

2007-1109-CD  
Capital One vs Jane Kanouff Flora

07-1109-CD  
Capital One vs Jane Kanouff Flora

105431

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY  
PENNSYLVANIA

CAPITAL ONE BANK  
(Plaintiff)

CIVIL ACTION

C/O Apotheker & Associates, P.C.  
2417 Welsh Road  
(Street Address)  
Suite 21 #520  
Philadelphia, PA 19114  
(City, State ZIP)

No. 07-1109-CJ

Type of Case: Civil

Type of Pleading: Complaint

vs.

Filed on Behalf of:

JANE KANOUFF FORD (Plaintiff/Defendant)  
(Defendant)

426 Poplar Ave  
(Street Address)

Clearfield PA 16830  
(City, State ZIP)

FILED <sup>1885.50 Atty</sup>  
<sup>m 112.15 cm ICC Shlf</sup>  
<sup>JUL 16 2007 ICC Atty</sup>  
*LS*

William A. Shaw  
Prothonotary/Clerk of Courts

DAVID APOTHAKER Esq  
(Filed by)

Apotheker & Associates, P.C.  
2417 Welsh Road  
Suite 21 #520  
(Address) Philadelphia, PA 19114

215-634-8920  
(Phone)

DAVID APOTHAKER  
(Signature)

Our File No.: 105431  
APOTHAKER & ASSOCIATES, P.C.  
BY: David J. Apothaker, Esq.  
Attorney I.D.#38423  
2417 Welsh Road, Suite 21 #520  
Philadelphia, PA 19114  
(215) 634-8920  
Attorneys for Plaintiff

---

CAPITAL ONE BANK ) COURT OF COMMON PLEAS  
c/o Apothaker & Associates, P.C. ) CLEARFIELD COUNTY  
2417 Welsh Road, Suite 21 #520 )  
Philadelphia, PA 19114 ) NO.:  
Plaintiff, )  
vs. )  
JANE KANOUFF FLORA )  
426 POPLAR AVE )  
CLEARFIELD, PA 16830-2938 )  
Defendant. )  
)

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### 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 with 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 ONE. 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.

CLEARFIELD COUNTY BAR ASSOCIATION  
Lawyer Referral and Information Service  
814-765-2641

### **AVISO**

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las páginas siguientes, usted tiene veinte (20) días de plazo al partir de la fecha de la demanda y la notificación. Hace falta asentar una comparecencia escrita o con un abogado y entregar a la corte en forma escrita sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomará medidas y puede continuar la demanda en contra suya sin previo aviso o notificación. Además, la corte puede decidir a favor del demandante y requiere que usted compla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFFICIENTE DE PAGAR TAL SERVICIO. VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

CLEARFIELD COUNTY BAR ASSOCIATION  
Lawyer Referral and Information Service  
814-765-2641

APOTHAKER & ASSOCIATES, P.C.

BY: David J. Apothaker, Esq.

Attorney I.D.#38423

2417 Welsh Road, Suite 21 #520

Philadelphia, PA 19114

(215) 634-8920

Attorneys for Plaintiff

---

CAPITAL ONE BANK

c/o Apothaker & Associates, P.C.

2417 Welsh Road, Suite 21 #520

Philadelphia, PA 19114

Plaintiff,

vs.

) COURT OF COMMON PLEAS

) CLEARFIELD COUNTY

)

) NO.:

)

)

)

JANE KANOUFF FLORA

426 POPLAR AVE

CLEARFIELD, PA 16830-2938

Defendant.

)

)

**CIVIL ACTION COMPLAINT  
FIRST COUNT**

1. Plaintiff, CAPITAL ONE BANK, is a company with its principal place of business located at c/o Apothaker & Associates, P.C., 2417 Welsh Road, Suite 21 #520, Philadelphia, PA 19114.

2. Defendant is JANE KANOUFF FLORA, an adult individual residing at 426 POPLAR AVE CLEARFIELD, PA 16830-2938.

3. At the special instance and request of Defendant, Plaintiff sold and delivered to Defendant goods and/or services at the times, of the kinds, in the quantities, and for the prices set forth in Plaintiff's records. A true and correct copy of which is attached hereto, incorporated herein by reference and designated Exhibit "A".

4. Defendant received and accepted the goods and/or services described in Exhibit "A".

5. The prices set forth in Exhibit "A" are the fair, reasonable and market prices for said goods and/or services, and the prices which Defendant agreed to pay.

6. All credits, if any, to which Defendant is entitled, are set forth in Exhibit "A".

7. In addition, Plaintiff avers that Defendant has failed and continues to fail to make any payments, leaving a balance due and owing of \$9,981.37.

