

07-1559-CD
Capital One vs John J. Toney

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

CAPITAL ONE BANK

Plaintiff

No: 07-1559-CD

vs.

COMPLAINT IN CIVIL ACTION

JOHN J TONEY

Defendant

FILED ON BEHALF OF
Plaintiff

COUNSEL OF RECORD OF
THIS PARTY:

James C. Warmbrodt, 42524
WELTMAN, WEINBERG & REIS CO., L.P.A.
436 Seventh Avenue, Suite 2718
Pittsburgh, PA 15219
(412) 434-7955
FAX: 412-338-7130
05938480 C N Pit SGM

FILED
M 1223/ON 85.00
SEP 21 2007
WM
William A. Shaw
Prothonotary/Clerk of Courts
1 CCSheriff

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

CAPITAL ONE BANK

Plaintiff
vs. Civil Action No
JOHN J TONEY
Defendant

COMPLAINT AND 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 an 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 OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

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.

COURT ADMINISTRATOR
CLEARFIELD COUNTY COURTHOUSE
230 EAST MARKET ST., SUITE 228
CLEARFIELD, PA 16830
(814) 765-2641, ext 1300-1301

COMPLAINT

1. Plaintiff, CAPITAL ONE BANK is a corporation with offices at 140 EAST SHORE DR GLEN ALLEN , VA 23059 .

2. Defendant is adult individual(s) residing at the address listed below:

JOHN J TONEY
25 CARDINAL DR
DU BOIS, PA 15801

3. Defendant applied for and received a credit card bearing the account number 5291491895798146 .

4. Defendant made use of said credit card and has a current balance due of \$9537.62 , as of August 23, 2007 .

5. Defendant is in default by failing to make monthly payments when due. As such, the entire balance is immediately due and payable to Plaintiff.

6. Plaintiff is entitled to the addition of interest at the rate of 19.800% per annum on the unpaid balance from August 23, 2007 . A copy of Plaintiff's STATEMENT is attached hereto, marked as Exhibit "1" and made a part hereof.

7. Although repeatedly requested to do so by Plaintiff, Defendant has willfully failed and/or refused to pay the balance due to Plaintiff.

Wherefore, the Plaintiff prays for judgment in its favor and against Defendant , JOHN J TONEY , INDIVIDUALLY , in the amount of \$9537.62 with continuing interest thereon at the rate of 19.800% per annum from August 23, 2007 plus costs.


James C. Warmbrodt, 42524
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05938480 C N Pit SGM

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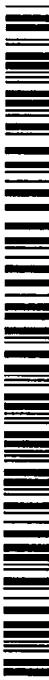
*PeoplePC Online: First 3 months are billed at \$4.97 per month; \$9.95 per month thereafter. Offer available to new dial-up subscribers at least 18 years of age and may not be redeemed with any other offer. Offer subject to change at any time. Phone technical support available for \$1.95 per minute.

†Accelerated is free for 12 months. Offer good for limited time. After the first 12 months, the Accelerated service will automatically revert to the standard PeoplePC Online service. Offer subject to change at anytime. With PeoplePC Online Accelerated, certain Web page text and graphics will load faster when compared to standard dial-up Internet service. Actual results may vary. PeoplePC Online Accelerated is only compatible with PeoplePC Online Internet service and specified Windows® browsers. PeoplePC Online Accelerated is not compatible with Windows® 95 with IE 5.5 SP2.

Service is available in all areas. Access fees, taxes, and other fees and restrictions may apply. Telephone toll charges may apply, even during trial periods. You are responsible for determining whether a call to one of our access numbers will result in telephone toll charges. Access may be limited, especially during times of peak usage. Dial-up numbers may be changed at PeoplePC's discretion. Continuous use subject to timeout procedures. All use is subject to PeoplePC Online's Services Agreement and Acceptable Use Policy. 56K is the maximum speed of service; actual speed may vary.

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44811MN
2.....

