		Standard Adv ADVANCES*FINANCE CHARGE*PERIODIC RATE 84 0000	46.22 0000000000

Help is available! Please call the toll-free number shown above to learn about our special payment options. Call Monday - Friday, 7 am to 9 pm, or Saturday, 8 am to 5 pm, Central Time. Please give us the opportunity to assist you.

EXHIBIT

A

Account Summary	Previous Balance	(+) Purchases & Advances	(-) Payments & Credits	(+) FINANCE CHARGE	(=) New Balance
PURCHASES	\$11,717.77	\$70.00	\$0.00	\$275.30	\$12,063.07
ADVANCES	\$1,967.35	\$0.00	\$0.00	\$46.22	\$2,013.57
TOTAL	\$13,685.12	\$70.00	\$0.00	\$321.52	\$14,076.64

Days This Billing Period: 29

Rate Summary	Balance Subject to Finance Charge	Periodic Rate	Nominal APR	ANNUAL PERCENTAGE RATE
PURCHASES				
Standard Purch	\$11,850.14	0.08011%(D)	29.240%	29.240%
ADVANCES				
Standard Adv	\$1,989.57	0.08011%(D)	29.240%	29.240%

Verification

I, Aminda Carter am an employee of Citicorp Credit Services, Inc., (USA) which is by contract the service provider for plaintiff CITIBANK SOUTH DAKOTA N.A. retained to perform services including but not primarily limited to collecting delinquent debt. I am authorized to make this verification as attorney-in-fact for plaintiff under powers of attorney from plaintiff to Citicorp Credit Services, Inc. (USA) and to me. The foregoing averments of fact in the within pleading are true and correct to the best of my knowledge, information and belief. I understand that the statements made herein are subject to the penalties of 18 Pa. C.S. Section 4904, relating to unsworn falsification to the authorities.

Date: 04/28/05

Aminda Carter
Signature

Kelly J Royer
5424180484599813

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100570
NO: 05-855-CD
SERVICE # 1 OF 1
COMPLAINT

PLAINTIFF: CITIBANK SOUTH DAKOTA N.A.
vs.
DEFENDANT: KELLY J. ROYER

SHERIFF RETURN

NOW, June 23, 2005 AT 1:34 PM SERVED THE WITHIN COMPLAINT ON KELLY J. ROYER DEFENDANT AT 820 BARCLAY ST., CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO KELLY J. ROYER, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: HUNTER / NEVLING

FILED
8/3:09 PM
AUG 19 2005

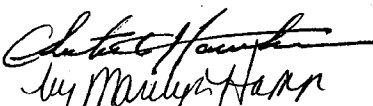
William A. Shaw
Prothonotary/Clerk of Courts

PURPOSE	VENDOR	CHECK #	AMOUNT
SURCHARGE	NEIL	10163	10.00
SHERIFF HAWKINS	NEIL	10162	20.00

Sworn to Before Me This

_____ Day of _____ 2005

So Answers,


Chester A. Hawkins
Sheriff

Kelly J. Royer
820 Barclay Street
Clearfield, Pa. 16830
Defendant

In The Court Of Common Pleas

Clearfield County, Pennsylvania

Civil Action Law

Vs.

Case No. 2005-855-CD

Citibank South Dakota N.A.
701 East 60th Street North, Sioux Falls, SD
Plaintiff

Motion of Defendant to Oppose Plaintiff's Motion for Judgment

1. Plaintiff filed a complaint against defendant for the credit card balance due.
2. Defendant filed an answer with new matter.
3. Plaintiff replied to the new matter.
4. Defendant would respectfully ask for a continuance granted on final judgement by opposing the pleadings for Judgment.
 - a. There is factual evidence supporting Defendants affirmative defenses.
 - b. Defendant has been represented by United Debt Recovery since September 2004.
 - c. Plaintiff was mailed **Cease and Desist Letter** as well as Power of Attorney Letter sent via Certified mail in September 2004.
 - d. Defendant is in a 32 month program with United Debt Recovery.
 - e. Defendant has not yet accumulated enough funds and is respectfully asking for a continuance for negotiation between Plaintiff and United Debt Recovery.

FILED NO CC
m/2:55 PM
MAR 27 2006

Wherefore Defendant moves this Honorable Court to oppose Judgment on the pleadings.

By Kelly Jo Royer
Kelly Jo Royer
03-24-2006

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.

Plaintiff

VS.

KELLY J ROYER

Defendant

: IN THE COURT OF COMMON PLEAS

: CLEARFIELD COUNTY, PENNSYLVANIA

: NO. 2005-855-CD

: CIVIL ACTION - LAW

Certificate of Service

I, Burton Neil, Esquire do hereby certify that I served a true and correct copy of the Rule to Show Cause, Motion for Judgment on the Pleadings, proposed Order, and Memorandum of Law on *pro se* defendant, Kelly J Royer at his/her address of record via first class mail, postage prepaid on the date set forth below.