8. Although demand has been made, Defendant has failed to make payment of the amount due as above.

WHEREFORE, Plaintiff demands judgment in favor of Plaintiff and against Defendant(s) for the sum of \$9,981.37 plus costs, and reasonable attorney's fees.

APOTHAKER & ASSOCIATES, P.C.  
Attorney for Plaintiff  
A Law Firm Engaged in Debt Collection

BY: \_\_\_\_\_  
David J. Apothaker

Dated: 7/9/2007

Our File No.: 105431

VERIFICATION

Randy Palky, hereby states that I am Agent for plaintiff in this action, and that I am authorized to take this Verification, and that the statements made in the foregoing Civil Action Complaint are true and correct to the best of my knowledge, information, and belief. The undersigned understands that the statements therein are made subject to the penalties of 18 Pa.C.S.A. 4904 relating to unsworn falsification to authorities.

Randy Palky

DATE:

CAPITAL ONE BANK  
c/o Apothaker & Associates, P.C.  
2417 Welsh Road, Suite 21 #520  
Philadelphia, PA 19114

JANE KANOUFF FLORA  
426 POPLAR AVE  
CLEARFIELD, PA 16830-2938

STATEMENT OF ACCOUNT

Debtor's Name: JANE KANOUFF FLORA

Account Number: 5178052296123785

Balance Due: \$9,981.37

Our File No.: 105431

EXHIBIT "A"

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

CAPITAL ONE BANK,  
Plaintiff

No. 2007 - 1109 - CD

Vs.

PRELIMINARY OBJECTIONS TO  
PLAINTIFF'S COMPLAINT

JANE KANOUFF FLORA,  
Defendant

Filed on Behalf of:

Defendant, JANE KANOUFF FLORA

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  
01/03/2007 3CC  
SEP 13 2007 Atty  
J. Colavecchi  
William A. Shaw  
Prothonotary/Clerk of Courts  
GA

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

CAPITAL ONE BANK, :  
Plaintiff:  
:  
vs. : No. 07 - 1109 - CD  
:  
JANE KANOUFF FLORA :  
Defendant:

PRELIMINARY OBJECTIONS TO PLAINTIFF'S COMPLAINT

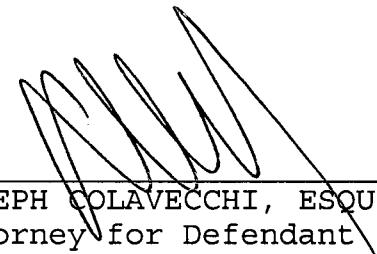
NOW COMES, Jane Kanouff, named in the above-captioned action as Jane Kanouff Flora, who through her Attorney, Joseph Colavecchi, Esquire, files her Preliminary Objections to the Plaintiff's Complaint and respectfully avers as follows:

1. Plaintiff filed a Complaint in the Court of Common Pleas of Clearfield County, Pennsylvania, on or about July 16, 2007 alleging that Plaintiff owes Defendant Nine Thousand Nine Hundred Eighty-one Dollars and Thirty-seven Cents (\$9,981.37).

2. Plaintiff in their Complaint alleged they were attaching to the Complaint certain records designated as Exhibit "A". However, there was no Exhibit "A" attached to the Complaint as served on Defendant.

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 "Jane Kanouff Flora" in the amount of Nine Thousand Nine Hundred Eighty-one Dollars and Thirty-seven Cents (\$9,981.37). This name is incorrect and we assume that Plaintiff means Flora Jane Kanouff.
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 a 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.



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

9/18/17  
Date

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

CAPITAL ONE BANK,  
Plaintiff

Vs.

JANE KANOUFF FLORA,  
Defendant

CIVIL DIVISION

No. 2007 - 1109 - CD

CERTIFICATE OF SERVICE

Filed on Behalf of:

Defendant, JANE KANOUFF FLORA

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 NO CC  
010365  
SEP 13 2004  
W.A. Shaw  
Clerk of Courts

William A. Shaw  
Prothonotary/Clerk of Courts

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

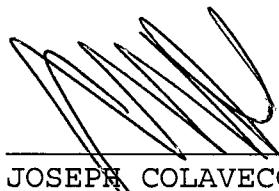
CAPITAL ONE BANK :  
Plaintiff :  
:  
vs. : No. 07 - 1109 - CD  
:  
JANE KANOUFF FLORA :  
Defendant :

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on September 13, 2007, Preliminary Objections to Plaintiff's Complaint in the above matter was served on the following by depositing said copy in the United States Mail, first class, postage prepaid and addressed as follows:

Apothaker & Associates, P.C.  
Suite 21 #520  
2517 Welsh Road  
Philadelphia, PA 19114

DATE: September 13, 2007

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

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

CAPITAL ONE BANK,  
Plaintiff

No. 2007 - 1109 - CD

Vs.

