

**07-637-CD**  
**AFS et al vs Mary A. Dixon**

**AFS et al vs Mary Dixon**  
**2007-637-CD**

2034446

THIS IS AN ARBITRATION MATTER. ASSESSMENT OF  
DAMAGES HEARING REQUIRED.

GORDON & WEINBERG, P.C.

BY: FREDERIC I. WEINBERG, ESQUIRE

Identification No.: 41360

PAUL M. SCHOFIELD, JR., ESQUIRE

Identification No.: 81894

21 SOUTH 21ST STREET

PHILADELPHIA, PA 19103

215/988-9600

AFS AS ASSIGNEE OF WASHINGTON

MUTUAL BANK K

5996 W. Touhy Avenue

Niles, IL 60714

COURT OF COMMON PLEAS

CLEARFIELD COUNTY

vs.

DOCKET NO. : 07-637-CD

MARY A DIXON

1122 SALADA RD

DU BOIS PA 15801-6466

**NOTICE**

YOU HAVE BEEN SUED IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING PAGES, YOU MUST TAKE ACTION WITHIN 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 JUDGEMENT MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR ANY MONEY CLAIMED IN THE COMPLAINT OR FOR ANY OTHER CLAIM OR RELIEF REQUESTED BY THE PLAINTIFF. YOU MAY LOSE MONEY OR PROPERTY OR OTHER RIGHTS IMPORTANT TO YOU.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

David S. Meholick, Court Admin.  
Clearfield County Courthouse  
Clearfield, PA 16830  
(814) 765-2641

**FILED**  
m/11:32/30  
APR 23 2007  
cc Sheriff  
Att'y pd.  
85.00  
William A. Shaw  
Prothonotary/Clerk of Courts

COMPLAINT IN CIVIL-ACTION

1. Plaintiff is a debt buyer and successor in interest to the original creditor as set forth in the caption of this Complaint.

2. At all times relevant hereto, the defendant(s) was the holder of a credit card, which at the request of the defendant(s) was issued to the defendant(s) by the plaintiff under the terms of which the plaintiff agreed to extend to defendant(s) the use of plaintiff's credit facilities.

3. Defendant(s) accepted and used the aforesaid credit card so issued and by so doing agreed to perform the terms and conditions prescribed by the plaintiff for the use of said credit card.

4. The defendant(s) received and accepted goods and merchandise and/or accepted services or cash advances through the use of the credit card issued by the Plaintiff. A true and correct copy of the Statement of Account is attached hereto as Exhibit "A".

5. All the credits to which the defendant(s) is entitled have been applied and there remains a balance due in the amount of \$1,313.74.

6. Plaintiff has made demand upon the defendant(s) for payment of the balance due of \$1,313.74 but the defendant(s) has failed and refused and still refuses to pay the same or any part thereof.

6. Defendant's last payment on account was made on 8/4/06.

WHEREFORE, plaintiff claims of the defendant(s) the sum of \$1,313.74 plus applicable costs, interest and attorney's fees.

GORDON & WEINBERG, P.C.

BY: \_\_\_\_\_

  
FREDERIC I. WEINBERG, ESQUIRE  
PAUL M. SCHOFIELD, JR., ESQUIRE  
Attorney for Plaintiff

P01A.DB

**VERIFICATION**

FREDERIC I. WEINBERG, ESQUIRE, hereby states that he is the attorney for the Plaintiff(s) in this action and verifies that the statements made in the foregoing pleading are true and correct to the best of his knowledge, information and belief.

The undersigned understands that the statements herein are made subject to the penalties of 18 Pa.C.S.A. Section 4904 relating to unsworn falsification to authorities.

  
\_\_\_\_\_  
FREDERIC I. WEINBERG, ESQUIRE

Exhibit "A"

2034446  
AFS AS ASSIGNEE OF WASHINGTON MUTUAL  
BANK K

MARY A DIXON

4559542000652675

AFFIDAVIT

I, Angie Alcorn, being duly served  
sworn according to law, depose and say that:

1. I am the agent for the Plaintiff herein and I have custody and control of the files relating to this account;
2. I have personal knowledge of the facts and circumstances in connection with this case;
3. Plaintiff's files are maintained in the usual and ordinary course of business;
4. This action is based on a claim for breach of contract and that damages are sought as a direct result of said breach;
5. After allowing for all offsets and credits, a balance remains on the subject account having account number 4559542000652675 in the amount of \$1,220.95; and
6. If called upon, affiant can testify at trial as to the facts pertaining to this matter.

