

05-1066-CD

Commonwealth Ex. Superior Ct. Fil.

Comm Fin vs John Fullington
2005-1066-CD

Date: 04/05/2006

Clearfield County Court of Common Pleas

User: LMILLER

Time: 09:30 AM

ROA Report

Page 1 of 1

Case: 2005-01066-CD

Current Judge: Fredric Joseph Ammerman

Commonwealth Financial Systems, Inc. vs. John R. Fullington Jr.

Civil Other

Date		Judge
07/25/2005	New Case Filed.	No Judge
	✓Filing: Civil Complaint Paid by: Apple, James R. (attorney for Commonwealth Financial Systems, Inc.) Receipt number: 1905337 Dated: 07/25/2005 Amount: \$85.00 (Check) 1CC Shff	No Judge
12/01/2005	✓Filing: Praecipe for Default Judgment Paid by: Apple, James R. (attorney for Commonwealth Financial Systems, Inc.) Receipt number: 1911506 Dated: 12/01/2005 Amount: \$20.00 (Check) Judgment entered in favor of the Plaintiff and against the defendant in the amount of \$32,861.94. 1CC & Notice to deft., and statement issued to atty.	No Judge
12/02/2005	✓Sheriff Return, August 5, 2005 at 4:00 pm served the within Complaint on John R. Fullington Jr. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm Shff Hawkins costs pd by Apple \$43.39	No Judge
12/20/2005	✓Petition to Open Judgment, filed. 2 Cert. to Atty.	No Judge
12/21/2005	✓Order, NOW, this 21st day of Dec., 2005, Ordered: Hearing on Petition shall be held on the 13th day of Jan., 2006, at 10:00 a.m. in Courtroom 1. All matters in this action to be stayed pending the outcome of this Petition. By The Court: /s/ Fredric J. Ammerman, Pres. Judge. 2CC Atty. Achille	No Judge
12/30/2005	✓Motion For Continuance, filed by s/ John G. Achille, Esquire. No CC	No Judge
01/09/2006	✓Order, NOW, this 4th day of Jan. 2006, the Court grants the requested Motion For a Continuance and continues the Hearing scheduled for Jan. 13, 2006 at 10:00 a.m. until the 6th day of Feb., 2006 at 9:30 a.m. to be held in Courtroom 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Atty. Achille	Fredric Joseph Ammerman
01/13/2006	✓Certificate of Service for Order of Court, filed. A copy of Order of Court dated January 4, 2006, in the above-captioned matter on James R. Apple Esq. and Joel E. Hausman Esq., filed by s/ John G. Achille. No CC.	Fredric Joseph Ammerman
01/25/2006	✓Answer To Petition to Open Judgment, filed by s/ Joel E. Hausman, Esquire. No CC	Fredric Joseph Ammerman
02/08/2006	✓Order NOW this 6th day of February, 2006, following argument on Defendant's Motion to Open Judgment, it is the ORDER of this Court that counsel provide the Court with letter brief within no more that fifteen (15) days from today's date. BY THE COURT: /s/ Fredric J. Ammerman, P. Judge. 1CC attys: Apple and Achille.	Fredric Joseph Ammerman
03/01/2006	✓Order NOW, this 28th day of February, 2006, it is the ORDER of this Court that the Defendant's Motion to Open Judgment be and is hereby GRANTED. The Defendant shall file a responsive pleading within no more than 20 days from this date. BY THE COURT: /s/ Fredric J. Ammerman, P. Judge. 1CC Attys: Apple and Achille.	Fredric Joseph Ammerman
03/13/2006	✓Preliminary Objections To Plaintiff's Complaint, filed by s/ John G. Achille, Esquire. No CC	Fredric Joseph Ammerman
03/20/2006	✓Order, NOW, this 17th day of March, 2006, in consideration of the Defendant's Preliminary Objections, the above case is scheduled for Oral Argument on the 5th day of April, 2006, at 1:30 p.m. in Room 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 3CC Atty. Achille	Fredric Joseph Ammerman

[illegible]

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

COMMONWEALTH FINANCIAL SYSTEMS,
INC., assignee of UNIFUND CCR PARTNERS,
assignee of DISCOVER

NO. 05-1066-CD
IN CIVIL ACTION

Plaintiff(s)

-vs-

JOHN R. FULLINGTON, JR.

Defendant(s)

COMPLAINT

CODE-
FILED ON BEHALF OF
PLAINTIFF

COUNSEL OF RECORD
FOR THIS PARTY:

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Charles F. Bennett, Esq.
PA I.D. No. 30541
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FILED iec Shff
m 12:07 PM
JUL 25 2005 Atty pd. 85.00

William A. Shaw
Prothonotary/Clerk of Courts

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

**COMMONWEALTH FINANCIAL SYSTEMS,
INC., assignee of UNIFUND CCR PARTNERS,
assignee of DISCOVER**

**NO.
IN CIVIL ACTION**

Plaintiff(s)

-vs-

JOHN R. FULLINGTON, JR.

Defendant(s)

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 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.

**Keystone Legal Services
211 1/2 East Locust Street
Clearfield, PA 16830
814-765-9646**

COMPLAINT

1. Plaintiff is a corporation having offices at 120 North Keyser Avenue, Scranton, PA 18504, and as the assignee of Unifund CCR Partners, assignee of Discover, stands in its assignor's stead, and all are hereinafter referred to interchangeably as "Plaintiff".
2. Defendant is an individual whose address is 518 Sabula Outing Club Rd., Du Bois, Clearfield County, Pennsylvania 15801-9731.
3. At a specific instance and request of the Defendant, the Defendant applied for and was granted a credit card by Plaintiff at the terms and conditions agreed upon by the parties, as is more specifically shown by the Agreement, a true and correct copy of which is attached hereto, marked Exhibit "A" and made a part hereof.
4. The Plaintiff avers that the agreement between the parties was based upon a written agreement which the Defendant accepted by using credit card to make purchases and/or cash advances.
5. Thereafter, in breach of obligations under the Agreement, the Defendant failed to make payments as they became due.

6. Plaintiff avers that the terms of the Agreement provide for acceleration of the entire balance due and owing upon Defendant's breach of the Agreement.
7. Plaintiff avers that the balance due amounts to \$24,864.45, as is more specifically shown by Plaintiff's Statement of Account, a true and correct copy of which is attached hereto, marked Exhibit "B" and made a part hereof.
8. Plaintiff avers that the interest has accrued at the rate of 5.00% per annum on the balance due from June 13, 2004.
9. Per the term of the agreement, the Defendant has agreed to pay to the Plaintiff as liquidated damages, the costs of collection, including all reasonable attorneys' fees incurred in the collection of monies owing, which Plaintiff avers will amount to 25% of the balance due.
10. Although repeatedly requested to do so by Plaintiff, Defendant has willfully failed and refused to pay the amount due to Plaintiff or any part thereof.

WHEREFORE, Plaintiff demands Judgment against Defendant in the amount of \$24,864.45, with appropriate additional interest from June 13, 2004, plus attorneys fees and costs.

APPLE AND APPLE, P.C.

By: _____


Attorneys for Plaintiff(s)



CARDMEMBER AGREEMENT

Please read this Agreement carefully before using your Private Issue® 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.

We respect your privacy. See the Privacy Section on page 7 for additional information.

The Arbitration of Dispute Section on Page 9 includes a waiver of a number of rights, including the right to a jury trial.

TABLE OF CONTENTS

Agreement Terms	2
Acceptance of Agreement	2
Use of Your Account	2
Authorized Users	2
Unauthorized Use	2
Credit Limit-Available Credit	3
Promise to Pay	3
Monthly Billing Statement	3
Monthly Payment Options	3
Minimum Monthly Payment	4
Credit Balances	4
Balance Transfers	4
Finance Charges	4
Periodic Finance Charges	4
Transaction Fee Finance Charges	6
Minimum Finance Charge	6
Returned Check Fee	7
Returned Private Issue Check Fee	7
Late Fee	7
Research Fee	7
Overlimit Fee	7
Replacement Card Fee	7
Default-Acceleration-Collection Costs	7
Cancellation	7
Privacy	7
Credit Authorizations	8
Change of Terms	8
Change of Address	9
Assignment of Account	9
Arbitration of Disputes	9
Compliance with Interest Rate Limitations	10
Governing Law	10

USE WHERE
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- 1 -

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EXHIBIT

AGREEMENT TERMS. The word "Account" means your Private Issue Card Account. The word "Card" means any one or more Private Issue 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 Private Issue Card. The words "Authorized User" mean any person whom you authorize to use your Account or a Card, whether you notify us or not. The words "Pricing Schedule" mean the document accompanying your card and listing the Finance Charge rates that apply to your Account. The Pricing Schedule is part of this Agreement.

ACCEPTANCE OF AGREEMENT. The use of your Account or a Card, by you or an Authorized User, or your failure to cancel your Account within 30 days after receiving 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 participating merchants by presenting your Card or Account number.
- Cash Advances - to obtain cash advances from participating automated teller machines, 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 creditors or to make other transactions by means of balance transfer coupons or checks, in accordance with such additional terms and conditions we may offer from time to time.

In addition, your Account may be used to guarantee 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, to obtain loans to purchase, carry or trade in securities, or to pay any amount you owe under this Agreement ("Prohibited Transactions"). 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 USERS. If you want to cancel the authority of a current Authorized User to use your Account or a Card, you must notify us in writing or by telephone and destroy any Card in that person's possession. None of your rights under this Agreement (other than to pay amounts owed) may be exercised by any person not a party to this Agreement acting pursuant to a power of attorney, without our separate written agreement (which we are not obligated to give).

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.

ately. You can notify us by telephoning 1-800-4PI-CARD (1-800-474-2273), or by writing PRIVATE ISSUE, PO Box 15806, Wilmington, DE 19806-5806. You agree to assist us in determining the facts relating to any theft or possible unauthorized use of your Account or a Card and to comply with such procedures as we may require in connection with our investigation.

CREDIT LIMIT-AVAILABLE CREDIT. We will advise you of your Account credit limit. We may impose a lower limit that will apply to cash advances, referred to as the cash advance credit limit. You agree not to allow your unpaid balance, including Finance Charges and fees, to exceed your Account credit limit. If you exceed your Account credit limit, we may request immediate payment of the amount by which you exceed your Account credit limit.

We may increase or decrease your Account credit limit or your cash advance credit limit without notice. The credit available for your use may, from time to time, be less than your Account credit limit. For purposes of determining your available credit, we reserve the right to postpone for up to 8 business days reducing your unpaid balances by the amount of any payment that we receive. Your available credit will not be increased by the amount of any credit balance.

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. Unless we waive our right to do so, we will send you a billing statement after each monthly billing period in which you have a debit or credit balance. 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 Greenwood Trust Company, PO Box 7061 Dover, DE 19903-7061 or by using the envelope enclosed with the statement. All payments and other credits will be applied as determined in our discretion. We reserve the right to apply payments and other credits to balances subject to lower Annual Percentage Rates, such as special rate balance transfers, or other promotional rates 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 \$10.00, the minimum monthly payment will be the amount of the New Balance. Paying the Minimum Payment Due may be insufficient to bring your Account balance below your Account credit limit and, consequently, may not avoid the imposition of the Overlimit Fee described in the Overlimit Fee Section below.

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 creditors or to make other transactions to your Account by means of balance transfer coupons or checks. 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.

FINANCE CHARGES. You can avoid payment of Periodic Finance Charges on new purchases if you pay the New Balance shown on the billing statement on which the purchase first appears by the Payment Due Date, and the Payments and Credits on that statement equal or exceed your Previous Balance. We call this the "grace period". You do not have a grace period on balance transfers or cash advances. Periodic Finance Charges are imposed on new balance transfers and cash advances beginning with the date the transaction occurs.

PERIODIC FINANCE CHARGES. Periodic Finance Charges are imposed on all transactions until the date of repayment. Repayment means payment of your entire New Balance. However, if you pay the New Balance shown on the current billing statement by the Payment Due Date, and the Payments and Credits shown on this statement equal or exceed the Previous Balance, we will not impose Periodic Finance Charges on new purchases, that is, purchases first appearing on that statement. Otherwise, you will receive a billing statement the next month that includes Periodic Finance Charges imposed until the date of repayment.