RULE

JANE KANOUFF FLORA,  
Defendant

Filed on Behalf of:

Defendant, JANE KANOUFF FLORA

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 3cc  
01/27/08 Amy  
SEP 17 2007 Colavecchi  
William A. Shaw  
Prothonotary/Clerk of Courts  
GK

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

CAPITAL ONE BANK, :  
Plaintiff:  
:  
vs. : No. 07 - 1109 - CD  
:  
JANE KANOUFF FLORA :  
Defendant:

R U L E

AND NOW, this 14 day of September, 2007, a Rule is hereby issued and directed to Plaintiff, Capital One Bank, through their Attorneys, Apothaker & Associates, P.C., to show cause why said 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 5<sup>th</sup> day of November, 2007, at 10:00 o'clock A.M., at the Clearfield County Courthouse, Courtroom Number 1.

BY THE COURT:



JUDGE

FILED

SEP 17 2007

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 9/17/07

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

CAPITAL ONE BANK,  
Plaintiff  
vs.

JANE KANOUFF FLORA,  
Defendant

CIVIL DIVISION  
No. 07 - 1109 - CD

**CERTIFICATE OF SERVICE**

Filed on Behalf of:

Defendant, JANE KANOUFF FLORA

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  
013-21651  
SEP 21 2007  
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William A. Shaw  
Prothonotary/Clerk of Courts

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

CAPITAL ONE BANK,

Plaintiff : No. 07 - 1109 - CD

vs.

JANE KANOUFF FLORA,

Defendant :

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the Preliminary Objections and Rule in the above-captioned action were mailed by First Class Mail, postage prepaid, the 20th day of September 2007 to the attorney of record:

DAVID APOTHAKER  
Attorney at Law  
2417 Welsh Road  
Suite 21 #520  
Philadelphia, PA 19114

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

Dated: 1/28/07

Our File No.: 105431  
APOTHAKER & ASSOCIATES, P.C.  
BY: Kimberly F. Scian, Esq.  
Attorney I.D.#55140  
2417 Welsh Road, Suite 21 #520  
Philadelphia, PA 19114  
(215) 634-8920  
Attorneys for Plaintiff

FILED  
M 7/23/07  
OCT 18 2007  
NO CC  
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CAPITAL ONE BANK  
c/o Apothaker & Associates, P.C.  
2417 Welsh Road, Suite 21 #520  
Philadelphia, PA 19114

Plaintiff,

vs.

JANE KANOUFF FLORA  
426 POPLAR AVE  
CLEARFIELD, PA 16830-2938  
Defendant.

) COURT OF COMMON PLEAS  
 ) CLEARFIELD COUNTY  
 )  
 ) NO.: 07-1109-CD  
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William A. Shaw  
Prothonotary/Clerk of Courts

### 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 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.

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CLEARFIELD COUNTY BAR ASSOCIATION  
Lawyer Referral and Information Service  
814-765-2641

### **AVISO**

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las páginas siguientes, usted tiene veinte (20) días de plazo al partir de la fecha de la demanda y la notificación. Hace falta asentir una comparecencia escrita o con un abogado y entregar a la corte en forma escrita sus objeciones a las demandas en contra de su persona. Se avisa que si usted no se defiende, la corte tomará medidas y puede continuar la demanda en contra suya sin previo aviso o notificación. Además, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFFICIENTE DE PAGAR TAL SERVICIO. VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

CLEARFIELD COUNTY BAR ASSOCIATION  
Lawyer Referral and Information Service  
814-765-2641

**APOTHAKER & ASSOCIATES, P.C.**

BY: Kimberly F. Scian, Esq.

Attorney I.D.#55140

2417 Welsh Road, Suite 21 #520

Philadelphia, PA 19114

(215) 634-8920

Attorneys for Plaintiff

**CAPITAL ONE BANK**  
c/o Apotheker & Associates, P.C.  
2417 Welsh Road, Suite 21 #520  
Philadelphia, PA 19114

**Plaintiff,**

VS.