The above facts are true and correct to the best of my knowledge, information and belief.

Angie Alcorn  
(Name of Affiant)

Sworn to and Subscribed  
before me this 12 day  
of Jul 2007

\_\_\_\_\_  
Notary Public

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 102719  
NO: 07-637-CD  
SERVICE # 1 OF 1  
COMPLAINT

PLAINTIFF: AFS As Assignee of Washington Mutual Bank  
vs.  
DEFENDANT: MARY A. DIXON

FILED  
073103/01  
SEP 28 2007

William A. Shaw  
Prothonotary/Clerk of Courts

SHERIFF RETURN

NOW, May 01, 2007 AT 9:34 AM SERVED THE WITHIN COMPLAINT ON MARY A. DIXON DEFENDANT AT 1122 SALADA RD, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO MARY A. DIXON, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN THE CONTENTS THEREOF.

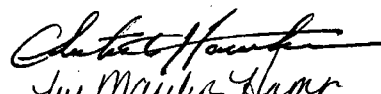
SERVED BY: NEVLING / COUDRIET

PURPOSE	VENDOR	CHECK #	AMOUNT
SURCHARGE	GORDON	33015	10.00
SHERIFF HAWKINS	GORDON	33015	36.43

Sworn to Before Me This

\_\_\_\_\_ Day of \_\_\_\_\_ 2007

So Answers,

  
Chester A. Hawkins  
Sheriff



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

AFS AS ASSIGNEE OF WASHINGTON  
MUTUAL BANK K,

Plaintiff

vs.

MARY A. DIXON,

Defendant

CIVIL DIVISION

No. 07 - 637 - CD

**PRELIMINARY OBJECTIONS TO  
PLAINTIFF'S COMPLAINT**

Filed on Behalf of:

Defendant, MARY A. DIXON

Counsel of Record for This  
Party:

JOSEPH COLAVECCHI, ESQUIRE  
Pa. I.D. #06810

COLAVECCHI & COLAVECCHI  
221 East Market Street  
P.O. Box 131  
Clearfield, PA 16830

814/765-1566

LAW OFFICES OF  
COLAVECCHI  
& COLAVECCHI  
221 E. MARKET ST.  
(ACROSS FROM  
COURTHOUSE)  
P. O. BOX 131  
CLEARFIELD, PA

**FILED** 300

*OK 10/18/07*  
OCT 18 2007 *My Colavecchi*

William A. Shaw  
Prothonotary/Clerk of Courts

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

AFS AS ASSIGNEE OF WASHINGTON, :  
MUTAL BANK K, : No. 07 - 637 - CD  
Plaintiff :  
vs. :  
MARY A. DIXON, :  
Defendant :

**PRELIMINARY OBJECTIONS  
TO PLAINTIFF'S COMPLAINT**

NOW COMES, Mary A. Dixon, who, through her attorney, Joseph Colavecchi, Esquire, files her Preliminary Objections to the Plaintiff's Complaint and respectfully avers as follows:

1. Plaintiff filed a Complaint in the Court of Common Pleas of Clearfield County, Pennsylvania, on or about April 23, 2007, alleging that Defendant owes Plaintiff One Thousand Three Hundred Thirteen Dollars and Seventy-four Cents (\$1,313.74).

2. Plaintiff in their Complaint alleged they were attaching to the Complaint certain records designated as Exhibit "A". There are no records or documents attached as Exhibit "A".

3. There is no explanation of the basis for this Complaint.

4. The Complaint amounts to an allegation that there is an account owed by Mary A. Dixon in the amount of One Thousand Three Hundred Thirteen Dollars and Seventy-four Cents (\$1,313.74).

5. Plaintiff has failed to attach a copy of any agreement between Plaintiff and Defendant.

6. Plaintiff has failed to produce detailed statements showing how they arrived at the amount alleged to be due.

7. Plaintiff has failed to set forth the basis for their charges and legal authority for such charges.

8. Plaintiff's Complaint is insufficient on its face and should be dismissed because Plaintiff failed to produce any written agreement between Plaintiff and Defendant and further failed to produce a detailed monthly statement of the account setting out a description of the goods and/or services for which they alleged Defendant agreed to pay.

9. There is not sufficient information for Defendant to even enter into a proper defense of the claims.

WHEREFORE, Defendant respectfully requests that Plaintiff's Complaint be stricken pursuant to Pa. R.C.P. 1028 on the grounds of legal insufficiency.