We compute Periodic Finance Charges each day for purchases, cash advances, and balance transfers (which we refer to as transaction categories) by using the following equation: $\text{Average Daily Balance} \times \text{number of days in the billing period} \times \text{Daily Periodic Rate}$. (You may refer to the finance charge summary on

- 4 -

the front of your billing statement for these amounts.) Then we add all the Periodic Finance Charges for each transaction category to get the total Periodic Finance Charges for your Account. The Average Daily Balance is shown as zero if no Periodic Finance Charges apply to the balance in a transaction category.

We use the two-cycle average daily balance (including new transactions) method of calculating the balance upon which we impose Periodic Finance Charges. This means if you did not pay the New Balance shown on the billing statement you received during the previous billing period by the Payment Due Date, we will impose Periodic Finance Charges on new purchases that first appeared on that billing statement, as well as new purchases that first appeared on the current billing statement, unless we already imposed Periodic Finance Charges on the purchases on your previous billing statement. We compute the average daily balance for each transaction category by adding up all the daily balances in a billing period for a transaction category and dividing the total by the number of days in the billing cycle. We compute the daily balance for each transaction category on each day by first adding the following to the previous day's daily balance: transactions made that day, fees charged that day and Periodic Finance Charges accrued on the previous day's daily balance; and by then subtracting any credits and payments that are applied against the balance of the transaction category on that day. In calculating the daily balance for the previous billing period, we consider the "previous day's daily balance" to have been zero on the first day of the billing period.

Only special rate balance transfers are included in the daily balance of the balance transfer transaction category. In calculating the daily balance of the balance transfer transaction category on the first day of the billing period, we subtract the unpaid balance of those balance transfers that become purchase rate balance transfers on that day and we add that unpaid balance to the balance of the purchase transaction category.

All fees charged to your Account are added to the purchase transaction category with the exception of Transaction Fee Finance Charges which are added to the cash advance transaction category. If a 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.

(1) Daily Periodic Rates and Annual Percentage Rates

The Daily Periodic Rates applicable to each transaction category for the current billing period and the previous billing period are based on the Annual Percentage Rate as set forth in the Pricing Schedule. 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 if you change your financial option, as explained below.

(2) 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.

- 5 -

The Annual Percentage Rate for purchases is determined by the financial option contained in the offer you received. If the offer contained more than one financial option, the Annual Percentage Rate for purchases is determined by the financial option you selected. You may change your financial option, but no more than once during each anniversary year, as defined below. The Annual Percentage Rate for purchases may change as a result of a change in your financial option beginning on the first day of the billing period which begins following the change in the financial option. An anniversary year is the one-year period comprising the first twelve billing periods of your Account, and each successive one-year period comprising twelve billing periods.

The fixed Daily Periodic Rates and corresponding Annual Percentage Rates for the Rate Advantage and Cashback Bonus® Award options in effect on the date this Agreement is furnished to you are set forth in the enclosed Pricing Schedule.

(3) Annual Percentage Rate for Cash Advances

The fixed Daily Periodic Rate and corresponding Annual Percentage Rate in effect on the date this Agreement is furnished to you are set forth in the Pricing Schedule.

(4) Annual Percentage Rate for Balance Transfers

The Daily Periodic Rate and corresponding Annual Percentage Rate in effect for special rate balance transfers will be the rates set forth in the offer from us under which you make the balance transfer below. 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 below. 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 Pricing Schedule.

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 Pricing Schedule.

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

RETURNED CHECK FEE. We will charge you a Returned Check Fee of \$29.00 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. We will charge you this fee the first time any payment is returned unpaid, even if it is paid upon resubmission.

RETURNED PRIVATE ISSUE CHECK FEE. We will charge you a Returned Private Issue Check Fee of \$29.00 each time we decline to honor a Private Issue cash advance check, balance transfer check or other promotional check.

LATE FEE. We will charge you a Late Fee of \$29.00 each time that, as of the Payment Due Date, you have failed to make the Minimum Payment due that was required to be paid by that date.

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 may charge you an Overlimit Fee of \$29.00 each time that, as of the close of a billing period, your outstanding Account balance exceeds your Account credit limit. This fee may be charged even if the transaction which causes you to exceed your Account credit limit is authorized by us or if you exceed your Account credit limit due to the posting of Finance Charges or fees to your Account.

REPLACEMENT CARD FEE. We may charge you a Replacement Card Fee of \$2.00 for each replacement Card we issue on your Account.

DEFAULT-ACCELERATION-COLLECTION COSTS. You are in default if you become insolvent; if you file a bankruptcy petition or have one filed against you; if we have a reasonable belief that you are unable or unwilling to repay your obligations to us; if you are declared incompetent by a court or if a court appoints a guardian for you or a conservator for your assets; if you die; or if you fail to comply with the terms of this Agreement, including failing to make a required payment when due, exceeding your Account credit limit, or using your Card or Account for a Prohibited transaction. If you are in default, we may declare the entire balance of your Account immediately due and payable without notice. If we refer the collection of your Account to an attorney or employ an attorney to represent us with regard to recovery of money that you owe us, we may charge you reasonable attorneys' fees and court or other collection costs as permitted by law and as actually incurred by us. We may delay enforcing or not enforce any of our rights under this Agreement without losing or waiving any of them.

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 choose not to renew your Account (beyond the expiration date shown on the face of a Card) without notice.

PRIVACY. We respect the privacy of information about you and your Account. We will only release such information to you, any Authorized User that our

records indicate is an authorized buyer on your Account, and any other person with your prior permission, except as provided in this Section or as required by law. We may release such information in connection with the maintenance of your Account, for example, if you are in default, we may release information about your Account to third parties who may assist us in enforcing our rights under this Agreement. Except as provided below, we may also release such information to our corporate affiliates, and to third parties in order to provide you with offers of products or services that may be of interest to you. For example, we may include your name and address and other identifying information in lists, provided to third parties, of Cardmembers whose characteristics are such that they may find the third parties' products or services of interest. We may also 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, if you believe that our report of your Account status is inaccurate or incomplete, please write us at the following address: Private Issue, PO Box 15316, Wilmington, DE 19850-5316. Please include your name, address, home telephone number and Account number.

If you do not want us to share information with our corporate affiliates (with the exception of information about our transactions and experiences with you, which we may share in any event), or if you do not want us to provide your name for product or service offers from third parties, please call 1-800-4-PI-CARD or write us at: Private Issue, PO Box 29205, Phoenix, AZ 85038-9205. Please include your name, address, home telephone number and Account number.

We may from time to time review your credit, employment and income records. 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. We provide various methods by which you can obtain information about your Account. Our security measures cannot insure against unauthorized inquiries. You agree that we will not be responsible for the release of information to anyone who, even if without your authorization or permission, has gained possession of a Card or has learned other identifying characteristics about you such as your personal identification number, Account number or social security number.

CREDIT AUTHORIZATIONS. Certain transactions 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, or add any new term or part to this Agreement by sending you a written notice at least 15 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 15 days after the mailing of the notice of the change at 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.

ARBITRATION OF DISPUTES. In the event of any past, present or future claim or dispute (whether based upon contract, tort, statute, common law or equity) between you and us arising from or relating to your Account, any prior account you have had with us, your application, the relationships which result from your Account or the enforceability or scope of this arbitration provision, of the Agreement or of any prior agreement, you or we may elect to resolve the claim or dispute by binding arbitration.

IF EITHER YOU OR WE ELECT ARBITRATION, NEITHER YOU NOR WE SHALL HAVE THE RIGHT TO LITIGATE THAT CLAIM IN COURT OR TO HAVE A JURY TRIAL ON THAT CLAIM. PRE-HEARING DISCOVERY RIGHTS AND POST-HEARING APPEAL RIGHTS WILL BE LIMITED. NEITHER YOU NOR WE SHALL BE ENTITLED TO JOIN OR CONSOLIDATE CLAIMS IN ARBITRATION BY OR AGAINST OTHER CARDMEMBERS WITH RESPECT TO OTHER ACCOUNTS, OR ARBITRATE ANY CLAIMS AS A REPRESENTATIVE OR MEMBER OF A CLASS OR IN A PRIVATE ATTORNEY GENERAL CAPACITY. Even if all parties have opted to litigate a claim in court, you or we may elect arbitration with respect to any claim made by a new party or any new claims later asserted in that lawsuit, and nothing undertaken therein shall constitute a waiver of any rights under this arbitration provision.

We will not invoke our right to arbitrate an individual claim you bring in small claims court or your state's equivalent court, if any, so long as the claim is pending only in that court and does not exceed \$5,000.00.

Your Account involves interstate commerce, and this provision shall be governed by the Federal Arbitration Act (FAA). The arbitration shall be conducted, at the option of whoever files the arbitration claim, by either JAMS/Endispute (JAMS) or the National Arbitration Forum (NAF) in accordance with their procedures in effect when the claim is filed. For a copy of their procedures, to file a claim or for other information, contact JAMS at 1920 Main Street, Suite 300, Los Angeles, CA 92614 (phone 1-800-448-1689) or NAF at P.O. Box 50191, Minneapolis, MN 55405 (phone 1-800-474-2371). At your written request, we will advance any arbitration filing, administrative and hearing fees which you would be required to pay to pursue a claim or dispute as a result of our electing to arbitrate that claim or dispute. Send requests to P.O. Box 15192, Wilmington, DE 19886-1020. The arbitrator will decide who will ultimately be responsible for paying those fees. In no event will you be required to reimburse us for any arbitration filing, administrative, or hearing

fees in an amount greater than what your and our combined court costs would have been if the claim had been resolved in a state court with jurisdiction.

Any arbitration hearing will take place in the federal judicial district where you reside. The arbitrator shall follow applicable substantive law to the extent consistent with the FAA and applicable statutes of limitations and shall honor claims of privilege recognized at law. If requested by any party, the arbitrator shall write an opinion containing the reasons for the award. The arbitrator's decision will be final and binding except for any appeal rights under the FAA and except that if the amount in controversy exceeds \$100,000.00, any party may appeal the award within 30 days to a three-arbitrator panel which shall review the award *de novo*. The costs of such an appeal shall be borne by the appealing party regardless of outcome. Judgment upon any award by the arbitrator may be enforced in any court having jurisdiction.

Our rights and obligations under this arbitration provision shall inure to the benefit of and be binding upon our parent corporations, subsidiaries, affiliates (including, without limitation, Discover Financial Services, Inc.), predecessors, successors, assigns, as well as the officers, directors and employees of each of these entities, and will also inure to the benefit of any third party named as a co-defendant with us or with any of the foregoing in a claim which is subject to this arbitration provision. Your rights and obligations under this arbitration provision shall inure to the benefit of and be binding upon all persons contractually liable under this Agreement and all Authorized Users of the Account. This arbitration provision shall survive termination of your Account as well as voluntary payment in full by you, and legal proceedings by us to collect a debt owed by you, any bankruptcy by you and any sale by us of your Account.

COMPLIANCE WITH INTEREST RATE LIMITATIONS. We intend that this Agreement will comply with applicable interest rate limitations. You will not be required to pay Finance Charges or other charges at a rate that is greater than the maximum amount permitted by law. If it is ever finally determined that, but for this Section, the Finance Charges or other charges under this Agreement would exceed the maximum lawful amount, the Finance Charges and other charges will be reduced to the maximum lawful amount. Any excess amount that you have already paid will be used to reduce the outstanding balance of your Account or will be refunded to you by means of a check in our discretion.

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
PRIVATE ISSUE

Vice President



© 1999 Greenwood Trust Company, Member FDIC

YOUR BILLING RIGHTS

KEEP THIS NOTICE FOR FUTURE USE

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

1. Notify Us in Case of Errors or Questions About Your Bill

If you think your bill is wrong, or if you need more information about a transaction on your bill, write us on a separate sheet of paper at the address listed on your bill for Notices of Billing Errors. Write to us as soon as possible. We must hear from you no later than 60 days after we sent you the first bill on which the error or problem appeared. You can telephone us, but doing so will not preserve your rights.

In your letter, give us the following information:

- Your name and account number.
- The dollar amount of the suspected error.
- Describe the error and explain, if you can, why you believe there is an error. If you need more information, describe the item you are not sure about.

If you have authorized us to pay your credit card bill automatically from your savings or checking account, you can stop the payment on any amount you think is wrong. To stop the payment, your letter must reach us three business days before the automatic payment is scheduled to occur.