1. How To Avoid A Finance Charge.
† a. Grace Period. You will have a minimum grace period of 25 days without finance charge on new purchases, new balance transfers, new special purchases and new other charges if you pay your total "New Balance", in full, by the due date on your statement. If you pay less than, and in time for it to be credited by your next statement closing date, there is no grace period on cash advances and special transfers. In addition, there is no grace period on any transaction if you do not pay the total "New Balance".

b. Avoiding Finance Charges. Transactions which are not added to a grace period are assessed finance charge (1) from the date of the transaction or (2) from the date the transaction is processed to your Account or (3) from the first calendar day of the current billing period. Additionally, if you did not pay the "New Balance" from the previous billing period in full, finance charges continue to accrue to your "New Balance" until it is paid in full. This means that you may still owe finance charges even if you pay the entire "New Balance" indicated on the front of your statement by the next statement closing date, but did not do so for the previous month. Unpaid finance charges are added to the applicable segment of your Account.

c. Annual Percentage Charge. For the billing period that your Account is subject to a finance charge, a minimum TOTAL FINANCE CHARGE of \$0.50 will be imposed. If the total finance charge resulting from the application of your periodic rates is less than \$0.50, we will subtract that amount from the \$0.50 minimum and the difference will be added to the purchase segment of your account.

d. Transfers. Reduction in Finance Charge. We reserve the right to not assess any or all finance charges for any given billing period.

2. Average Daily Balance (including New Purchases).

a. Finance charge is calculated by multiplying the daily balance of each segment of your account (e.g., cash advance, purchases, special transfers, and new purchase) by the corresponding daily periodic rate(s) that has been previously disclosed to you. At the end of each day during the billing period, we apply the daily periodic rate for each segment of your account to the daily balance of each segment. Then at the end of the billing period, we add up the total daily balance for each segment to get your periodic finance charge for each segment. We add up the results from each segment to arrive at the total periodic finance charge for your account. To get the daily balance for each segment of your account, we take the beginning balance for each segment and add any new transactions and any periodic finance charge calculated on the previous day. The balance for that segment is then divided by the total payments or credit posted as of that day that are allocated to that segment. This gives us the separate daily balance for each segment of your account. However, if you paid the New Balance shown on your previous statement in full (or if your new balance was zero or a credit amount), new transactions while your account is open in the new purchase segments are not added to the daily balances. We calculate the average daily balance by adding all the daily balances together and dividing the sum by the number of the days in the current billing cycle. To calculate your total finance charge, multiply your average daily balance by the daily periodic rate for each day of the days in the billing period. Due to rounding on a daily basis, there may be a slight variance between this calculation and the amount of finance charge actually assessed.

b. If the code Z or N appears on the front of this statement next to "Balance Rate Applied To," we multiply the average daily balance of each segment by your monthly

periodic rate. To obtain the average daily balance for the billing period covered by this statement, we take the beginning balance of each segment each day, add any new transactions to each segment, and subtract any payments or credits. (If the code N appears on the front of this statement next to "Balance Rate Applied To," we also subtract any unpaid finance charges from the balance of each segment.) This gives us the daily balance for each segment. Then, we add up all the daily balances for each segment for the billing period and divide by the total number of days in the billing period. This gives us the average daily balance of each segment.

3. Annual Percentage Rate (APR).

a. The term "Annual Percentage Rate" may appear as "APR" on the front of this statement.

b. If the code P (Prime), L (3-mo. LIBOR), C (Certificate of Deposit), or S (Bankcard Prime) appears on the front of this statement next to the periodic rate(s), the periodic rates and corresponding ANNUAL PERCENTAGE RATES may vary monthly and may increase or decrease based on the stated indices, as found in *The Wall Street Journal*, plus the margin previously disclosed to you. These changes will be effective on the first day of your billing period covered by your periodic statement ending in the month of January, April, July and October.

c. If the code D (Prime), T (1-mo. LIBOR) or O (3-mo. LIBOR Repriced Monthly) appears on the front of your statement next to the periodic rate(s), the periodic rates and corresponding ANNUAL PERCENTAGE RATES may vary monthly and may increase or decrease based on the stated indices, as found in *The Wall Street Journal*, plus the margin previously disclosed to you. These changes will be effective on the first day of your billing period each month.