Respectfully submitted,



JOSEPH COLAVECCHI, ESQUIRE  
Attorney for Defendant  
221 East Market Street  
Clearfield, PA 16830

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

AFS AS ASSIGNEE OF WASHINGTON  
MUTUAL BANK K,

Plaintiff

vs.

MARY A. DIXON,

Defendant

CIVIL DIVISION

No. 07 - 637 - CD

**RULE**

Filed on Behalf of:

Defendant, MARY A. DIXON

Counsel of Record for This  
Party:

JOSEPH COLAVECCHI, ESQUIRE  
Pa. I.D. #06810

COLAVECCHI & COLAVECCHI  
221 East Market Street  
P.O. Box 131  
Clearfield, PA 16830

814/765-1566

**FILED**

OCT 22 2007

0/2:15 (✓)

William A. Shaw

Prothonotary/Clerk of Courts

3 copies to Axi (6K)

LAW OFFICES OF  
COLAVECCHI  
& COLAVECCHI  
221 E. MARKET ST.  
(ACROSS FROM  
COURTHOUSE)  
P. O. BOX 131  
CLEARFIELD, PA

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

AFS AS ASSIGNEE OF WASHINGTON :  
MUTUAL BANK K, : No. 07 - 637 - CD  
Plaintiff:  
:  
vs. :  
:  
MARY A. DIXON, :  
Defendant:

**FILED**  
OCT 22 2007

William A. Shaw  
Prothonotary/Clerk of Courts

**RULE**

AND NOW, this 22 day of October 2007, a Rule is hereby issued and directed to Plaintiff to show cause why the Complaint should not be dismissed because of the failure of the Plaintiff to comply with Pa. R.C.P. 1028 and to set out a basis for the allegations set forth in Plaintiff's Complaint.

This Rule is Returnable before the Court on the 7<sup>th</sup> day of December, 2007, at 10:00 o'clock A.M., at the Clearfield County Courthouse, Courtroom No. 1.

BY THE COURT:

  
JUDGE

FILED

OCT 22 2301

William A. Shaw

Prothonotary/Clerk of Courts

DATE: 10-22-01

4

- You are responsible for serving all appropriate parties.
- The Prothonotary's office has provided service to the following parties:
- Plaintiff(s) — Plaintiff(s) Attorney — Other
- Defendant(s) — Defendant(s) Attorney
- Special Instructions:

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


AFS AS ASSIGNEE OF WASHINGTON :  
MUTUAL BANK K, : No. 07 - 637 - CD  
Plaintiff :  
vs. :  
MARY A. DIXON, :  
Defendant :

FILED *no cc*  
01/10/30/07  
OCT 30 2007  
William A. Shaw  
Prothonotary/Clerk of Courts

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the Preliminary Objections to Plaintiff's Complaint and Rule Returnable in the above-captioned action was mailed by First Class Mail, postage prepaid, the 26<sup>th</sup> day of October 2007, to the attorney of record:

Frederic I. Weinberg  
Attorney at Law  
21 South 21<sup>st</sup> Street  
Philadelphia, PA 19103

  
JOSEPH COLAVECCHI, ESQUIRE  
Attorney for Defendant  
221 East Market Street  
P.O. Box 131  
Clearfield, PA 16830  
814/765-1566

Dated: 10/27/07

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

AFS AS ASSIGNEE OF WASHINGTON  
MUTUAL BANK K,

Plaintiff

CIVIL DIVISION

No. 07-6373-7 CD

vs.

MARY A. DIXON,  
Defendant

Defendant

PRELIMINARY OBJECTIONS TO  
PLAINTIFF'S AMENDED COMPLAINT

Filed on Behalf of:

Defendant, MARY A. DIXON

Counsel of Record for This  
Party:

JOSEPH COLAVECCHI, ESQUIRE

Pa. I.D. #06810

COLAVECCHI & COLAVECCHI  
221 East Market Street  
P.O. Box 131  
Clearfield, PA 16830  
814/765-1566

1. Plaintiff in their Complaint...

2. Plaintiff in their Complaint...

3. Plaintiff in their Complaint...

4. Plaintiff in their Complaint...

5. Plaintiff in their Complaint...

6. Plaintiff in their Complaint...

7. Plaintiff in their Complaint...

8. Plaintiff in their Complaint...

9. Plaintiff in their Complaint...

10. Plaintiff in their Complaint...

LAW OFFICES OF  
COLAVECCHI  
& COLAVECCHI  
221 E. MARKET ST.  
(ACROSS FROM  
COURTHOUSE)  
P.O. BOX 131  
CLEARFIELD, PA

FILED

DEC 05 2007

12:31 PM  
William A. Shaw  
Prothonotary/Clerk of Courts  
SENT TO ATT. 15.