JANE KANOUFF FLORA  
426 POPLAR AVE  
CLEARFIELD, PA 16830-2938  
Defendant

) COURT OF COMMON PLEAS  
 ) CLEARFIELD COUNTY  
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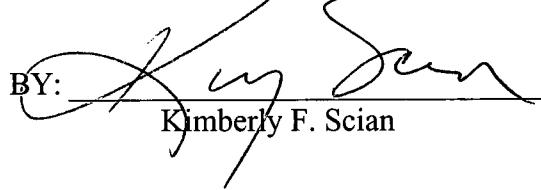
**AMENDED COMPLAINT  
FIRST COUNT**

1. Plaintiff, CAPITAL ONE BANK, is a company with its principal place of business located at c/o Apothaker & Associates, P.C., 2417 Welsh Road, Suite 21 #520, Philadelphia, PA 19114.
2. Defendant is JANE KANOUFF FLORA, an adult individual residing at 426 POPLAR AVE CLEARFIELD, PA 16830-2938.
3. Defendant applied for and received a credit card from account number 5178052296123785.
4. Defendant used the credit card, account number 5178052296123785, and as of July 09, 2007 there was an outstanding balance due and owing in the amount of \$9,981.37.
5. Plaintiff purchased this account and presently owns and holds this account.
6. When Plaintiff purchased this account there was an outstanding balance due and owing of \$9,981.37. Attached hereto as Exhibit "A" is an application.

WHEREFORE, Plaintiff demands judgment in favor of Plaintiff and against Defendant(s) for the sum of \$9,981.37, plus costs, interest and reasonable attorney's fees.

APOTHAKER & ASSOCIATES, P.C.  
Attorney for Plaintiff  
A Law Firm Engaged in Debt Collection

BY:

  
Kimberly F. Scian

Dated: October 15, 2007

Our File No.: 105431

**VERIFICATION**

Randy Paling, hereby states that I am Agent for plaintiff in this action, and that I am authorized to take this Verification, and that the statements made in the foregoing Civil Action Complaint are true and correct to the best of my knowledge, information, and belief. The undersigned understands that the statements therein are made subject to the penalties of 18 Pa.C.S.A. 4904 relating to unsworn falsification to authorities.

Randy Paling

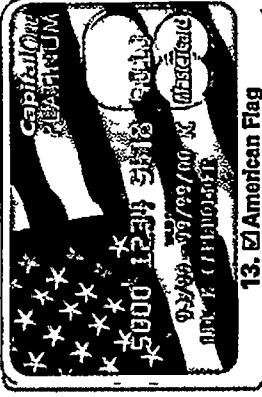
DATE:

# PLATINUM MASTERCARD® INVITATION

7141037160244 005 001

Please correct  
name or address  
if necessary

Flora J. Kanouff  
426 Poplar Ave  
Clearfield, PA 16830-2938



YES, I WANT MY NEW  
PLATINUM MASTERCARD!

If you don't choose a sticker,  
you will receive the  
Platinum design

Please print clearly in black or blue ink

*Flora J. Kanouff*

Social Security Number

174-28-0059

Date of Birth

1/1/433

Card/Loan Issuer  
Account  
Number

Specific  
Amount  
to Pay

This offer expires: March 25, 2003

## Transfer Opportunity

YES! I want to transfer the following balance(s) immediately, and agree to receive the Privacy Notice from Capital One® later along with other account information. Transfers will be made only if the entire requested amount is within my assigned credit line. There is no fee for transferring balances.

I have read the IMPORTANT DISCLOSURES, including the provision relating to Arbitration, and Terms of Offer enclosed, and agree to be bound as specified therein. If I have completed the Transfer Request, I have read and agree to the transfer information enclosed. You are authorized to check my credit and employment history. This offer is nontransferable. To avoid delays, please provide all information requested.

Signature *Flora J. Kanouff* Date 3/6/03 UPM-L10

► Transfer up to 3 additional balances and save even more

Please see the Important Disclosures on the back  
of the letter for rate, fee and other cost information.



APOTHAKER & ASSOCIATES, P.C.

BY: Kimberly F. Scian, Esq.

Attorney I.D.#55140

2417 Welsh Road, Suite 21 #520

Philadelphia, PA 19114

(215) 634-8920

Attorney for Plaintiff

---

CAPITAL ONE BANK

) COURT OF COMMON PLEAS

) CLEARFIELD COUNTY

)

Plaintiff,

)

vs.

)

) NO.: 07-1109-CD

)

JANE KANOUFF FLORA

)

)

Defendant.