4. Assessment of Late, Overlimit and Returned Payment Fees. Your account will be assessed no more than two of the fees listed here that occur during any billing period. Under the terms of your consumer agreement, we reserve the right to waive or not to assess any fees without prior notification to you without waiving our right to assess the same or similar fees at a later time.

5. Renewing Your Account. If a membership fee appears on the front of this statement, you have 30 days from the date this statement was mailed to you to avoid paying a fee to renew your account. If you do not renew your account during this period, you may continue to use your account without having to pay the membership fee. To cancel your account, you must notify us by calling our Customer Relations Department and pay your "New Balance" in full (excluding the membership fee) prior to the end of the current day period.

6. If You Close Your Account. You can request to close your account by calling our Customer Relations Department. You must destroy your credit card(s) and account access checks, cancel all preauthorized billing, and cease using your account. If you do not cancel preauthorized billing arrangements, we will consider renewal of a charge and automatically renew your account. Additionally, your account will not be closed until you pay all amounts you owe us including: any transactions you have authorized, finance charges, past due fees, overlimit fees, returned payment fees, cash advances, and any other fees assessed against your account. You are responsible for the amounts whether they appear on your account at the time you request to close the account or they are incurred subsequent to your request to close the account. This may result in charges appearing on your account after you have requested the account to be closed or the reopening of

your account if it has already been closed. For example, if you authorized a purchase from a merchant and we receive the transaction from the merchant after your account has been closed, your account will be reopened, the amount of the charge will be added to your account, and you will be responsible for payment. If there is a minimum fee for your account, the minimum fee will continue to be charged to the account, permitting by law, until the account balance has been paid in full as defined above.

7. Using Your Account. Your card or account cannot be used in connection with any internet gambling transactions.

8. Notice About Electronic Check Conversion. When you provide a check as payment, you authorize us either to use information from your check to make a one-time electronic fund transfer from your bank account or to process the payment as a check transaction. When we use information from your check to make an electronic fund transfer, funds may be withdrawn from your bank account as soon as the same day we receive your payment, and you will not receive your check back from your financial institution.

BILLING RIGHTS SUMMARY

IN CASE OF Errors Or Questions About Your Bill
If you find an error on your bill, you may request information on a transaction or bill, write to us on a separate sheet as soon as possible at the address for inquiries shown on the front of this statement. We must hear from you later than 60 days after we sent you the first bill on which the error or problem appeared. You can call our Customer Relations number, but doing so will not preserve your right. In your letter, please give the following information: your name and account number, the dollar amount of the suspected error, a description of the error and an explanation, if possible, of why you believe there is an error; or if you need more information, a description of the item you are inquiring about. You do not have to pay any amount in question. While we are investigating it, you are still obligated to pay the parts of your bill that are not in question. While we investigate your question, we cannot report you as delinquent or take any action to collect the amount you question.

† Special Rule For Credit Card Purchases

If you have a problem with the quality of property 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 property or services. You have this protection only when the purchase price was more than \$500 and the purchase was made within your home state or within 100 miles of your mailing address. (If we own or operate the merchant, or if we mailed you the advertisement for the property or services, all purchases are covered regardless of amount or location of purchase.) Please remember to sign all correspondence.

† Does not apply to consumer non-credit card accounts

1 Does not apply to business non-credit card accounts

Capital One supports information privacy protection: see our website at www.capitalone.com.

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O1OLBAK

Important Notice: Payments you mail to us will be credited to your account as of the business day we receive it, provided (1) you send the bottom portion of this statement and your check in the enclosed remittance envelope and (2) your payment is received in our processing center by 3 p.m. ET (12 noon PT). Please allow at least five (5) business days for postal delivery. Payments received by us at any other location or in any other form may not be credited as of the day we receive them. Our business days are Monday through Saturday, excluding holidays. Please do not use staples, paper clips, etc. when preparing your payment. When you send us a check(s), you authorize us to make a one-time electronic transfer debit from your bank account for the amount of the check. This authorization applies to all checks received during the billing cycle even if sent by someone else. If we cannot process the transfer, you authorize us to make a charge against your bank account using the check, a paper draft or other item.