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

AFS AS ASSIGNEE OF WASHINGTON  
MUTUAL BANK K,

Plaintiff

vs.

MARY A. DIXON,

Defendant

CIVIL DIVISION

No. 07 - 637 - CD

**PRELIMINARY OBJECTIONS TO  
PLAINTIFF'S AMENDED COMPLAINT**

Filed on Behalf of:

Defendant, MARY A. DIXON

Counsel of Record for This  
Party:

JOSEPH COLAVECCHI, ESQUIRE  
Pa. I.D. #06810

COLAVECCHI & COLAVECCHI  
221 East Market Street  
P.O. Box 131  
Clearfield, PA 16830

814/765-1566

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William A. Shaw  
Prothonotary/Clerk of Courts  
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COLAVECCHI  
& COLAVECCHI  
221 E. MARKET ST.  
(ACROSS FROM  
COURTHOUSE)  
P.O. BOX 131  
CLEARFIELD, PA

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

AFS AS ASSIGNEE OF WASHINGTON, :  
MUTAL BANK K, : No. 07 - 637 - CD  
Plaintiff :  
vs. :  
MARY A. DIXON, :  
Defendant :

**PRELIMINARY OBJECTIONS  
TO PLAINTIFF'S AMENDED COMPLAINT**

NOW COMES, Mary A. Dixon, who, through her attorney, Joseph Colavecchi, Esquire, files her Preliminary Objections to the Plaintiff's Amended Complaint and respectfully avers as follows:

1. Plaintiff filed a Complaint in the Court of Common Pleas of Clearfield County, Pennsylvania, on or about April 23, 2007, alleging that Defendant owes Plaintiff One Thousand Three Hundred Thirteen Dollars and Seventy-four Cents (\$1,313.74).

2. Plaintiff in their Complaint alleged they were attaching to the Complaint certain records designated as Exhibit "A". There are no records or documents attached as Exhibit "A".

3. There is no explanation of the basis for this Complaint.

4. The Amended Complaint amounts to an allegation that there is an account owed by Mary A. Dixon in the amount of One Thousand Two Hundred Twenty Dollars and Ninety-five Cents (\$1,220.95).

5. Plaintiff has failed to attach a copy of any agreement between Plaintiff and Defendant.

6. Plaintiff has failed to produce detailed statements showing how they arrived at the amount alleged to be due.

7. Plaintiff has failed to set forth the basis for their charges and legal authority for such charges.

8. Plaintiff's Amended Complaint is insufficient on its face and should be dismissed because Plaintiff failed to produce any written agreement between Plaintiff and Defendant and further failed to produce a detailed monthly statement of the account setting out a description of the goods and/or services for which they alleged Defendant agreed to pay.

9. There is not sufficient information for Defendant to even enter into a proper defense of the claims.

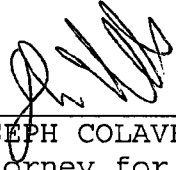
10. The First Amended Complaint states that Plaintiff has requested documents from storage archives that are not currently available. However, Plaintiff is required to have the documents in his possession prior to filing the Complaint in order to properly file a Complaint in good faith. A reference to storage archives is insufficient and gives no notice upon which Defendant can enter into a defense of this case.

11. Atlantic Credit and Finance, Inc. vs. Giuliana, 829 A.2d 340, Super 2003, sets forth that if a claim is based upon a writing, the pleader must attach to the Complaint, a copy of the

writing, a cardholder agreement, a statement of account and evidence of assignment from credit card issuer.

WHEREFORE, Defendant respectfully requests that Plaintiff's Amended Complaint be stricken pursuant to Pa. R.C.P. 1028 on the grounds of legal insufficiency and pursuant to Pa. R.C.P. 1019(i).

Respectfully submitted,



---

JOSEPH COLAVECCHI, ESQUIRE  
Attorney for Defendant  
221 East Market Street  
Clearfield, PA 16830

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

AFS AS ASSIGNEE OF WASHINGTON  
MUTUAL BANK K,

Plaintiff

vs.