)

)

CERTIFICATION OF SERVICE

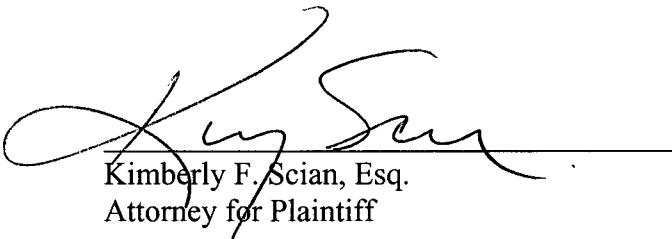
I, Kimberly F. Scian, Esq., attorney for Plaintiff, certify that on October 15, 2007, I mailed a copy of the

Amended Complaint by Regular mail to

Joseph Colavecchi, Esquire

221 East Market Street

Clearfield, PA 16830



Kimberly F. Scian, Esq.  
Attorney for Plaintiff

Date: October 15, 2007

Our File No.: 105431

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CAPITAL ONE BANK,

Plaintiff

vs.

JANE KANOUFF FLORA,

Defendant

CIVIL DIVISION

No. 07 - 1109 - CD

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

Filed on Behalf of:

Defendant, JANE KANOUFF FLORA

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

3CC  
FILED *Oct 19 2007* Atty Colavecchi  
*Oct 19 2007* (6P)  
William A. Shaw  
Prothonotary/Clerk of Courts

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

CAPITAL ONE BANK,

Plaintiff : No. 07 - 1109 - CD

vs.

JANE KANOUFF FLORA,

Defendant :

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

NOW COMES, Flora Jane Kanouff, who, through, her attorney, Joseph Colavecchi, Esquire, files her Preliminary Objections to Plaintiff's Amended Complaint and respectfully avers as follows:

1. Plaintiff filed an Amended Complaint in the Court of Common Pleas of Clearfield County, Pennsylvania, on or about October 10, 2007, alleging that some individual whose name is Jane Kanouff Flora owes Nine Thousand Nine Hundred Eighty-one Dollars and Thirty-seven Cents (\$9,981.37).

2. The Defendant named in this Amended Complaint is unknown and appears to have no relation to Flora Jane Kanouff.

3. Plaintiff in their Amended Complaint sets forth that their named Defendant applied for and received a credit card and utilized the credit card. However, Plaintiff failed to attach copies of the applications allegedly signed by Defendant or any statements or any type of documentation showing any liability of Flora Jane Kanouff.

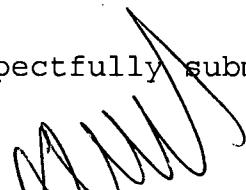
4. The entire Amended Complaint is lacking in any type of documentation or proof to show how Plaintiff arrived at their conclusions, all of which is in violation of Pa. R.C.P. 1028.

5. Plaintiff's Amended Complaint is insufficient on its face and should be dismissed because of the failure of Plaintiff to properly name Defendant and to produce any documentation whatsoever to justify the allegations set forth in their Amended Complaint.

6. There is not sufficient information for Defendant to enter into a proper defense of this claim.

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

Respectfully submitted,



---

JOSEPH COLAVECCHI, ESQUIRE  
Attorney for Defendant

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CAPITAL ONE BANK,

Plaintiff

vs.

JANE KANOUFF FLORA,

Defendant

CIVIL DIVISION

No. 07 - 1109 - CD

**RULE**

Filed on Behalf of:

Defendant, JANE KANOUFF FLORA

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 2001

6 2:15 PM  
William A. Shaw  
Prothonotary/Clerk of Courts

GK

3 cent to Attn

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

CAPITAL ONE BANK,

Plaintiff : No. 07 - 1109 - CD

vs.

JANE KANOUFF FLORA,

Defendant :

**FILED**

OCT 22 2007

07/22/07

William A. Shaw GK  
Prothonotary/Clerk of Courts  
3 cent to A.M.

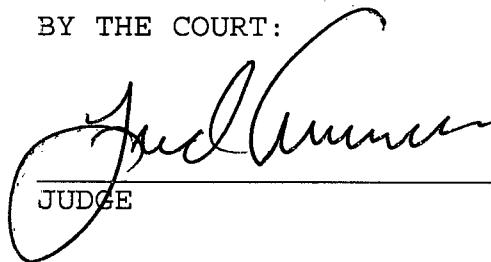
**RULE**

AND NOW, this 22<sup>nd</sup> day of October, 2007, upon  
consideration of the foregoing Preliminary Objections to  
Plaintiff's Amended Complaint, a Rule is hereby issued on the  
Plaintiff to appear and show cause why the relief requested therein  
should not be granted.

Rule made Returnable the 7<sup>th</sup> day of December,  
2007, at 10:30 A.M., Clearfield County Courthouse, Courtroom No.  
1.

A total of one-half (1/2) hour has been set aside for this  
hearing.