VERIFICATION

CAPITAL ONE BANK

vs

TONEY, JOHN J

The undersigned does hereby verify subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn falsification to authorities, that he/she is, DUDLEY TURNER, Authorized Agent, of CAPITAL ONE BANK, Plaintiff Herein, that he/she is duly authorized to make this Declaration, and that the facts set forth in the foregoing Complaint in Civil Action are true and correct to the best of his/her knowledge, information and belief.



DUDLEY TURNER



Notary Public

MARITZAL ROBERTS
NOTARY PUBLIC DEKALB COUNTY, GA
MY COMMISSION EXPIRES 10-2011

5291491895798146
A049
WELTMAN, WEINBERG & REIS CO., L.P.A.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 103228
NO. 07-1559-CD
SERVICE # 1 OF 1
COMPLAINT

PLAINTIFF: CAPITAL ONE BANK

vs.

DEFENDANT: JOHN J. TONEY

SHERIFF RETURN

NOW, September 28, 2007 AT 11:50 AM SERVED THE WITHIN COMPLAINT ON JOHN J. TONEY DEFENDANT AT 25 CARDINAL DR, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO VAL TONEY, ADULT AT RESIDENCE A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: COUDRIET /

PURPOSE	VENDOR	CHECK #	AMOUNT
SURCHARGE	WELTMAN	3002453	10.00
SHERIFF HAWKINS	WELTMAN	3002453	36.43

FILED

07/11/08 Cr
JAN 25 2008

William A. Shaw
Prothonotary/Clerk of Courts

Sworn to Before Me This

____ Day of September 2007

So Answers,

Chester A. Hawkins
Chester A. Hawkins
Sheriff

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

CAPITAL ONE BANK

Plaintiff No. : 07-1559-CD

vs. PRAECIPE FOR DEFAULT JUDGMENT

JOHN J TONEY

Defendant

FILED ON BEHALF OF
Plaintiff

COUNSEL OF RECORD OF
THIS PARTY:

WILLIAM T. MOLCZAN, ESQUIRE
PA I.D.#47437
Weltman, Weinberg & Reis Co., L.P.A.
2718 Koppers Bldg.
436 Seventh Avenue
Pittsburgh, PA 15219
(412) 434-7955

WWR#5938480
Judgment Amount \$ 10577.56

THIS LAW FIRM IS ATTEMPTING TO COLLECT THIS DEBT FOR ITS CLIENT AND ANY
INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

6K
FILED Atty pd. 20.00
M 3/18/08 MAR 24 2008 ICC Notice to
Def.

William A. Shaw
Prothonotary/Clerk of Courts Statement
to Atty

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

CAPITAL ONE BANK

Plaintiff

vs.

Civil Action No. : 07-1559-CD

JOHN J TONEY

Defendant

PRAECIPE FOR DEFAULT JUDGMENT

TO THE PROTHONOTARY:

Kindly enter Judgment against the Defendant, JOHN J TONEY above named, in the default of an Answer, in the amount of \$10577.56 computed as follows:

Amount claimed in Complaint	\$9537.62
Interest from 8/23/07 to 3/11/08 at the legal interest rate of 19.80% per annum	\$1039.94
TOTAL	\$10577.56

I hereby certify that appropriate Notices of Default, as attached have been mailed in accordance with PA R.C.P. 237.1 on the dates indicated on the Notices.

WELTMAN, WEINBERG & REIS CO., L.P.A.