MARY A. DIXON,

Defendant

CIVIL DIVISION

No. 07 - 637 - CD

**RULE**

Filed on Behalf of:

Defendant, MARY A. DIXON

Counsel of Record for This  
Party:

JOSEPH COLAVECCHI, ESQUIRE  
Pa. I.D. #06810

COLAVECCHI & COLAVECCHI  
221 East Market Street  
P.O. Box 131  
Clearfield, PA 16830

814/765-1566

LAW OFFICES OF  
COLAVECCHI  
& COLAVECCHI  
221 E. MARKET ST.  
(ACROSS FROM  
COURTHOUSE)  
P. O. BOX 131  
CLEARFIELD, PA

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

AFS AS ASSIGNEE OF WASHINGTON :  
MUTUAL BANK K, : No. 07 - 637 - CD  
Plaintiff:  
vs. :  
MARY A. DIXON, :  
Defendant:

**RULE**

AND NOW, this \_\_\_\_\_ day of December 2007, a Rule is hereby  
issued and directed to Plaintiff to show cause why the Amended  
Complaint should not be dismissed because of the failure of the  
Plaintiff to comply with Pa. R.C.P. 1028 and Pa. R.C.P. 1019(i).

This Rule is Returnable before the Court on the \_\_\_\_\_ day of  
\_\_\_\_\_, 200\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_ .M., at  
the Clearfield County Courthouse, Courtroom No. \_\_\_\_\_.

BY THE COURT:

\_\_\_\_\_  
JUDGE

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

AFS AS ASSIGNEE OF  
WASHINGTON MUTUAL BANK K

-VS-

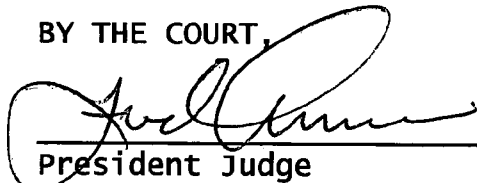
MARY A. DIXON

No. 07-637-CD

O R D E R

AND NOW, this 7th day of December, 2007, this being the date set for argument on the Preliminary Objections filed by the Defendant to the Plaintiff's Complaint. The Court notes that Plaintiff has filed an Amended Complaint and the Defendant has filed Preliminary Objections to the Amended Complaint. Counsel for the Plaintiff has not appeared before the Court today, with the Court presuming that counsel for the Plaintiff believed the need for the hearing was negated by the filing of the Amended Complaint. Accordingly, it is the ORDER of this Court that argument on the Preliminary Objections to the Plaintiff's Amended Complaint be and are hereby scheduled for the 4th day of January, 2008, at 2:30 p.m., Courtroom No. 1, Clearfield County Courthouse.

BY THE COURT,

  
President Judge

FILED  
DEC 10 2007

icc Atty's:  
Weinberg  
J. Colavicchi

William A. Shaw  
Prothonotary/Clerk of Courts

(GK)

FILED

DEC 10 2007

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 12/10/07

\_\_\_\_ You are responsible for serving all appropriate parties.

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

\_\_\_\_ Plaintiff(s) X Plaintiff(s) Attorney \_\_\_\_ Other

\_\_\_\_ Defendant(s) X Defendant(s) Attorney

\_\_\_\_ Special Instructions:



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**No. 07-637-CD**

1 JAN 11 2008  
01/12/15/16  
William A. Shaw  
Prothonotary/Clerk of Courts  
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F. WEINBERG  
J. COLANALISI

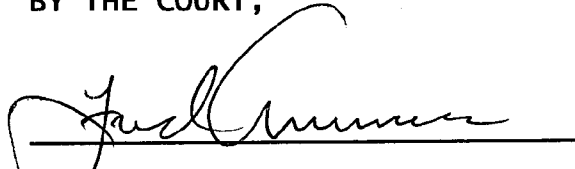
3. The Court then scheduled argument on the

Preliminary Objections to the Amended Complaint for January 4, 2008;

4. Upon the Court's review of the file, the Court discovered that Plaintiff has never filed an Amended Complaint, as was represented. However, Plaintiff did cause a copy of an Amended Complaint (which was never filed) to be mailed to Defense counsel;

5. In consideration of the circumstances, and that Plaintiff has not proceeded in a manner consistent with the Rules of Civil Procedure, it is the ORDER of this Court that the Defendant's Preliminary Objections be granted and the above-captioned case be and is hereby dismissed.

BY THE COURT,



President Judge

DATE: 1-11-08

       You are responsible for serving all appropriate parties.

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

       Plaintiff(s)   X   Plaintiff(s) Attorney        Other

       Defendant(s)   X   Defendant(s) Attorney

       Special Instructions:

William A. Shaw  
Prothonotary/Clerk of Courts

JAN 11 2008

FILED