BY THE COURT:



JUDGE

**FILED**

OCT 22 2007

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 10-22-07

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:

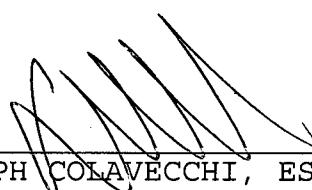
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

CAPITAL ONE BANK, : Plaintiff : No. 07 - 1109 - CD  
vs. : :  
JANE KANOUFF FLORA, : Defendant :

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the Preliminary Objections to Plaintiff's Amended 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:

Kimberly F. Scian  
Attorney at Law  
2417 Welsh Road, Suite 21 #520  
Philadelphia, PA 19114

  
JOSEPH COLAVECCHI, ESQUIRE  
Attorney for Defendant  
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

Dated: 10/26/07

**FILED** No CC  
10/29/07  
OCT 29 2007  


William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 102998  
NO: 07-1109-CD  
SERVICE # 1 OF 1  
COMPLAINT

PLAINTIFF: CAPITAL ONE BANK  
vs.  
DEFENDANT: JANE KANOUFF FLORA

FILED

93:00  
DEC 05 2007

William A. Shaw  
Prothonotary/Clerk of Courts

SHERIFF RETURN

---

NOW, July 26, 2007 AT 3:09 PM SERVED THE WITHIN COMPLAINT ON JANE KANOUFF FLORA DEFENDANT AT 426 POPLAR AVE., CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO JANE KANOUFF FLORA, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: HUNTER /

WMA

PURPOSE	VENDOR	CHECK #	AMOUNT
SURCHARGE	APOTHAKER	52814G	10.00
SHERIFF HAWKINS	APOTHAKER	52814G	20.00

Sworn to Before Me This

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

So Answers,

*Chester A. Hawkins*  
*by Marly Hauer*  
Chester A. Hawkins  
Sheriff

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

CAPTIAL ONE BANK,  
Plaintiff

vs.

JANE KANOUFF FLORA,  
Defendant

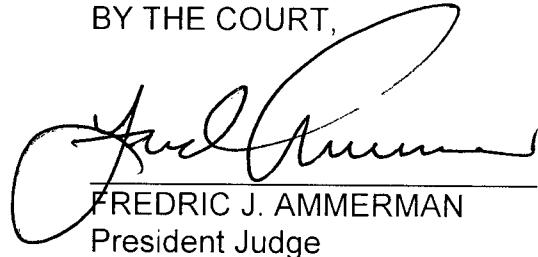
\*  
\*  
\*  
\*

NO. 07-1109-CD

O R D E R

NOW, this 7th day of December, 2007, it is the ORDER of this Court that the Defendant's Preliminary Objections to the Plaintiff's Complaint be granted. The Plaintiff shall have no more than 30 days from this date to file an Amended Complaint which shall contain a true and correct copy of the agreement entered into by the Defendant at the time the credit card was issued as well as a detailed statement of the account showing purchases made and calculation of all interest charges, late fees, attorney's fees and any other costs or charges which are part of the demand for payment.

BY THE COURT,



FREDRIC J. AMMERMAN  
President Judge

FILED 100  
02/5/2008 Atty's: Apostaker  
DEC 10 2007 J. Colavecchi

William A. Shaw  
Prothonotary/Clerk of Courts

(6K)

**FILED**

**DEC 10 2007**

**William A. Shaw**  
**Prothonotary/Clerk of Courts**

DATE: 12/10/07

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

CAPITAL ONE BANK,

Plaintiff

vs.

JANE KANOUFF FLORA,

Defendant

CIVIL DIVISION

No. 07 - 1109 - CD

**MOTION FOR JUDGMENT BASED  
ON COURT ORDER**

Filed on Behalf of:

Defendant, JANE KANOUFF FLORA

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 3CC  
010-32301 Atty Colavecchi;  
JUN 09 2008

William A. Shaw  
Prothonotary/Clerk of Courts

GW

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

CAPITAL ONE BANK,

Plaintiff : No. 07 - 1109 - CD

vs.

JANE KANOUFF FLORA,

Defendant :

**MOTION FOR JUDGMENT BASED  
ON COURT ORDER**

NOW COMES, the Defendant Jane Kanouff Flora, also known as Flora Jane Kanouff, who, through her attorney, Joseph Colavecchi, Esquire, files this Motion requesting judgment be entered in favor of the Defendant and respectfully avers as follows:

1. Plaintiff filed a Complaint on or about July 16, 2007, against Jane Kanouff Flora, also known as, Flora Jane Kanouff. Attached hereto and marked Exhibit "A" is a copy of the docket entries in this case starting on July 16, 2007, through and including December 10, 2007.

2. Preliminary Objections were filed on behalf of the Defendant on September 13, 2007.

3. A Rule was issued and directed to Plaintiff to show cause why the Complaint should not be dismissed and a hearing was held on this matter on November 5, 2007.