By: 
WILLIAM T. MOLCZAN, ESQUIRE
PA I.D.#47437
Weltman, Weinberg & Reis Co., L.P.A.
2718 Koppers Bldg.
436 Seventh Avenue
Pittsburgh, PA 15219
(412) 434-7955

WWR#5938480

Plaintiff's address is:

c/o Weltman, Weinberg & Reis Co., L.P.A., 2718 Koppers Building, 436 7th Avenue, Pittsburgh, PA 15219
And that the last known address of the Defendant is: 25 CARDINAL DR DU BOIS, PA 15801

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

CAPITAL ONE BANK

Plaintiff

vs.

Civil Action No. : 07-1559-CD

JOHN J TONEY

Defendant

NOTICE OF JUDGMENT OR ORDER

TO: Plaintiff
 Defendant
 Garnishee

You are hereby notified that the following
Order or Judgment was entered against you
on 3/24/08

Assumpsit Judgment in the amount
of \$10577.56 plus costs.

Trespass Judgment in the amount
of \$_____ plus costs.

If not satisfied within sixty (60)
days, your motor vehicle operator's license and/or registration
will be suspended by the Department of Transportation, Bureau
of Traffic Safety, Harrisburg, PA.

Entry of Judgment of
 Court Order
 Non-Pro
 Confession
 Default
 Verdict
 Arbitration
 Award

Prothonotary

By: 
PROTHONOTARY (OR DEPUTY)

JOHN J TONEY
25 CARDINAL DR
DU BOIS, PA 15801

Plaintiff's address is:

c/o Weltman, Weinberg & Reis Co., L.P.A., 2718 Koppers Building, 436 7th Avenue, Pittsburgh, PA 15219
1-888-434-0085

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

CAPITAL ONE BANK

Plaintiff

Case # 07-1559-CO

JOHN J TONEY

Defendant(s)

IMPORTANT NOTICE

TO: JOHN J TONEY
25 CARDINAL DR
DU BOIS, PA 15801

Date of Notice: 02/22/08
WWR#: 05938480

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 PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE FOLLOWING 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.

COURT ADMINISTRATOR
CLEARFIELD COUNTY COURTHOUSE
230 EAST MARKET ST., SUITE 228
CLEARFIELD, PA 16830
(814) 765-2641, ext. 1300-1301

BY: Patrick Thomas Woodman
PATRICK THOMAS WOODMAN
PA I.D. #34507
WELTMAN, WEINBERG & REIS CO., L.P.A.
1400 KOPPERS BLDG, 436 7TH AVE.
PITTSBURGH, PA 15219

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

CAPITAL ONE BANK

Case no: : 07-1559-CD

Plaintiff
vs.
NON-MILITARY AFFIDAVIT

JOHN J TONEY

Defendant

The undersigned, who first being duly sworn, according to law, deposes and states as follows:

That he/she is the duly authorized agent of the Plaintiff in the within matter.

Affiant further states that the within Affidavit is made pursuant to and in accordance with the Servicemembers' Civil Relief Act (SCRA), 50 U.S.C. App. § 521.

Affiant further states that based upon investigation it is the affiant's belief that the Defendant, JOHN J TONEY is not in the military service.

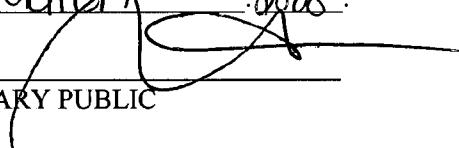
Affiant further states that this belief is supported by the attached certificate from the Defense Manpower Data Center (DMDC), which states that the Defendant, JOHN J TONEY is not in the military service.

Further Affiant sayeth naught.



AFFIANT

SWORN TO AND SUBSCRIBED in my presence this 13 day
of MARCH 2008.



NOTARY PUBLIC



This law firm is a debt collector attempting to collect this debt for our client and any information obtained will be used for that purpose.

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

Capital One Bank
Plaintiff(s)

No.: 2007-01559-CD

Real Debt: \$10,577.56

Atty's Comm: \$

Vs.

Costs: \$

Int. From: \$

John J. Toney
Defendant(s)

Entry: \$20.00

Instrument: Default Judgment

Date of Entry: March 24, 2008

Expires: March 24, 2013

Certified from the record this 24th day of March, 2008.



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