2. Your Rights and Our Responsibilities After We Receive Your Written Notice

We must acknowledge your letter within 30 days, unless we have corrected the error by then. Within 90 days, we must either correct the error or explain why we believe the bill was correct.

After we receive your letter, we cannot try to collect any amount you question, or report you as delinquent. We can continue to bill you for the amount you question, including finance charges, and we can apply any unpaid amount against your credit limit. You do not have to pay any questioned amount while we are investigating, but you are still obligated to pay the parts of your bill that are not in question.

If we find that we made a mistake on your bill, you will not have to pay any finance charges related to any questioned amount. If we didn't make a mistake, you may have to pay the finance charges, and you will have to make up any missed payments on the questioned amount. In either case, we will send you a statement of the amount you owe and the date that it is due.

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

If we don't follow these rules, we can't collect the first \$50 of the questioned amount, even if your bill was correct.

3. Special Rule For Credit Card Purchases

If you have a problem with the quality of goods or services that you purchased with a credit card, and you have tried in good faith to correct the problem with the merchant, you may have the right not to pay the remaining amount due on the goods or services. There are two limitations on this right:

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

(b) the purchase price must have been more than \$50.
These limitations do not apply if we own or operate the merchant, or if we mailed you the advertisement for the goods or services.

BR/P 33628 Rev. 10/89

CASHBACK BONUS® TERMS AND CONDITIONS

The Cashback Bonus® Terms and Conditions constitute a separate and independent agreement from the Cardmember Agreement.

1. The Cashback Bonus Award option is a financial option a Cardmember may receive with the Private Issue® Account. Cardmembers may change the financial option for their Account from the Cashback Bonus Award option to the Rate Advantage financial option, but no more than once during each anniversary year. Any change in a financial option will take effect beginning on the first day of the billing period which begins after the Cardmember requests a change in the financial option. A Cashback Bonus award is an amount denominated in dollars and cents which may be earned by Cardmembers by using their Private Issue Account for purchases. A Cashback Bonus award is not earned for Prohibited Transactions (as defined in the Cardmember Agreement), cash advances or balance transfers.
2. Cashback Bonus payments are calculated based on purchases made during an annual period corresponding to the Cardmember's anniversary year. The first anniversary year begins on the date the Card is issued and ends on the last day of the twelfth monthly billing period which follows. Each successive anniversary year is the approximate one-year period comprised of the next twelve monthly billing periods.
3. The earned amount of a Cashback Bonus award is calculated by multiplying each purchase by:
 - 25% (.0025), if the purchase is part of the first \$1,000 in purchases during the anniversary year;
 - 50% (.0050), if the purchase is part of the second \$1,000 in purchases during the anniversary year;
 - 75% (.0075), if the purchase is part of the third through fourth \$1,000 in purchases during the anniversary year;
 - 1.0% (.01), if the purchase is part of the purchases in excess of \$4,000 during the anniversary year.

The total of these calculations for each anniversary year is the earned amount of the Cashback Bonus award, which will be paid as described below provided the conditions contained in paragraph 4 below are met. The calculation begins again with the beginning of each anniversary year. The Cardmember's monthly billing statement will show the earned amount of the Cashback Bonus award and total purchases through the date of the statement for the current anniversary year. Prior to actual payment, the purchases on which a Cashback Bonus award is calculated may be audited for compliance with these terms.

The Cashback Bonus award vests and is paid shortly after each anniversary year to those Cardmembers in good standing on the anniversary date and at the time of the payment. To be in good standing, you may not be in default (as defined in the Cardmember Agreement) and you may not have used your Private Issue Account for any Prohibited Transactions within the past year. If an Account is closed for any reason prior to the anniversary date, any Cashback Bonus award earned by the Cardmember since the last anniversary date will be forfeited. Cardmembers who are delinquent at the time of the payment may, at the option of Private Issue, have their Cashback Bonus award applied as a credit to their Account.

5. The exact method of payment of a Cashback Bonus award may change from year to year, but the Cardmember will have the opportunity to receive a Cashback Bonus award in a cash equivalent (i.e., check or credit to the Cardmember's Private Issue Account). As part of the payment method, the Cardmember may have the opportunity to make a choice as to the manner in which a Cashback Bonus award is paid. The failure to make such a choice on a timely basis may result in the exercise of default payment options. It is the Cardmember's responsibility to notify Private Issue in the event a Cashback Bonus payment is not received for any reason.

The Cashback Bonus award is paid to qualifying Cardmembers either by means of a credit to the Account or by a check that is mailed to the Cardmember in Private Issue's sole discretion.

6. If the Cashback Bonus award is \$5.00 or more, Private Issue will offer you the opportunity to exchange your Cashback Bonus award for selected products or services, the terms of which will be contained in the offer.

7. In the event a Card is lost or stolen, the earned amount of the Cashback Bonus award, the amount of qualifying purchases and the anniversary date from the old Account will be transferred to the new Account.

8. Private Issue reserves the right to make other adjustments to Cashback Bonus amounts earned based on Account activity (e.g., a credit to an Account in connection with a prior purchase will result in a reduction of the Cashback Bonus award).

These terms and conditions are subject to change without notice. Changes may be made during a Cardmember's anniversary year, and may include, but are not limited to, modifying the level of purchases required to qualify for the various tiers, establishing a maximum amount of Cashback Bonus award Cardmembers may receive, changing the types of transactions that constitute a purchase, changing the amount of Cashback Bonus award earned on certain types of purchases, imposing additional restrictions, or terminating the program.

CB/P 9/89

\$25,000 PRIMARY AUTOMATIC COLLISION DAMAGE REIMBURSEMENT

Provided To

PRIVATE ISSUE CARDMEMBERS AT NO EXTRA COST SUMMARY OF COVERAGE

THE PLAN

As an eligible insured* you are eligible to receive reimbursement for repair or replacement of a Rented Automobile*** as a result of Collision Damage** to a Rented Automobile. Reimbursement will be on an Actual Cash Value**** basis for loss which the insured is responsible, when the loss occurs in the United States or Canada. This coverage applies provided the entire rental fee for the Rented Automobile has been charged or debited to your Account, and, provided you have rejected at the time of rental, any waiver of liability for Collision Damage available from the Rental Agency.....

Insured means Cardholders, Cardmembers and Account holders of the Policyholder. Cardholder means an individual who has been issued an Account card by the Policyholder. Cardmember means any authorized primary or additional card user who has been issued an Account card by the Policyholder. Accountholder means any individual who has an open and active Account with the Policyholder.

... Collision Damage means the direct and accidental damage to a Rented Automobile caused by upset or collision with another object. Collision Damage does not include loss caused by missiles, falling objects, fire, theft or larceny, explosion, earthquake, windstorm, hail, water, flood, malicious mischief or vandalism, riot or civil commotion.

... Rented Automobile means a four-wheeled private passenger type motor vehicle or a mini-van manufactured and designed to transport a maximum of seven passengers and used exclusively to carry passengers. A Rented Automobile must be designed for travel on public roads and rented from a licensed rental company. Off-road, antique or limited edition vehicles are excluded, as are trucks, recreational vehicles, campers, pick-up trucks and mini-buses.

... Actual Cash Value means the cost to repair or replace the Rented Automobile at the time of loss, less depreciation.

... Rental Agency means a commercial automobile rental company licensed under the laws of the applicable jurisdiction.

ELIGIBILITY

This Collision Damage reimbursement is provided to you, as an insured, automatically when the entire rental fee for the Rented Automobile is charged or debited to your Account. It is not necessary for you to notify the Insurance Company or Plan Administrator at the time the rental fee is charged or debited to your account.

THE COST

This coverage is provided at no additional cost to eligible insureds under the master policy issued to Private Issue, Policy #6404-62-81, by Federal Insurance Company (the Company).

AMOUNT OF INSURANCE

The Company's liability will be for a maximum reimbursement of \$25,000. In no event will the Company be liable beyond the amount actually paid by the insured.

EXCLUSIONS

Coverage does not apply to loss resulting from the following:

- Any dishonest, fraudulent or criminal act of the insured.
- Forgery by the insured.
- Loss due to war or confiscation by authorities.
- Loss due to nuclear reaction or radioactive contamination.
- The insured being intoxicated, as defined by the laws of the jurisdiction where the loss occurred or under the influence of any narcotic unless prescribed by a physician.
- Intentional damage to the Rented Automobile by the insured.
- Damage which is due and confined to wear and tear, freezing, mechanical or electrical breakdown or failure.
- Damage to tires unless the loss be coincident with a covered loss.
- Use of the Rented Automobile to carry passengers and property for hire.
- Use of the Rented Automobile in tests, races or contests.
- Use of the Rented Automobile by a person other than the one authorized to operate the Rented Automobile by the terms of the Rental Agreement.
- The Rented Automobile being operated or located in any territory prohibited by the terms of the Rental Agreement.
- Loss of use of the Rented Automobile.

EFFECTIVE DATE

This plan is effective January 1, 1998 and will cease on the date the master policy terminates (in which case you will be notified by the Policyholder), or on the date you no longer qualify as an eligible insured, or on the expiration date of the applicable coverage period for the insured, whichever occurs last.

The coverage period will not exceed thirty-one (31) consecutive days.

MISREPRESENTATION AND FRAUD

Coverage of the insured will be void if, at any time, the insured has concealed or misrepresented any material fact or circumstance concerning this coverage or the subject thereof or the interest of the insured herein, or in case of any fraud or false swearing by the insured relating thereto.

Coverage for an insured will be void if, whether before or after a loss, the Policyholder or its subscribing organization(s) has concealed or misrepresented any material fact or circumstance concerning this coverage or the subject thereof or the interest of the insured therein, or in case of any fraud or false swearing by the Policyholder or its subscribing organization(s) relating hereto.

CLAIM PROCEDURE

The insured must send the Company written notice of a claim, including the insured's name and policy number, within forty-five (45) days after a covered loss occurs. If notice cannot be given within that time, it must be given as soon as reasonably possible. To file a sworn Proof of Loss, the insured must send the following information to the Company or its authorized representative:

- A copy of the account statement showing the automobile rental transaction.
- A copy of the automobile rental agreement.
- A copy of the police report.
- A copy of the initial claim report submitted to the automobile Rental Agency.
- A copy of the paid claim presented by the automobile Rental Agency for the Collision Damage for which the insured is responsible.

FOR INSURED WHO ARE NEW YORK STATE RESIDENTS:

- Proof of submission of the loss to and the results of any settlement or denial by the applicable insurance carrier(s).
- If no other insurance is applicable, a notarized statement from the insured to that effect.

FOR INSURED WHO ARE NEW YORK STATE RESIDENTS:

To the extent that this plan provides insurance against damage to a rented motor vehicle, the following terms and conditions apply: (1) The period of insurance coverage will not exceed thirty-one (31) consecutive days; (2) The insurance provided by this plan will be excess over any other valid and collectible insurance covering the rented motor vehicle. However, the insurance provided under this plan may be primary if specifically provided for under the terms of this plan and if the following criteria is met: (a) The motor vehicle is rented for use outside the United States, its territories and possessions; and (b) The motor vehicle is rented without a driver.

As a handy reference guide, please read this document and keep it in a safe place with your other insurance documents. This Summary of Coverage is not a contract of insurance but is simply an informative statement to eligible insureds of the principal provisions of the insurance while in effect. Complete provisions pertaining to this plan of insurance are contained in the master policy on the with the Affiliation of Credit Card Cardholders Insurance. Just herein referred to as the Policyholder. If a statement in the Summary of Coverage and any provision in the policy differ, the policy will govern.

PLAN ADMINISTRATOR

Insurance Consultants Inc.
200 Blackstone Centre
Omaha, NE 68131

PLAN UNDERWRITTEN BY

Federal Insurance Company
a member of the
CHUBB GROUP OF INSURANCE COMPANIES
15 Mountain View Road, P.O. Box 1615
Warren, New Jersey 07061-1651

ALLSTATE LIFE INSURANCE COMPANY

CERTIFICATE OF INSURANCE

HOME OFFICE - NORTHBROOK, ILLINOIS

Allstate Life Insurance Company (herein called "Allstate") has issued Master Policy No. 64401363 to Greenwood Trust Company (herein called "Policyholder"), which provides Travel Accidental Death Insurance for Cardmembers of the Policyholder and their eligible family members. Note Florida residents: The benefits of the policy providing your coverage are governed primarily by the law of a State other than Florida.