BURTON NEIL & ASSOCIATES, P.C.

Date:

3/7/06

BY:

[Signature]

Burton Neil, Esquire

Attorney for Plaintiff

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

FILED ^{no cc}
MAR 10 2006
William A. Shaw
Prothonotary/Clerk of Courts

FILED

MAR 10 2006

William A. Shaw
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.

Plaintiff

: IN THE COURT OF COMMON PLEAS

: CLEARFIELD COUNTY, PENNSYLVANIA

v.

: NO. 2005-855-CD

KELLY J. ROYER

Defendant

: CIVIL ACTION - LAW

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

Plaintiff filed a complaint against defendant to recover the balance past due on a credit card account. Defendant filed an answer to the complaint. Defendant's paragraph entitled "First Affirmative Defense" makes very clear that judgment on the pleadings in favor of defendant is proper:

I acknowledge the fact that I do owe this debt to plaintiff. This debt was incurred on my Citibank card. I have no intention of denying the plaintiff's claim and I am currently trying to resolve the claim.

Need more be said as to direct admission of liability? The balance of the answer was simply a narrative of defendant's financial problems. Financial inability to pay is not a defense to a contract action. See Felix v. Giuseppe Kitchens & Baths, Inc., 2004 PA Super 120, A.2d 943 (2004); Luber v. Luber, 418 Pa. Super. 542, 614 A.2d 771 (1992); Levey v. Cogen Sklar LLP, 63 Pa. D. & C.4th 543 (Phila., 2003).

As such, defendant cannot now be heard to contradict the complaint's averments. This result flows from the nature of a judicial admission. See Packel & Poulin, Pennsylvania Evidence, 2d Ed., Section 127, p. 30; Jewelcor Jewelers & Distributors v. Corr, 373 Pa. Super 536, 542 A.2d 72 (1988).

The standard for granting a motion for judgment on the pleadings is found in Pa. R.C.P. 1034 which provides:

RECEIVED

FEB 27 2006

CLERK OF COURT
OFFICE

(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.

This is such a case. Defendant admitted she owes the debt, and there are no factual issues before the Court which would require a trial. Plaintiff submits judgment on the pleadings should be entered under Pa.R.C.P. 1034(a) on its behalf and against defendant in the sum set forth in the complaint plus the costs of this 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.

CITIBANK (SOUTH DAKOTA) N.A.
Plaintiff

v.

KELLY J. ROYER

Defendant

: IN THE COURT OF COMMON PLEAS
: CLEARFIELD COUNTY, PENNSYLVANIA
: NO. 2005-855-CD
: CIVIL ACTION - LAW

RULE TO SHOW CAUSE

AND NOW, this 22nd day of February, 2006, upon consideration of plaintiff's **Motion for Judgment of the Pleadings**, it is hereby ordered that:

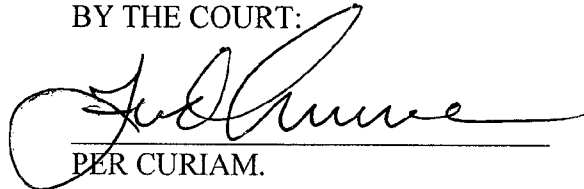
(1) A rule is issued upon the respondent to show cause why the petitioner is not entitled to the relief requested;

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

(3) Argument to be held on April 4, 2006, at 2:30 PM in Courtroom 1 before the Honorable Fredric J. 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.

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

FILED ^{ice}
010:0530 ^{Any Neil}
FEB 28 2006 ©

William A. Shaw
Prothonotary/Clerk of Courts

CITIBANK (SOUTH DAKOTA) N.A.
Plaintiff

v.

KELLY J. ROYER

Defendant

: IN THE COURT OF COMMON PLEAS

: CLEARFIELD COUNTY, PENNSYLVANIA

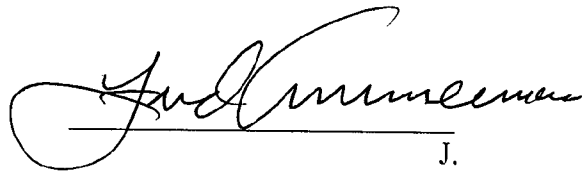
: NO. 2005-855-CD

: CIVIL ACTION - LAW

ORDER

AND NOW, this 4th day of April, 2006, upon consideration of the Motion of Plaintiff Citibank (South Dakota) N.A. 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 against Defendant Kelly J. Royer in the sum of \$14,076.64 plus the costs of this action.

By the Court:


J.

FILED

APR 04 2006

01312012

William A. Shaw

Prothonotary/Clerk of Courts

1 COPY to ATTY NAWBANDER

1 COPY to DEAN

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.
Plaintiff

v.