4. On or about October 18, 2007, an Amended Complaint was filed by Plaintiff.

5. On October 19, 2007, Preliminary Objections to Plaintiff's Amended Complaint was filed by Defendant.

6. A Rule Returnable was issued by the Court which was returnable on December 7, 2007, directed to the Plaintiff.

7. An Order was issued by the Court on December 7, 2007, granting the Defendant's Preliminary Objections. Said Order further set forth that the Plaintiff shall have no more than 30 days from that date to file an Amended Complaint which should include a true and correct copy of the Agreement entered into by the Defendant at the time the credit card was issued as well as a detailed statement of the account showing purchases made and a calculation of all interest charged, late fees, attorney's fees and any other costs or charges which are part of the demand for payment. A copy of the Order dated December 7, 2007, is attached hereto and marked Exhibit "B".

8. As of the date of filing this Motion, being June 9, 2008, Defendant has not received the documents set forth in the Order of Court dated December 7, 2007.

9. Since this is in violation of the Court Order, Defendant is asking that the Complaint be dismissed, with prejudice, and that judgment be entered in favor of Defendant, Jane Kanouff Flora, also known as Flora Jane Kanouff.

WHEREFORE, Defendant requests your Honorable Court to dismiss the Complaint as filed against the Defendant, with prejudice, and

that judgment be entered in favor of Defendant and against Plaintiff.

Respectfully submitted,

  
JOSEPH COLAVECCHI, ESQUIRE  
Attorney for Defendant

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

Date: 06/05/2008

**Clearfield County Court of Common Pleas**

User: PUBLIC

Time: 02:14 PM

**ROA Report**

Page 1 of 1

Case: 2007-01109-CD

Current Judge: Fredric Joseph Ammerman

Capital One Bankvs.Jane Kanouff Flora

**Civil Other-COUNT**

Date	Judge
12/10/2007	Order, this 7th day of Dec., 2007, Defendant's Preliminary Objections to the Plaintiff's Complaint is granted. The Plaintiff shall have no more than 30 days from this date to file an Amended Complaint. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Attys: Apothaker, J. Colavecchi
12/05/2007	Sheriff Return, July 26, 2007 at 3:09 pm Served the within Complaint on Jane Kanouff Flora by handing to Jane Kanouff Flora. So Answers, Chester A. Hawkins, Sheriff by s/Marilyn Hamm Shff Hawkins costs pd by Apothaker \$30.00
10/29/2007	Certificate of Service, filed. That a true and correct copy of the Preliminary Objections to Plaintiff's Amended Complaint and Rule Returnable in the above-captioned action was mailed by first class mail on the 26th day of October 2007 to Kimberly F. Scian Esq., filed by s/ Joseph Colavecchi Esq. No CC.
10/22/2007	Rule, this 22nd day of Oct., 2007, upon consideration of the Preliminary Objections to Plaintiff's Amended Complaint, a Rule is issued on the Plaintiff. Rule Returnable the 7th day of Dec., 2007, at 10:30 a.m. Courtroom 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 3CC to Atty.
10/19/2007	Preliminary Objections to Plaintiff's amended Complaint, filed by s/ Joseph Colavecchi, Esquire. 3CC Atty. Colavecchi
10/18/2007	Amended Complaint, filed by s/ Kimberly F. Scian, Esquire. No CC
09/21/2007	Certificate of Service, filed. That a true and correct copy of the Preliminary Objections and Rule in the above-captioned action were mailed to David Apothaker Esq., on the 20th day of September 2007, filed by s/ Joseph Colavecchi Esq. NO CC.
09/17/2007	Rule, this 14th day of Sept., 2007, a Rule is issued and directed to Plaintiff to show cause why the Complaint should not be dismissed. Rule is Returnable on the 5th of Nov., 2007, at 10:00 a.m. Courtroom 1. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 3CC Atty. Colavecchi
09/13/2007	Certificate of Service, filed. That on September 13, 2007 Preliminary Objections to Plaintiff's Complaint in the above matter was served on Apothaker & Associates, filed by s/ Joseph Colavecchi Esq. No CC.
	Preliminary Objections To Plaintiff's Complaint, filed by s/ Joseph Colavecchi, Esquire. 3CC Atty. Colavecchi
07/16/2007	Filing: Overage Paid by: Apothaker, David J. (attorney for Capital One Bank) Receipt number: 1919803 Dated: 7/16/2007 Amount: \$.50 (Check)
	Filing: Civil Complaint Paid by: Apothaker, David J. (attorney for Capital One Bank) Receipt number: 1919803 Dated: 7/16/2007 Amount: \$85.00 (Check) 1CC Shff and 1CC Atty.
	New Case Filed.
	No Judge

Defendant's Exhibit

"A"

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

CAPTIAL ONE BANK,  
Plaintiff

vs.