DEFINITIONS

"Insured Person" means a Private Issue Cardmember in good standing; the spouse of the cardmember if a resident of the same household; and each unmarried child, including step-children and adopted children, not more than 19 years of age (23 if a full-time student) who are dependent upon the Cardmember for support and maintenance. In no event will the same person qualify as an Insured Person under more than one Discover Card and/or Private Issue Card.

Coverage for any handicapped child will not terminate solely by reaching the limiting age. Coverage will continue if the child is and continues to be both (1) incapable of self-sustaining employment because of mental retardation or physical handicap and (2) chiefly dependent upon the Cardmember for support and maintenance.

"Injury or Injured" means bodily injury caused by an accident occurring while the insurance is in force for the Insured Person and which injury results, within 365 days of the accident, directly and independently of all other causes, in death.

"Occupying" means riding in or upon or entering into or alighting from.

COMMON CARRIER ACCIDENTAL DEATH INSURANCE

Allstate will pay the applicable Accidental Death benefit amount for injury sustained while occupying as a fare-

paying passenger when fare is charged in advance, and not as a pilot or crew member, a public conveyance provided and operated by a duly licensed common carrier for regular passenger service by land, water or air.

BENEFIT AMOUNT

Common Carrier Accidental Death Benefit when Insured Person's full fare is charged in advance to the Private Issue Card Account, Insured Person: \$500,000.

EXCLUSIONS

Accidental Death Benefits are not payable for deaths caused by:

1. Suicide, while sane or insane; or
2. Declared or undeclared war or any act thereof.

TERMINATION OF COVERAGE

The insurance on each Insured Person will automatically terminate at 12:01 AM on the date that they no longer fulfill the requirements of an Insured Person as defined, or upon termination of the Master Policy. Termination shall be without prejudice to any claim originating prior to the effective date of termination.

GENERAL PROVISIONS

BENEFICIARY: Unless otherwise specified by the Cardmember, any sum due under this policy for loss of life of an Insured Person will be paid:

1. to the Cardmember, if living; otherwise,
2. to the spouse of the Cardmember, if living; otherwise,
3. equally to the then living lawful children of the Cardmember including stepchildren and adopted children, if any; otherwise,
4. equally to the Cardmembers' parents or parent then living; otherwise,
5. to the estate of the Cardmember.

CHANGE OF BENEFICIARY: The Cardmember may change the beneficiary at any time by writing to Allstate. Once the change is recorded by Allstate it will take effect as of the day the re-

quest was signed, subject to any claim payment made before such recording. The consent of the beneficiary is not needed for the change.

HOW TO REPORT A CLAIM: Written notice of claim must be given to Allstate at its Home Office within six months after the occurrence of any loss covered by the Policy, or as soon as reasonably possible.

Notice given by or on behalf of the claimant or the beneficiary with information sufficient to identify the Insured Person shall be deemed notice.

CLAIM FORMS: Once Allstate receives written notice of a claim, it will send forms for filing proof of loss. If these forms are not sent to the claimant within 15 days after Allstate receives notice, the proof of loss requirements will be met by giving Allstate written proof of the occurrence, and cause of the loss within the time stated in the Proof of Loss Provision.

PROOF OF LOSS: Written proof of loss must be furnished to Allstate within nine months after the date of loss. If this is not reasonably possible, Allstate may not deny the claim if the proof is furnished as soon as reasonably possible, but not later than one year from the time required, unless the claimant was legally incapable of doing so.

PAYMENT OF CLAIM: Benefits payable for loss under the policy will be paid immediately upon receipt of due written proof of loss. If any benefit under this policy is payable to an Insured Person's estate or to a person who is a minor or is otherwise not competent to give a valid release, Allstate may pay part of the benefit (up to \$1,000) to any blood relative of the Insured Person.

Any payment made in good faith shall fully discharge Allstate to the extent of such payment.

LEGAL ACTION: Suit for benefits under the policy cannot be brought sooner than 60 days after Allstate received written proof of loss as required, and no such action may be initiated after three years from the time written proof of loss is required.

CONFORMITY WITH STATE LAWS: Any provision of the policy which, on its effective date, is in conflict with any law to which it is subject, is amended to conform to the minimum requirements of such law.

AUTOPSY: Allstate at its own expense shall have the right and opportunity to make an autopsy where it is not forbidden by law.

ALLSTATE LIFE INSURANCE COMPANY

Michael J. Velotta
Michael J. Velotta
Secretary

Thomas J. Wilson
Thomas J. Wilson
President

LCIS2900-3

AFFIDAVIT

I, Patricia Cobb, Esquire, of Commonwealth Financial Systems, Inc.,
Plaintiff herein, verify that the statements of fact contained in the foregoing
Complaint are true and correct. I understand that false statements herein are
made subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn
falsification to authorities.

6-28-05
Date:

Patricia Cobb
PATRICIA COBB

Executive Vice President

120 North Keyser Avenue

Scranton, PA 18504

Apple & Apple File No. 103548

CFSI File No. 1462501
John R. Fullington Jr.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

COMMONWEALTH FINANCIAL SYSTEMS,
INC., assignee of UNIFUND CCR PARTNERS,
assignee of DISCOVER

NO. 2005-1066
IN CIVIL ACTION

Plaintiff(s)

-vs-

JOHN R. FULLINGTON, JR.

Defendant(s)

FILED pd \$20.00 Atty
m/3:48 pm (S) Statement
DEC 01 2005 to Atty
ieca Note to def

William A. Shaw
Prothonotary

PRAECIPE FOR DEFAULT
JUDGMENT

CODE-
FILED ON BEHALF OF
PLAINTIFF

COUNSEL OF RECORD
FOR THIS PARTY:

James R. Apple, Esq.
PA I.D. No 37942
Charles F. Bennett, Esq.
PA I.D. No 30541
Joel E. Hausman, Esq.
PA I.D. No 42096
Apple and Apple, P.C.
Firm No. 719
4650 Baum Boulevard
Pittsburgh, PA 15213-1237
Telephone (412) 682-1466

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

COMMONWEALTH FINANCIAL SYSTEMS,
INC., assignee of UNIFUND CCR PARTNERS,
assignee of DISCOVER

NO. 2005-1066
IN CIVIL ACTION

Plaintiff(s)

-vs-

JOHN R. FULLINGTON, JR.

Defendant(s)

PRAECIPE FOR DEFAULT JUDGMENT

TO THE PROTHONOTARY:

Kindly enter Judgment against the above- named Defendant(s) in Default of an Answer, in the amount of \$32,861.94, computed as follows:

Amount named in Complaint	\$24,864.45
Interest from June 13, 2004 to November 18, 2005 on \$24,864.45	\$1,781.38
Less payment of:	-\$
Attorney fees	\$6,216.11
TOTAL	\$32,861.94

I certify that Notice of the intention to enter this Judgment was given pursuant to Pa. R.C.P. 237.1. A copy of said Notice is attached, and was mailed on October 12, 2005 by regular mail, postage prepaid and, addressed as follows:

Defendant: John R. Fullington, Jr.
518 Sabula Outing Club Rd.
Du Bois PA 15801-9731

APPLE AND APPLE, P.C.

Dated: 11/29/05

By: 
Attorneys for the Plaintiff(s)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

COMMONWEALTH FINANCIAL SYSTEMS,
INC., assignee of UNIFUND CCR PARTNERS,
assignee of DISCOVER

NO. 2005-1066
IN CIVIL ACTION

Plaintiff(s)

-vs-

JOHN R. FULLINGTON, JR.

Defendant(s)

John R. Fullington, Jr.
518 Sabula Outing Club Rd.
Du Bois, PA 15801-9731


Date of Notice: October 12, 2005

IMPORTANT NOTICE

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO ENTER A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILE IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU, UNLESS YOU ACT WITHIN TEN DAYS FROM THE DATE OF THIS NOTICE. A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR PROPERTY OR OTHER IMPORTANT RIGHTS. YOU SHOULD TAKE THIS NOTICE TO A LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE FOLLOWING OFFICE TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Keystone Legal Services
211 1/2 East Locust Street
Clearfield, PA 16830
814-765-9646

By: _____


James R. Apple, Esq.
Attorneys for Plaintiff(s)
4650 Baum Boulevard
Pittsburgh, PA 15213-1237
Telephone (412) 682-1466

FILED

DEC 01 2005

William A. Shaw
Prothonotary

COUNTY: Clearfield

APPLE AND APPLE, P.C., Attorneys at Law
4650 Baum Boulevard, Pittsburgh PA 15213-1223, Telephone: (412) 682-1466

Date: 11-22-05 File No. 103548 Docket No. 2005-1066

Plaintiff: Commonwealth vs. Defendant: Fullington

Instructions:

Responses:

☒ Please file the enclosed:
Complaint ☐ Transcript of Judgment

☒ Praecipe for Judgment

☐ Praecipe for Writ of Execution

Docket No. _____

☐ Writ of Summons

Date Filed: _____

☐ S & D Docket ☐ Satisfaction

☐ Other _____

☐ Deliver to the Sheriff, the enclosed:
Service copies of Complaint with service instructions

Date delivered: _____

☐ Execution Instructions

Date served: _____

☐ Writ of Summons instructions

Levy date: _____

☐ Other _____

Sale Date: _____
(Attach copy of sale bill)

☒ Attached is check no.: 103548 To Pro Sheriff in amt. of \$ 2000

☐ Attached is check no.: _____ To _____ Pro _____ Sheriff in amt. of \$ _____

☐ Used check no.: _____ Amt. \$ _____ Dated _____ Payable to _____

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

COMMONWEALTH FINANCIAL SYSTEMS,
INC., assignee of UNIFUND CCR PARTNERS,
assignee of DISCOVER

NO. 2005-1066
IN CIVIL ACTION

COPY

Plaintiff(s)

-vs-

JOHN R. FULLINGTON, JR.

Defendant(s)

NOTICE OF JUDGMENT OR ORDER

TO: () Plaintiff (X) Defendant () Garnishee

You are hereby notified that the following Order or Judgment was entered against
you on _____.

(X) Assumpsit Judgment in the amount of \$32,861.94, plus costs.

() Trespass Judgment in the amount of \$_____.

() If not satisfied within sixty (60) days, your motor vehicle operator's license and/or

() Registration will be suspended by the Dept. of Transportation, Bureau of Traffic
Safety, Harrisburg, PA.

(X) Entry of Judgment

() Court Order

() Non-Pros

() Confession

(X) Default

() Verdict

() Arbitration Award

() Other

John R. Fullington, Jr
518 Sabula Outing Club Rd.
Du Bois, PA 15801-9731

PROTHONOTARY

By: _____
Prothonotary (or Deputy)

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

COPY

Commonwealth Financial Systems, Inc.,
assignee of UNITED CCR PARTNERS,
assignee of DISCOVER
Plaintiff(s)

No.: 2005-01066-CD

Real Debt: \$32,861.94

Atty's Comm: \$

Vs.

Costs: \$

Int. From: \$

John R. Fullington Jr.
Defendant(s)

Entry: \$20.00

Instrument: Default Judgment

Date of Entry: December 1, 2005

Expires: December 1, 2010

Certified from the record this December 1, 2005

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 100667
NO: 05-1066-CD
SERVICE # 1 OF 1
COMPLAINT

PLAINTIFF: COMMONWEALTH FINANCIAL SYSTEMS, INC.

vs.

DEFENDANT: JOHN R. FULLINGTON JR.