KELLY J. ROYER

Defendant

: IN THE COURT OF COMMON PLEAS
: CLEARFIELD COUNTY, PENNSYLVANIA
: NO. 2005-855-CD
: CIVIL ACTION - LAW

Motion of Plaintiff Citibank (South Dakota) N.A. for Judgment on the Pleadings

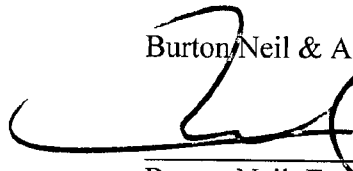
Now comes plaintiff Citibank (South Dakota) N.A. by its undersigned attorneys, and moves this Honorable Court pursuant to Rule 1034 of the Pennsylvania Rules of Civil Procedure, for judgment on the pleadings and in support thereof states:

1. Plaintiff filed a complaint against defendant for the credit card account balance due it.
2. Defendant filed an answer to the complaint. The pleadings are closed.
3. Defendant's answer effectively admitted the averments of the complaint.
4. There are neither factual nor legal issues before the Court creating a need for trial.

Therefore, plaintiff Citibank (South Dakota) N.A. is entitled to judgment as a matter of law.

Wherefore, plaintiff Citibank (South Dakota) N.A. moves this Honorable Court for judgment on the pleadings.

Burton Neil & Associates, P.C.



Burton Neil, Esquire
Attorney for Citibank (South Dakota) N.A.

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

FILED ^{NO cc}
m11:39:01
FEB 24 2006 @6K

William A. Shaw
Prothonotary/Clerk of Courts

Burton Neil & Associates, P.C.
By: 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.

KELLY J ROYER

Defendant

: IN THE COURT OF COMMON PLEAS

: CLEARFIELD COUNTY, PENNSYLVANIA

: NO. 2005-855-CD

: CIVIL ACTION - LAW

Praeceptum for Entry of Judgment on Court Order

To the Prothonotary:

Enter judgment on behalf of the plaintiff, CITIBANK (SOUTH DAKOTA) N.A., and against the defendant, KELLY J ROYER, as per the Court's Order dated April 4, 2006 and assess damages in the sum of \$14,076.64 plus costs.

Burton Neil & Associates, P.C.

By 

Burton Neil, Esquire

And now, this 14th day of June, 2007, judgment is entered on behalf of the plaintiff, CITIBANK (SOUTH DAKOTA) N.A. and against the defendant, KELLY J ROYER, in the sum of \$14,076.64 plus costs.


Prothonotary of Clearfield County

Deputy

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

FILED *pd 820.00 AAH*
m/2.20cm
JUN 14 2007 *Notice to debt*
William A. Shaw *ICC Statement to AAH*
Prothonotary/Clerk of Courts
(6K)

CITIBANK (SOUTH DAKOTA) N.A.
Plaintiff

v.

KELLY J. ROYER

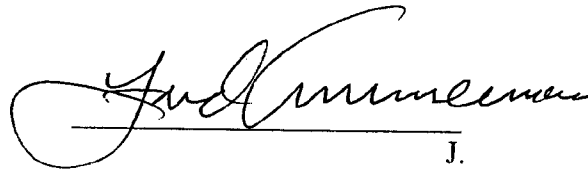
Defendant

: IN THE COURT OF COMMON PLEAS
: CLEARFIELD COUNTY, PENNSYLVANIA
: NO. 2005-855-CD
: CIVIL ACTION - LAW

ORDER

AND NOW, this 4th day of April, 2006, upon consideration of the Motion of Plaintiff Citibank (South Dakota) N.A. 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 against Defendant Kelly J. Royer in the sum of \$14,076.64 plus the costs of this action.

By the Court:


J.

FILED
APR 04 2006
0/3:20
William A. Shaw
Prothonotary/Clerk of Courts

1 CENT to ATTY Naiswender

1 CENT to DEAR

Burton Neil & Associates, P.C.
By: 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

701 East 60th Street North
Sioux Falls, SD 57117

Plaintiff : CLEARFIELD COUNTY, PENNSYLVANIA

v.

KELLY J ROYER : NO. 2005-855-CD

820 Barclay Street
Clearfield PA 16830-1204

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 Servicemembers 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.

COPY

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

COPY

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

No.: 2005-00855-CD

Real Debt: \$14,076.64

Atty's Comm: \$

Vs.

Costs: \$

Int. From: \$

Kelly J. Royer
Defendant(s)

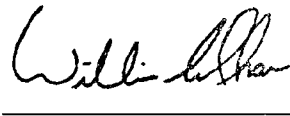
Entry: \$20.00

Instrument: Judgment on Court Order

Date of Entry: June 14, 2007

Expires: June 14, 2012

Certified from the record this June 14, 2007



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