JANE KANOUFF FLORA,  
Defendant

NO. 07-1109-CD

ORDER

NOW, this 7th day of December, 2007, it is the ORDER of this Court that the Defendant's Preliminary Objections to the Plaintiff's Complaint be granted. The Plaintiff shall have no more than 30 days from this date to file an Amended Complaint which shall contain a true and correct copy of the agreement entered into by the Defendant at the time the credit card was issued as well as a detailed statement of the account showing purchases made and calculation of all interest charges, late fees, attorney's fees and any other costs or charges which are part of the demand for payment.

BY THE COURT,

/S/ Fredric J Ammerman

\_\_\_\_\_  
FREDRIC J. AMMERMAN  
President Judge

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

DEC 10 2007

Attest.



William J. Colavecci  
Prothonotary/  
Clerk of Courts

Defendant's Exhibit

"B"

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CAPITAL ONE BANK,

Plaintiff

CIVIL DIVISION

No. 07 - 1109 - CD

vs.

JANE KANOUFF FLORA,

Defendant

**RULE**

Filed on Behalf of:

Defendant, JANE KANOUFF FLORA

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 3CC  
07/11/2008 Atty J. Colavecchi  
JUN 11 2008

William A. Shaw  
Prothonotary/Clerk of Courts

60

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

CAPITAL ONE BANK,

Plaintiff : No. 07 - 1109 - CD

vs.

JANE KANOUFF FLORA,

Defendant :

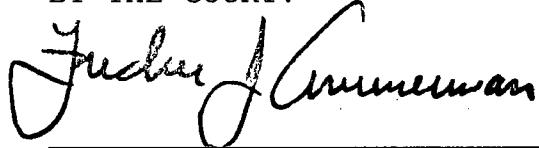
**RULE**

AND NOW, this 10<sup>th</sup> day of June, 2008, upon consideration of the foregoing Motion for Judgment in favor of Defendant, a Rule is hereby issued and directed to Plaintiff to show cause why the Complaint should not be dismissed because of the failure to comply with the Order of Court dated December 7, 2007.

This Rule is Returnable before this Court on the 8<sup>th</sup> day of August, 2008, at 9:00 A.M., Clearfield County Courthouse, Courtroom No. 1.

One-half (1/2) hour has been set aside for this hearing.

BY THE COURT:



FREDRIC J. AMMERMAN, President Judge

FILED

JUN 11 2008

William A. Shaw  
Prothonotary/Clerk of Courts

DATE: 6/11/08

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

CAPITAL ONE BANK,

Plaintiff : NO. 07 - 1109 - CD

vs.

JANE KANOUFF FLORA,

Defendant :

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the Motion for Judgment Based on Court Order and Rule Returnable in the above-captioned action was mailed by First Class Mail, postage prepaid, the 12<sup>th</sup> day of June 2008, to the attorney of record:

Kimberly F. Scian, Esquire  
Apothaker & Associates, P.C.  
2417 Welsh Road, Suite 21 #520  
Philadelphia, PA 19114



---

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

Dated:

6/12/08

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

FILED NOCC  
06/13/2008  
JUN 13 2008  
LAW  
William A. Shaw  
Prothonotary/Clerk of Courts

Our File No.: 105431  
APOTHAKER & ASSOCIATES, P.C.  
BY: David J. Apothaker, Esquire  
Attorney I.D.# 38423  
2417 Welsh Road, Suite 21 #520  
Philadelphia, PA 19114  
(215) 634-8920  
Attorney for Plaintiff

FILED  
11/12/2008  
AUG 11 2008  
2 cens to Mr  
William A. Shaw  
Notary/Clerk of Courts

**William A. Shaw  
Prothonotary/Clerk of Courts**

CAPITAL ONE BANK	)	COURT OF COMMON PLEAS
	)	CLEARFIELD COUNTY
Plaintiff,	)	
vs.	)	
JANE KANOUFF FLORA	)	NO. 07-1109-CD
	)	
Defendant.	)	
	)	

## **PRAECIPE TO DISMISS WITH PREJUDICE**

## TO THE PROTHONOTARY:

Kindly dismiss this action with prejudice.

**APOTHAKER & ASSOCIATES, P.C.**  
Attorneys for Plaintiff  
A Law Firm Engaged in Debt Collection

Kimberly F. Scian, Esquire

Dated: August 7, 2008