SHERIFF RETURN

NOW, August 05, 2005 AT 4:00 PM SERVED THE WITHIN COMPLAINT ON JOHN R. FULLINGTON JR. DEFENDANT AT SHERIFF'S OFFICE, 1 N. 2ND ST., SUITE 116, CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO JOHN R. FULLINGTON JR., DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: COUDRIET /

FILED
d4:0081
DEC 02 2005
William A. Shaw
Prothonotary/Clerk of Courts

PURPOSE	VENDOR	CHECK #	AMOUNT
SURCHARGE	APPLE	7000	10.00
SHERIFF HAWKINS	APPLE	6999	33.39

Sworn to Before Me This

_____ Day of _____ 2005

So Answers,

Chester A. Hawkins
by Marilyn Hester
Chester A. Hawkins
Sheriff

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

COMMONWEALTH FINANCIAL SYSTEMS, :
INC., assignee of UNIFUND CCR :
PARTNERS, assignee of DISCOVER, :

Plaintiffs, :

vs. :

JOHN R. FULLINGTON, JR., :

Defendant. :

: CIVIL ACTION - Law

: No.: 1066 C.D. 2005

: Type of Pleading:
: PETITION TO OPEN JUDGMENT

: Filed on behalf of: Defendant

: Counsel of Record for this
: Party:

: John G. Achille, Esquire
: Achille, Ellermeyer & French,
: Attorneys at Law
: 379 Main Street
: Brookville, PA 15825
: 814 849-6701
: I.D. No. 28431

FILED

DEC 20 2005

0/3:40/0
William A. Shaw

Prothonotary/Clerk of Courts

2 CENT. TO ATT

COMMONWEALTH FINANCIAL SYSTEMS,
INC., assignee of UNIFUND CCR PARTNERS,
assignee of DISCOVER,
Plaintiffs,

vs.

JOHN R. FULLINGTON, JR.,
Defendant.

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

:
: CIVIL ACTION - Law

: No.: 1066 C.D. 2005
:
:

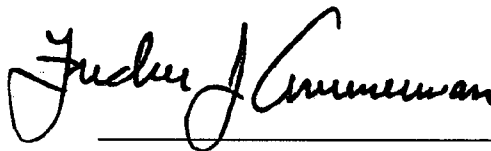
ORDER OF COURT

AND NOW, this 21st day of December, 2005,
upon consideration of the foregoing Petition, it is hereby ORDERED that

Hearing on said Petition shall be held on the 13th day of January,
2006, at 10:00 a.m., in Courtroom 1 of the Clearfield County
Courthouse, Clearfield, Pennsylvania.

All matters in this action to be stayed pending the outcome of this
Petition.

BY THE COURT:



P.J.

FILED ^{CC} 2cc
013:36/AD/ Atty
DEC 21 2005 Achille

William A. Shaw
Prothonotary/Clerk of Courts

COMMONWEALTH FINANCIAL SYSTEMS,
INC., assignee of UNIFUND CCR PARTNERS,
assignee of DISCOVER,
Plaintiffs,

vs.

JOHN R. FULLINGTON, JR.,
Defendant.

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

:
: CIVIL ACTION - Law

:
: No.: 1066 C.D. 2005
:
:

PETITION TO OPEN DEFAULT JUDGMENT

AND NOW comes the Defendant, by and through his attorney, John G. Achille, Esquire, and files the following Petition to Open Default Judgment:

1. That this Petition is made as presented by the Defendant due to his personal knowledge of the facts.

2. The above named Plaintiffs entered a Default Judgment against the Defendant on December 1, 2005, after forwarding a Notice of Intention to Take Default Judgment to the Defendant on October 12, 2005; however, the Defendant avers that neither the Complaint nor the Notice of Intention to Take a Default Judgment was not sent to his correct address.

3. The above named Defendant avers that he has a meritorious defense to the underlying action in the above - captioned case as set forth in the attached Answer and New Matter and for the following reasons:

A. The Defendant can neither admit nor deny that the Discover Financial Services, Inc., card agreement attached as Exhibit A to the Plaintiff's Complaint is a true and correct copy of said terms and conditions. By way of

further response, the Defendant herein denies that he had any association with Greenwood Trust Company so as to have Exhibit A be the applicable agreement. The Defendant demands strict proof prior to time of Trial in this matter.

B. The Defendant admits that he utilized a credit card to make certain purchases but can neither admit nor deny that said charges were on the account at issue in the matter complained of. Strict proof of the same is demanded at the time of Trial in this matter.

C. The Defendant denies that he has been provided with monthly itemized statements accurately describing any and all purchases, payments, interest charges, penalties and demands strict proof of the same prior to time of Trial.

D. In light of the Defendant's denial that he had failed to be provided with ongoing monthly itemized account statements, he, of course, made no written objection to those statements.

E. The Defendant denies that the present, outstanding balance due on the account is \$24,864.45. Strict proof of the same is demanded prior to time of Trial.

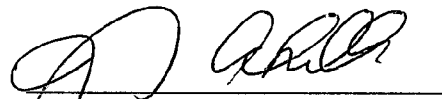
F. The Defendant alleges that this action is barred in whole or in part by the applicable Statute of Limitations for either Pennsylvania or Delaware as they are both four year time periods for which to initiate litigation in this case and the last charges made on the account at bar were made prior to July

of 2001 with no further payments being made on the account subsequent to best of the Defendant's knowledge. Strict proof demanded at time of Trial.

G. The Defendant incorporates his Answer to the Plaintiff's Complaint by reference thereto as if the set forth in full. See Defendant's Exhibit "1".

WHEREFORE, the Defendant requests that the Default Judgment be opened so that this matter may be dismissed due to the Plaintiffs' failure to proceed upon this claim within the applicable statute of limitations.

Respectfully submitted,



John G. Achille
Attorney for Defendant

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH FINANCIAL	)	Civil Action - Law
SYSTEMS, INC., assignee of)	
UNIFUND CCR PARTNERS, assignee	)	No. 05-1066 CD
of DISCOVER,)	
	)	Type of Pleading:
Plaintiffs,	)	Answer to Plaintiffs' Complaint
	)	and Defendant's New Matter
vs.)	
	)	Filed on Behalf of:
JOHN R. FULLINGTON, JR.	)	Defendant
)	
Defendant.	)	Attorney of Record for this Party:
	)	John G. Achille, Esquire
	)	ACHILLE, ELLERMEYER & FRENCH
	)	Attorneys at Law
	)	379 Main Street
	)	Brookville, PA 158253
	)	(814)849-6701
	)	I.D. No.: 28431

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

COMMONWEALTH FINANCIAL	)	Civil Action - Law
SYSTEMS, INC., assignee of)	
UNIFUND CCR PARTNERS, assignee	)	No. 05-1066 CD
of DISCOVER,)	
)	
Plaintiffs,)	
)	
vs.)	
)	
JOHN R. FULLINGTON, JR.)	
)	
Defendant.)	

ANSWER TO PLAINTIFFS' COMPLAINT

AND NOW, comes the Defendant, by and through his attorney, John G. Achille, Esquire, of Achille, Ellermeyer & French, Attorneys at Law, and files the following Answer to Plaintiffs' Complaint:

1. Denied. Strict proof will be required at the time of trial.
2. Denied. The street address for the Defendant is 504 Sabule Outing Road not 518 Sabule Outing Road.
3. Denied. Defendant never had any business dealings with Plaintiff who is alleging they are an Assignee. None of the paperwork attached has any signatures of Defendant. Strict proof will be required at the time of trial.
4. Denied. Strict proof will be required at the time of trial.
5. Defendant denies he had any contract with Plaintiff and if there was a contract with the Assignor the statue of limitations has run and any enforcement of it.

6. Denied. Said allegation is the exclusive knowledge of Plaintiff and strict proof will be required at the time of trial. By way of further response, it is further denied to the extent that it is a legal conclusion.

7. Denied. The Defendant denies that the present, outstanding balance due on the account is \$24,864.45. Said allegation exclusive knowledge of Plaintiff and strict proof will be required at the time of trial.

8. Denied. The Defendant denies that interest has accrued at the rate of 5% per annum on the balance. Said allegation exclusive knowledge of Plaintiff and strict proof will be required at the time of trial.

9. Denied. The Defendant denies that he agreed to payment to the Plaintiff of liquidated damages, costs of collection including reasonable attorney fees incurred in the collection of monies owed which will amount to 25% of any balance due. By way of further response, the Defendant avers that such would be an unconscionable rate. Said allegation is the exclusive knowledge of Plaintiff and strict proof will be required at the time of trial.

10. Denied. The Defendant denies that he received repeated requests for payment from the Plaintiff. Said allegation is the exclusive knowledge of Plaintiff and strict proof will be required at the time of trial.

WHEREFORE, the Defendant requests that the Plaintiff's Complaint be dismissed.

DEFENDANT'S NEW MATTER

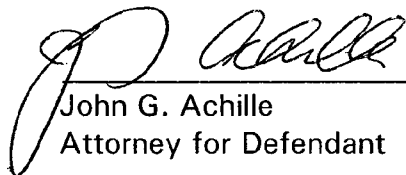
11. The Defendant herein incorporates the foregoing paragraphs by reference thereto.

12. The enforcement of any new debt would be barred by the statute of limitations as there has been no transactions or promises of payment by the Defendant within the last four (4) years.

13. The allegations of attorneys' fees would result in unjust enrichment of Plaintiff and are excessive of the actual attorneys' fees involved.

WHEREFORE, the Defendant requests that the Plaintiff's Complaint be dismissed.

Respectfully submitted,

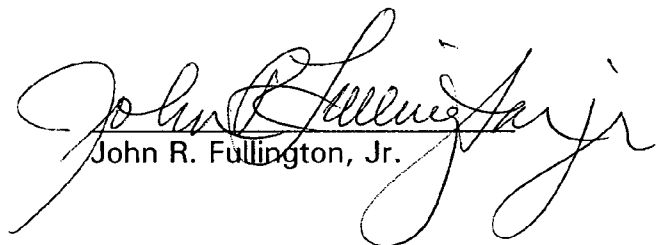

John G. Achille
Attorney for Defendant

VERIFICATION

I, John R. Fullington, Jr., hereby state that I am the Defendant in this action and verify that the statements made in the foregoing Answer and New Matter are true and correct to the best of my knowledge, information, and belief. I understand that the statements therein are made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.

Dated:

12/20/05


John R. Fullington, Jr.

VERIFICATION

I, John R. Fullington, Jr., hereby state that I am the Defendant in this action and verify that the statements made in the foregoing Petition are true and correct to the best of my knowledge, information, and belief. I understand that the statements therein are made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.

Dated:

12/20/85

A handwritten signature in cursive script, appearing to read "John R. Fullington, Jr.", written over a horizontal line.

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

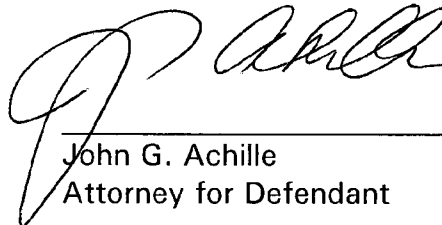
COMMONWEALTH FINANCIAL	)	Civil Action - Law
SYSTEMS, INC., assignee of)	
UNIFUND CCR PARTNERS, assignee	)	No. 05-1066 CD
of DISCOVER,)	
)	
Plaintiffs,)	
)	
vs.)	
)	
JOHN R. FULLINGTON, JR.)	
)	
Defendant.)	

CERTIFICATE OF SERVICE

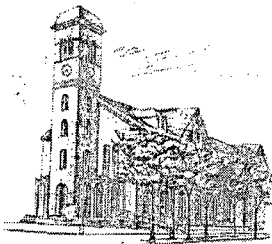
This will certify that on the date shown below, the undersigned provided a copy of Petition to Open Judgement in the above-captioned matter on the following parties at the addresses shown below by first-class U.S. Mail:

James R. Apple, Esquire
APPLE AND APPLE, PC
Firm No. 719
4650 Baum Boulevard
Pittsburgh, PA 15213

Dated: December 20, 2005



John G. Achille
Attorney for Defendant



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

DATE: 12/21/05

X You are responsible for serving all appropriate parties.

_____ The Prothonotary's office has provided service to the following parties:

_____ Plaintiff(s)/Attorney(s)

_____ Defendant(s)/Attorney(s)

_____ Other

_____ Special Instructions:

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

COMMONWEALTH FINANCIAL SYSTEMS, :
INC., assignee of UNIFUND CCR :
PARTNERS, assignee of DISCOVER, :

Plaintiffs, :

vs. :

JOHN R. FULLINGTON, JR., :

Defendant. :

CIVIL ACTION - Law

No.: 1066 C.D. 2005

Type of Pleading:
MOTION FOR CONTINUANCE

Filed on behalf of: Defendant

Counsel of Record for this
Party:

: John G. Achille, Esquire
: Achille, Ellermeyer & French,
: Attorneys at Law
: 379 Main Street
: Brookville, PA 15825
: 814 849-6701
: I.D. No. 28431

FILED *no cc*
m/11/14/201
DEC 30 2005 *@*

William A. Shaw
Prothonotary/Clerk of Courts

COMMONWEALTH FINANCIAL SYSTEMS,
INC., assignee of UNIFUND CCR PARTNERS,
assignee of DISCOVER,
Plaintiffs,

vs.

JOHN R. FULLINGTON, JR.,
Defendant.

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

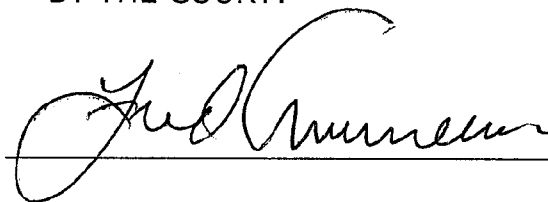
: CIVIL ACTION - Law
:

: No.: 1066 C.D. 2005
:
:

ORDER OF COURT

AND NOW, this 4 day of January, 2006, the Court
hereby grants the requested Motion For a Continuance and continues the
Hearing scheduled for January 13, 2006, at 10:00 a.m. until the 6th day
of February, 2006, at 9:30 a.m. to be held in Courtroom 1 of the
Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT:



P.J.

FILED 1cc
JAN 09 2006
William A. Shaw
Prothonotary/Clerk of Courts
Atty Achille

COMMONWEALTH FINANCIAL SYSTEMS,
INC., assignee of UNIFUND CCR PARTNERS,
assignee of DISCOVER,
Plaintiffs,

vs.

JOHN R. FULLINGTON, JR.,
Defendant.

: IN THE COURT OF COMMON PLEAS OF
: CLEARFIELD COUNTY, PENNSYLVANIA
:
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: CIVIL ACTION - Law
:
: No.: 1066 C.D. 2005
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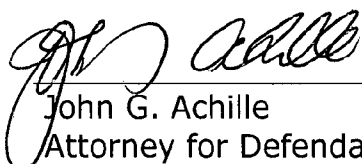
MOTION FOR A CONTINUANCE

AND NOW, December 29, 2005, comes the Defendant, by and through his attorney, John G. Achille, Esquire, and files the following Motion For a Continuance:

1. The Defendant moves for a Continuance of the Hearing scheduled for January 13, 2006, at 10:00 a.m.
2. The Defendant avers as grounds for this motion that his counsel, John G. Achille, Esquire, is on vacation at that time and the other attorneys in the office are scheduled for Bankruptcy Court 341 Meetings on that date.
3. Counsel for the Plaintiff has no objection to the requested continuance if the Hearing is rescheduled for after January 24, 2006, as he will be out of state until January 25, 2006.

WHEREFORE, the Defendant moves for a Continuance of the January 13, 2006, Hearing.

Respectfully submitted,



John G. Achille
Attorney for Defendant

COMMONWEALTH FINANCIAL SYSTEMS,
INC., assignee of UNIFUND CCR PARTNERS,
assignee of DISCOVER,
Plaintiffs,

vs.

JOHN R. FULLINGTON, JR.,
Defendant.

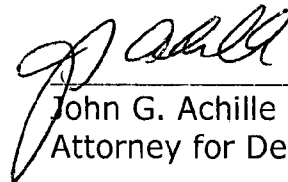
: IN THE COURT OF COMMON PLEAS OF
: CLEARFIELD COUNTY, PENNSYLVANIA
:
:
: CIVIL ACTION - Law
:
: No.: 1066 C.D. 2005
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CERTIFICATE OF SERVICE

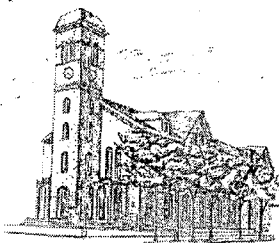
I, John G. Achille, Esquire, do hereby certify that a true and correct copy
of the within Motion was served via first class mail, postage prepaid, addressed
as follows:

Joel E. Hausman, Esquire
James R. Apple, Esquire
Apple and Apple, PC
4650 Baum Boulevard
Pittsburgh, PA 15213-1237

Dated: December 29, 2005



John G. Achille
Attorney for Defendant



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

DATE: 1/9/06

X You are responsible for serving all appropriate parties.

_____ The Prothonotary's office has provided service to the following parties:

_____ Plaintiff(s)/Attorney(s)

_____ Defendant(s)/Attorney(s)

_____ Other

_____ Special Instructions:

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH FINANCIAL
SYSTEMS, INC., assignee of
UNIFUND CCR PARTNERS, assignee
of DISCOVER,

Plaintiffs,

vs.

JOHN R. FULLINGTON, JR.

Defendant.

Civil Action - Law

No. 05-1066 CD

Type of Pleading:

Certificate of Service for Order
of Court

Filed on Behalf of:

Defendant

Attorney of Record for this Party:

John G. Achille, Esquire

ACHILLE, ELLERMEYER & FRENCH

Attorneys at Law

379 Main Street

Brookville, PA 158253

(814)849-6701

I.D. No.: 28431

FILED *no cc*
M 10:34 AM
JAN 13 2006
William A. Shaw
Prothonotary/Clerk of Courts

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

COMMONWEALTH FINANCIAL	)	Civil Action - Law
SYSTEMS, INC., assignee of)	
UNIFUND CCR PARTNERS, assignee	)	1066 C.D. 2005
of DISCOVER,)	
)	
Plaintiffs,)	
)	
vs.)	
)	
JOHN R. FULLINGTON, JR.)	
)	
Defendant.)	


CERTIFICATE OF SERVICE

This will certify that on the date shown below, the undersigned provided a copy of Order of Court dated January 4, 2006, in the above-captioned matter on the following parties at the addresses shown below by first-class U.S.

Mail:

James R. Apple, Esquire
Joel E. Hausman, Esquire
APPLE AND APPLE, PC
Firm No. 719
4650 Baum Boulevard
Pittsburgh, PA 15213

Dated: January 12, 2006



John G. Achille
Attorney for Defendant

FILED

JAN 25 2006
M/100/0
William A. Shaw
Prothonotary/Clerk of Courts
NO 1/C (6K)

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

**COMMONWEALTH FINANCIAL SYSTEMS,
INC., assignee of UNIFUND CCR PARTNERS,
assignee of DISCOVER,**

**NO. 2005-1066
IN CIVIL ACTION**

Plaintiff

-vs-

JOHN R. FULLINGTON, JR.,

Defendant

**ANSWER TO PETITION TO
OPEN JUDGMENT**

**FILED ON BEHALF OF
PLAINTIFF**

**COUNSEL OF RECORD
FOR THIS PARTY:**

**James R. Apple, Esq.
PA I.D. No. 37942
Charles F. Bennett, Esq.
PA I.D. No. 30541
Joel E. Hausman, Esq.
PA I.D. No. 42096
Apple and Apple, P.C.
Firm No. 719
4650 Baum Boulevard
Pittsburgh, PA 15213
Telephone (412) 682-1466
Fax (412) 682-3138**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

COMMONWEALTH FINANCIAL SYSTEMS,
INC., *assignee of* UNIFUND CCR PARTNERS,
assignee of DISCOVER,

NO. 2005-1066
IN CIVIL ACTION

Plaintiff

-vs-

JOHN R. FULLINGTON, JR.,

Defendant

PLAINTIFF'S ANSWER TO DEFENDANT'S
PETITION TO OPEN DEFAULT JUDGMENT

AND NOW comes the Plaintiff, by and through its attorneys, Apple and Apple, P.C., and Joel E. Hausman, Esquire, and files the within Answer to Defendant's Petition to Open Plaintiff's Default Judgment, and in support thereof, Plaintiff sets forth as follows:

1. The averment set forth in Paragraph 1 of the Defendant's Petition to Open Plaintiff's Default Judgment is specifically denied, and on the contrary, Plaintiff after reasonable investigation, Plaintiff is without sufficient knowledge or information to form a belief as to the truth of the matters asserted therein, thereafter demands strict proof at the trial of this case
2. The averment set forth in Paragraph 2 of the Defendant's Petition to Open Plaintiff's Default Judgment is admitted in part and is denied in part. It is specifically denied that neither the Complaint, nor the Pa. R.C.P. No. 237.1 notice was sent to his correct address, and on the contrary, Plaintiff avers that the Complaint in the instant matter was not mailed, but rather was hand delivered to the Defendant by a Deputy Sheriff of Clearfield County

Pennsylvania. By way of further answer, Plaintiff avers that the notice of Plaintiff's intention to enter a default judgment was mailed to the Defendant at 518 Sabula Outing Club Road, Du Bois, Pennsylvania 15801-9731, which address was supplied by postal authorities as the proper street delivery address for Defendant's Post Office Box, RR2 Box 225, Du Bois, PA 15801. By way of still further answer, Plaintiff avers that the notice of Plaintiff's intention to enter a default judgment sent to the Defendant was not returned as undelivered or as undeliverable by postal authorities despite address correction and return requests provided to postal authorities upon mailing of said notice.

3. The averments set forth in Paragraph 3 of the Defendant's Petition to Open Plaintiff's Default Judgment constitute conclusions of law to which no responsive pleas are required. However, to the extent to which a responsive plea may be deemed to be required, Plaintiff sets forth that Defendant's last payment on the account in question was made on or about July 4, 2002, thereby bringing Plaintiff's action within the applicable limitations period.

WHEREFORE, Plaintiff respectfully moves this Honorable Court to discharge the rule issued upon Plaintiff to show cause why the Defendant Judgment entered in the above-captioned matter should not be Opened, to dissolve all stays of proceedings pending adjudication of Defendant's Petition to Open Judgment; and to deny Defendant's Petition to Open Plaintiff's Default Judgment.

Respectfully Submitted,

APPLE AND APPLE, P.C.

Dated: 23 Jun 06

By: 

Attorneys for Plaintiff(s)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

COMMONWEALTH FINANCIAL SYSTEMS,
INC., assignee of UNIFUND CCR PARTNERS,
assignee of DISCOVER,

NO. 2005-1066
IN CIVIL ACTION

Plaintiff

-VS-

JOHN R. FULLINGTON, JR.,

Defendant

VERIFICATION

I, Scott J. Best, Esquire of
Commonwealth Financial Systems, Inc., Plaintiff herein, verify that the
statements of fact contained in the foregoing Answer to Defendant's Petition to Open
Judgment are true and correct. I understand that false statements herein are made subject
to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsification to authorities.

1/12/06
Date

Scott J. Best, Esq.
Affiant

In-house Counsel
Title

120 W. Keyser Ave
Address

Scranton, PA 18504
City, State and Zip Code

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

COMMONWEALTH FINANCIAL SYSTEMS,
INC., *assignee of* UNIFUND CCR PARTNERS,
assignee of DISCOVER,

NO. 2005-1066
IN CIVIL ACTION

Plaintiff

-vs-

JOHN R. FULLINGTON, JR.,

Defendant

CERTIFICATION OF SERVICE

I hereby certify that I am this day serving a true and correct copy of the attached
or foregoing document upon the person(s) and in the manner indicated below:

Service by first class mail, postage prepaid and addressed as follows:

ACHILLE, ELLERMEYER & FRENCH
John G. Achille, Esq.
379 Main Street
Brookeville, PA 15825-1221

Date: 23 Jan 06

By: Jul E. Duoman

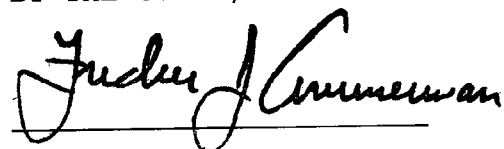
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH FINANCIAL :
SYSTEMS, INC., assignee of :
UNIFUND CCR PARTNERS, assignee :
of DISCOVER :
VS. : NO. 05-1066-CD
JOHN R. FULLINGTON, JR. :

O R D E R

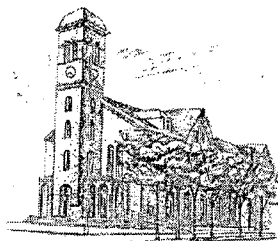
NOW this 6th day of February, 2006, following argument on Defendant's Motion to Open Judgment, it is the ORDER of this Court that counsel provide the Court with letter brief within no more than fifteen (15) days from today's date.

BY THE COURT,



President Judge

FILED 1cc Atty's:
0110:505 Apple
FEB 08 2006 Achille
William A. Shaw
Prothonotary/Clerk of Courts



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

DATE: 2/8/06

 You are responsible for serving all appropriate parties.

 X The Prothonotary's office has provided service to the following parties:

 X Plaintiff(s)/Attorney(s)

 X Defendant(s)/Attorney(s)

 Other

 Special Instructions:

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

COMMONWEALTH FINANCIAL SYSTEMS, INC.,
assignee of UNIFUND CCR PARTNERS, assignee
of DISCOVER

VS

JOHN R. FULLINGTON, JR.

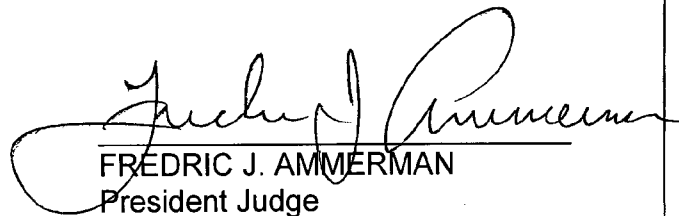
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*
*

NO. 05-1066-CD

ORDER

NOW, this 28th day of February, 2006, it is the ORDER of this Court that the Defendant's Motion to Open Judgment be and is hereby GRANTED. The Defendant shall file a responsive pleading within no more than 20 days from this date.

BY THE COURT,

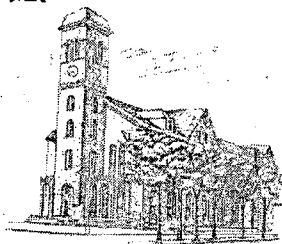

FREDRIC J. AMMERMAN
President Judge

FILED

012:50/01
MAR 01 2006

ICC Allys:
Apple
Achille
(m)

William A. Shaw
Prothonotary/Clerk of Courts



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

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Sincerely,

William A. Shaw
Prothonotary

DATE: 31.1.06

_____ You are responsible for serving all appropriate parties.

X The Prothonotary's office has provided service to the following parties:

X Plaintiff(s)/Attorney(s)

X Defendant(s)/Attorney(s)

_____ Other

_____ Special Instructions:

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

COMMONWEALTH FINANCIAL
SYSTEMS, INC., assignee of
UNIFUND CCR PARTNERS, assignee
of DISCOVER,

Plaintiffs,

vs.

JOHN R. FULLINGTON, JR.

Defendant.

Civil Action - Law

No. 05-1066 CD

**BRIEF IN SUPPORT OF PRELIMINARY
OBJECTIONS TO COMPLAINT**

Filed on Behalf of:
Defendant

Attorney of Record for this Party:

John G. Achille, Esquire
ACHILLE, ELLERMEYER & FRENCH
Attorneys at Law
379 Main Street
Brookville, PA 158253
(814)849-6701
I.D. No.: 28431

RECEIVED

MAR 13 2006

CLERK OF COURT
OFFICE

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

COMMONWEALTH FINANCIAL	)	Civil Action - Law
SYSTEMS, INC., assignee of)	
UNIFUND CCR PARTNERS, assignee	)	No. 05-1066 CD
of DISCOVER,)	
)	
Plaintiff,)	
)	
vs.)	
)	
JOHN R. FULLINGTON, JR.)	
)	
Defendant.)	

Brief in Support of Preliminary Objections to Complaint

Defendant, John R. Fullington, Jr., by his attorney John G. Achille, sets forth the following Brief in Support of Preliminary Objections to Complaint:

FACTS

The Plaintiff is alleging that it has a right to recover on a credit card debt of the Defendant based upon one or more assignments of the Defendant's debt but has not indicated that the assignment is in writing or attached the writing.

The Defendant's Preliminary Objections allege numerous defects with the Complaint by the Plaintiff. It is defective as the alleged written agreement and the written assignment are not attached. The attached unsigned contract is one by Greenwood, which is not otherwise mentioned in the Complaint. The Complaint is silent as to dates that the debt was incurred and the date that the contract was formed or the times and amounts of the charges which renders it impossible to calculate the amount due of principal or interest. The alleged attorneys fee is

excessive. The Complaint does not explain how it could be filed within the statute of limitations. The Complaint does not establish the capacity of the Plaintiff to sue as it lacks the documentation of a written assignment.

ARGUMENT

I. Failure of Complaint to Conform to Pa.R.C.P. 1019(h) and (i) - Pleading of a Contract and Required Attachment of Supportive Writing

Pennsylvania Rule of Civil Procedure as cited above provides:

(h) When any claim or defense is based upon an agreement, the pleading shall state specifically if the agreement is oral or written.

(i) When any claim or defense is based upon a writing, the pleader shall attach a copy of the writing, or the material part thereof, but if the writing or copy is not accessible to the pleader, it is sufficient so to state, together with the reason, and to set forth the substance in writing.

The Plaintiff has not complied with this rule in two respects.

First, the law requires the assignment in this case to be in writing which is not alleged. 18 Pa.C.S.A. Section 7311 (a)(1). The Complaint does not allege a written assignment nor does it attach this as a writing as required under 1019(I).

Second, there is no signed document to establish a written contract. In fact, on its face the alleged written contract is one belonging to another company, Greenwood Trust Company, whose relationship is not apparent or known to the alleged claim that the Defendant had contracted a Discover card which he failed to pay and which was properly assigned to the Plaintiff.

The Defendant avers that the Plaintiff's Complaint lacks required documentation.

WHEREFORE, the Defendant requests that this Court dismiss the Complaint.

II. Failure of Complaint to Conform to Pa.R.C.P. 1019(f) - Requires Averments of Time, Place, and Items of Special Damages be Specifically Stated

Pennsylvania Rule of Civil Procedure as cited above provides:

(f) Averments of time, place, and items of special damages shall be specifically stated.

The Plaintiff's Complaint lacks the requirements of this rule as it does not contain the date the contract was formed or the dates, times, and amounts of any charges. Without this it is impossible to determine what, if any, amounts are due on principal or interest. Paragraph 10 alleges repeated requests for payments by the Plaintiff and denounced by the Defendant without any reference to date or methods.

The Defendant avers that the Plaintiff's Complaint lacks required specificity.

WHEREFORE, the Defendant requests that this Court dismiss the Complaint.

III. Motion to Strike

In Paragraph 9, the Complaint avers attorneys fees of 25% of the balance due. This is not provided for by the contract that is attached to the Complaint. This would also be in violation of 18 Pa. C.S.A. Section 7311 (b.1) Unfair or deceptive collection methods which provides that it is an unfair or deceptive practice for a collector to collect any amount, including any interest, fee, or charge unless such amount is expressly provided in the agreement.

The Defendant avers that the Plaintiff's request for attorney's fees be stricken as the Plaintiff has no legal entitlement to the same.

WHEREFORE, the Defendant requests that this Court strike said paragraphs of the Plaintiff's Complaint and/or require the Plaintiff to plead with specificity any basis for an assessment of attorneys fees against the Defendant.

IV. Demurrer to Plaintiff's Complaint

Even if all the allegations of the Plaintiff's Complaint are accepted as true, the Complaint does not set forth the basis in which the Plaintiff has filed its claim within the statute of limitations.

The Defendant avers that the Plaintiff's Complaint is barred by the statute of limitations.

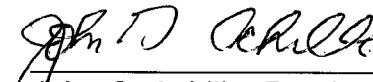
WHEREFORE, the Defendant requests this Court dismiss Plaintiff's Complaint.

V. Petition Raising Lack of Capacity of the Plaintiff to Sue

The Complaint fails to set forth that the assignment was in writing as required by 18 Pa. C.S.A. Section 7311 (a)(1). In fact, it would be unlawful to attempt to collect without the assignment being in writing under this section.

The Defendant avers that the Plaintiff's claim is barred for its failure to comply with 18 Pa. C.S.A. Section 7311 (a)(1).

WHEREFORE, the Defendant requests that this Court dismiss the Plaintiff's Complaint.



John G. Achille, Esquire
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH FINANCIAL) Civil Action - Law
SYSTEMS, INC., assignee of)
UNIFUND CCR PARTNERS, assignee) No. 05-1066 CD
of DISCOVER,)
Plaintiff,)
vs.)
JOHN R. FULLINGTON, JR.)
Defendant.)

ORDER OF COURT

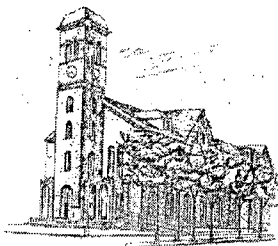
AND NOW, this 17th day of March, 2006, in consideration of the
Defendant's Preliminary Objections, the above case is scheduled for Oral Argument
on the 5th day of April, 2006, at 1:30 p. m. in Room 1
of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT:


P.J.

FILED 3cc
of 9:43 AM Any Achille
MAR 20 2006 CR

William A. Shaw
Prothonotary/Clerk of Courts



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

DATE: 3/20/06

☒ You are responsible for serving all appropriate parties.

☐ The Prothonotary's office has provided service to the following parties:

☐ Plaintiff(s)/Attorney(s)

☐ Defendant(s)/Attorney(s)

☐ Other

☐ Special Instructions:

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH FINANCIAL
SYSTEMS, INC., assignee of
UNIFUND CCR PARTNERS, assignee
of DISCOVER,

Plaintiff,

vs.

JOHN R. FULLINGTON, JR.

Defendant.

Civil Action - Law

No. 05-1066 CD

Type of Pleading:
PRELIMINARY OBJECTIONS TO
PLAINTIFF'S COMPLAINT

Filed on Behalf of:
Defendant

Attorney of Record for this Party:
John G. Achille, Esquire
ACHILLE, ELLERMEYER & FRENCH
Attorneys at Law
379 Main Street
Brookville, PA 158253
(814)849-6701
I.D. No.: 28431

FILED *no cc*
m/jl: ddb
MAR 13 2006 *GP*

William A. Shaw
Prothonotary/Clerk of Courts

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

COMMONWEALTH FINANCIAL	)	Civil Action - Law
SYSTEMS, INC., assignee of)	
UNIFUND CCR PARTNERS, assignee	)	No. 05-1066 CD
of DISCOVER,)	
)	
Plaintiff,)	
)	
vs.)	
)	
JOHN R. FULLINGTON, JR.)	
)	
Defendant.)	

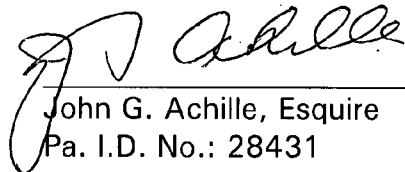
Notice to Plead

To.: Plaintiff

COMMONWEALTH FINANCIAL
SYSTEMS, INC., assignee of
UNIFUND CCR PARTNERS, assignee
of DISCOVER

You are hereby notified to file a written response to the enclosed Preliminary Objections within twenty (20) days from service hereof or a judgment may be entered against you.

Achille, Ellermeyer & French
Attorneys at Law



John G. Achille, Esquire
Pa. I.D. No.: 28431
379 Main Street
Brookville, PA 15825
Telephone: (814) 849-6701

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

COMMONWEALTH FINANCIAL	)	Civil Action - Law
SYSTEMS, INC., assignee of)	
UNIFUND CCR PARTNERS, assignee	)	No. 05-1066 CD
of DISCOVER,)	
)	
Plaintiff,)	
)	
vs.)	
)	
JOHN R. FULLINGTON, JR.)	
)	
Defendant.)	

PRELIMINARY OBJECTIONS

Defendant, John R. Fullington, Jr., by his attorney, John G. Achille, sets forth the following Preliminary Objections in response to Plaintiff's Complaint:

I. Failure of Complaint to Conform to Pa.R.C.P. 1019(h) and (i) - Pleading of a Contract and Required Attachment of Supportive Writing

1. Paragraph 4 of the Plaintiff's Complaint avers that a written agreement between the parties was accepted by using the credit card to make a purchase or cash advances.

2. The Plaintiff has attached as Exhibit A the alleged terms of the contract which states under its copyright that it is a "1999 Greenwood Trust Company, Member FDIC" as noted on page 10 of the exhibit.

3. The Plaintiff has also attached, as Exhibit B, what is identified as statement of account, which under account details cross referenced, indicates the

Defendant's name with a service date of December 9, 1986 with an initial principal balance of \$22,505.47 with interest of \$2,362.06.

4. The agreement, having been copyrighted after the date of the contract with the Plaintiff, could not possibly be the correct agreement.

5. Furthermore, nowhere in the Complaint is it indicated how Greenwood as maker of the alleged contract, identified its relationship with Discover or ever assigned its interest.

6. There has been no written documentation of the assignments to support that the Plaintiff has the right to bring this cause of action. Such assignment must be in writing as required by 18 Pa. C.S.A. Section 7311. Here, two Plaintiffs are suing as serial assignees of Discover of which both must provide written documentation of the proper assignment.

WHEREFORE, the Defendant requests that this Court dismiss the Complaint as the Plaintiff's Complaint lacks required documentation of the original contract and requisite written assignments.

II. Failure of Complaint to Conform to Pa.R.C.P. 1019(f) - Requires Averments of Time, Place, and Items of Special Damages be Specifically Stated

7. The Plaintiff's Complaint fails to identify the date in which the contract between the parties was formed or set forth dates, times, and amounts of the charges.

8. Without the specific information, it is impossible to determine what if any of the claim is proper and to determine if the interest has been calculated correctly.

9. Paragraph 4 of the Complaint simply indicates the Defendant accepted the terms of the written agreement by using the card for purchases and/or cash advances without identifying when or what purchases or when the Defendant applied for the debt.

10. Paragraph 8 of Complaint identifies that interest accrues at the rate of 5% per annum on the balance due from June 14, 2004, without setting forth the balance on that date or how the balance was accumulated.

11. Paragraph 10 states that although the Plaintiff has repeatedly requested the Defendant to pay, he has willfully failed and refused to pay. The Plaintiff fails to state any dates or the manner that the requests were made or when and how the Defendant has refused to pay.

WHEREFORE, the Defendant requests that this Court dismiss the Complaint as Complaint lacks required specificity.

III. Motion to Strike

12. Paragraph 9 of the Complaint alleges that the Defendant has agreed to pay the Plaintiff's liquidated damages, the cost of collection, including all reasonable attorneys fees incurred in the collection of monies owing. The Plaintiff has averred that this will amount to 25% of the balance due. This is clearly an excessive and unreasonable claim and the Defendant requests that it be stricken.

WHEREFORE, the Defendant requests that this Court strike said paragraphs of the Plaintiff's Complaint and/or require the Plaintiff to plead with specificity any basis for an assessment of attorneys fees against the Defendant as Plaintiff has no legal entitlement to the same.

IV. Demurrer to Plaintiff's Complaint

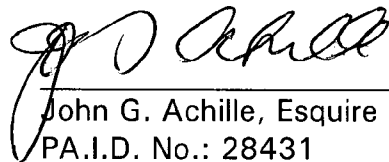
13. The Complaint does not allege a basis whereby it was filed within the statute of limitations.

WHEREFORE, the Defendant requests that this Court dismiss the Plaintiff's Complaint as Complaint is barred by the statute of limitations.

V. Petition Raising Lack of Capacity of the Plaintiff to Sue

14. Without a written assignment, the Plaintiff lacks the capacity to sue. The Complaint does not identify that there is a written assignment nor is one attached.

WHEREFORE, the Defendant requests that this Court dismiss the Plaintiff's Complaint as the Plaintiff's claim is barred for its failure to comply with 18 Pa. C.S.A. Section 7311 (a)(1).



John G. Achille, Esquire

PA.I.D. No.: 28431

379 Main Street

Brookville, PA 15825

Telephone: (814) 849-6701

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

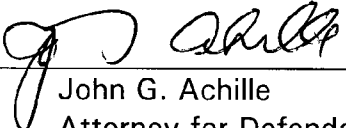
COMMONWEALTH FINANCIAL	)	Civil Action - Law
SYSTEMS, INC., assignee of)	
UNIFUND CCR PARTNERS, assignee	)	No. 05-1066 CD
of DISCOVER,)	
)	
Plaintiff,)	
)	
vs.)	
)	
JOHN R. FULLINGTON, JR.)	
)	
Defendant.)	

CERTIFICATE OF SERVICE

This will certify that on the date shown below, the undersigned provided a copy of the Defendant's Preliminary Objections and Brief in Support of Preliminary Objections in the above-captioned matter on the following parties at the addresses shown below by first-class U.S. Mail:

Joel E. Hausman, Esquire
APPLE AND APPLE, PC
Firm No. 719
4650 Baum Boulevard
Pittsburgh, PA 15213

Dated: 3-10-2006



John G. Achille
Attorney for Defendant

CA

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

COMMONWEALTH FINANCIAL SYSTEMS, INC.,
assignee of UNIFUND CCR PARTNERS, assignee
of DISCOVER,

Plaintiff

vs.

JOHN R. FULLINGTON, JR.,
Defendant

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*

NO. 05-1066-CD

ORDER

NOW, this 4th day of April, 2006, upon agreement of the parties, the Preliminary Objections filed on behalf of Defendant, John R. Fullington, Jr., are hereby granted to the extent that the Plaintiff shall have no more than 20 days from this date to file an Amended Complaint.

Oral argument scheduled for April 5, 2006 at 1:30 p.m. is hereby cancelled.

BY THE COURT,



FREDRIC J. AMMERMAN
President Judge

FILED

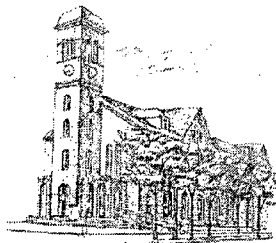
018:57/32V
APR 05 2006

(6K)

William A. Shaw
Prothonotary/Clerk of Courts

4/4/06 - Copies faxed to attys
by Judge Ammerman's office

4/5/06 ICC mailed to:
Apple
Achille



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

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Sincerely,

William A. Shaw
Prothonotary

DATE: 4/5/06

_____ You are responsible for serving all appropriate parties.

X The Prothonotary's office has provided service to the following parties:

X Plaintiff(s)/Attorney(s)

X Defendant(s)/Attorney(s)

_____ Other

_____ Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

COMMONWEALTH FINANCIAL SYSTEMS,
INC., assignee of UNIFUND CCR PARTNERS,
assignee of DISCOVER,

NO. 2005-1066
IN CIVIL ACTION

Plaintiff,

-vs-

JOHN R. FULLINGTON, JR.,

Defendant,

PRAECIPE TO DISCONTINUE
WITHOUT PREJUDICE

FILED ON BEHALF OF
PLAINTIFF

COUNSEL OF RECORD
FOR THIS PARTY:

James R. Apple, Esq.

PA I.D. No. 37942

Charles F. Bennett, Esq.

PA I.D. No. 30541

Joel E. Hausman, Esq.

PA I.D. No. 42096

APPLE AND APPLE, P.C.

Firm No. 719

4650 Baum Boulevard

Pittsburgh, PA 15213

Telephone: 412-682-1466

Fax: 412-682-3138

FILED

m/1:30 pm Noce
APR 21 2006 Cert of dis
issued to
Ⓜ Att'y Hausman

William A. Shaw & C/A
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

COMMONWEALTH FINANCIAL SYSTEMS,
INC., assignee of UNIFUND CCR PARTNERS,
assignee of DISCOVER,

NO. 2005-1066
IN CIVIL ACTION

Plaintiff,

-VS-

JOHN R. FULLINGTON, JR.,

Defendant,

PRAECIPE TO DISCONTINUE
WITHOUT PREJUDICE

Kindly discontinue without prejudice the above-captioned matter upon the records
of the Court.

SWORN TO AND SUBSCRIBED

APPLE AND APPLE, P.C.

BEFORE ME THIS 17th DAY OF

April, 2006

By:

Paul E. Shuman
Attorneys for Plaintiff(s)

Mary Beth Vandergrift
NOTARY PUBLIC

Notarial Seal
Mary Beth Vandergrift, Notary Public
City Of Pittsburgh, Allegheny County
My Commission Expires July 20, 2006
Member, Pennsylvania Association Of Notaries

FILED

APR 21 2006

William A. Shaw
Prothonotary

APPLE and APPLE P.C.

Attorneys at Law

4650 BAUM BOULEVARD – PITTSBURGH, PA 15213-1237

Tel: 412-682-1466

Toll Free: 800-477-2775

Fax: 412-682-3138

Licensed to practice in Pennsylvania only

MARVIN J. APPLE, RETIRED

JAMES R. APPLE

CHARLES F. BENNETT

JOEL E. HAUSMAN

April 17, 2006

**Prothonotary, Clearfield County
Clearfield County Courthouse
230 E. Market Street
Clearfield, PA 16830**

**Re: Commonwealth Financial Systems,
Inc./Discover
vs: John R. Fullington, Jr
AAfile: 103548
Docket No: 2005-1066**

Dear Sir/Madam:

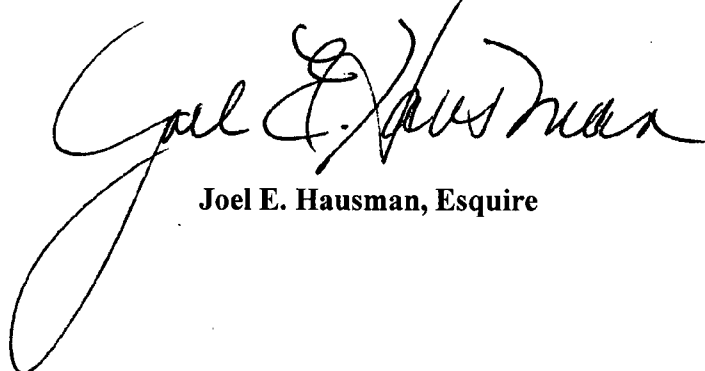
Enclosed for filing please find Plaintiff's Praeipce to Discontinue without prejudice.

Upon your receipt of the Praeipce, please time stamp the additional cover-page provided and return the same in the enclosed self-addressed, stamped envelope.

Thank you for your assistance and cooperation in this matter. If you have any questions, or if there is any problem with the enclosed filing, please contact our office as promptly as possible.

Very truly yours:

Apple and Apple, P.C.

A large, stylized handwritten signature in black ink, which appears to read "Joel E. Hausman". The signature is written over the printed name of the signatory.

Joel E. Hausman, Esquire

JEH/lai

Enclosure(s)

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

CIVIL DIVISION

COPY

**Commonwealth Financial Systems, Inc.
assignee of Unifund CCR Parnters, assignee
of Discover**

Vs.

No. 2005-01066-CD

John R. Fullington Jr.

CERTIFICATE OF DISCONTINUATION

Commonwealth of PA
County of Clearfield

I, William A. Shaw, Prothonotary of the Court of Common Pleas in and for the County
and Commonwealth aforesaid do hereby certify that the above case was on April 21,
2006, marked:

Discontinued without prejudice

Record costs in the sum of \$105.00 have been paid in full by James R. Apple Esq. .

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at
Clearfield, Clearfield County, Pennsylvania this 21st day of April A.D. 2006.



William A. Shaw, Prothonotary

Commonwealth Financial Systems, Inc.
245 Main Street
Dickson City, PA 18519

: In the Court of Common Pleas of
: Clearfield County, Pennsylvania Civil
: Division

Plaintiff : No: 2005-1066

Vs.

John R Fullington JR
518 Sabula Outing Club Rd.
DuBois PA 15801

: Praecipe to Settle, Satisfy &
: Discontinue the Judgment.
:

Defendant

To the Prothonotary of Lebanon County Pennsylvania:

Please enter the above Praecipe to Settle, Satisfy & Discontinue the Judgment. .

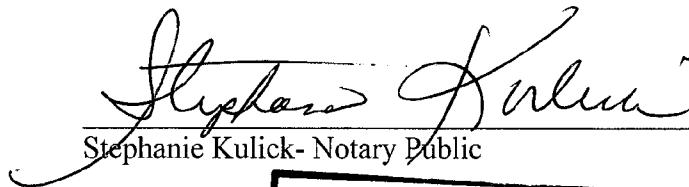
Thank you,



Patricia A. Cobb, Esquire
Lawyer ID # 39688
Commonwealth of Pennsylvania
Lackawanna County

FILED Noce
m/2:1581
FEB 21 2013
William A. Shaw
Prothonotary/Clerk of Courts
Diss pd. \$7.00

Sworn and subscribed before me on this 11th day of February, 2013


Stephanie Kulick- Notary Public

FILED

FEB 21 2013

William A. Shaw
Prothonotary/Clerk of Courts

