

08-80-CD
Capital One vs Harry R. Kanouff

135667

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

CAPITAL ONE BANK
(Plaintiff)

CIVIL ACTION

c/o 2417 Welsh Road Suite 21 #520

No. 08-86-CD

(Street Address)

Phila., PA 19114

Type of Case: CIVIL

(City, State ZIP)

Type of Pleading: COMPLAINT

VS.

Filed on Behalf of:

Henry F Kansuff
(Defendant)

CAPITAL ONE BANK
(Plaintiff/Defendant)

426 Poplar Ave

(Street Address)

CLEARFIELD PA 16830

(City, State ZIP)

FILED

0895.00 Att'y

m/4,000m ICC Shft
JAN 17 2008

William A. Shaw
Prothonotary/Clerk of Courts

David J. Apothaker, Esquire

(Filed by)

2417 Welsh Road Suite 21 #520

(Address) Phila., PA 19114

215-634-8920

(Phone)

(Signature)

Our File No.: 135667
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.

HARRY R KANOUFF
426 POPLAR AVE
CLEARFIELD, PA 16830-2938
Defendant.

) COURT OF COMMON PLEAS
) CLEARFIELD COUNTY
)
) NO.:
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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 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 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 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.

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Philadelphia, PA 19114

Plaintiff,

vs.

HARRY R KANOUFF
426 POPLAR AVE
CLEARFIELD, PA 16830-2938

Defendant.

) COURT OF COMMON PLEAS
) CLEARFIELD COUNTY
)
) NO.:
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**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 HARRY R KANOUFF, 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 \$2,085.55.

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 \$2,085.55 and requests this Court award Plaintiff attorney's fees and costs to the extent permitted by applicable law.

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

BY: _____

David J. Apothaker

Dated: 1/8/2008

Our File No.: 135667

VERIFICATION

John P. Kelly, 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.

John P. Kelly

DATE:

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

HARRY R KANOUFF
426 POPLAR AVE
CLEARFIELD, PA 16830-2938

STATEMENT OF ACCOUNT

Debtor's Name: HARRY R KANOUFF

Account Number: 5178052295719807

Balance Due: \$2,085.55

Our File No.: 135667

EXHIBIT "A"

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 103653
NO: 08-80-CD
SERVICE # 1 OF 1
COMPLAINT

PLAINTIFF: CAPITAL ONE BANK
vs.
DEFENDANT: HARRY R. KANOUFF

SHERIFF RETURN

NOW, January 25, 2008 AT 2:20 PM SERVED THE WITHIN COMPLAINT ON HARRY R. KANOUFF DEFENDANT AT RESIDENCE 426 POPLAR AVE., CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO FLORA KANOUFF, WIFE A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: DEHAVEN / HUNTER

PURPOSE	VENDOR	CHECK #	AMOUNT
SURCHARGE	APOTHAKER	71455	10.00
SHERIFF HAWKINS	APOTHAKER	71455	20.00

FILED
03:00 pm
MAY 12 2008

William A. Shaw
Prothonotary/Clerk of Courts

Sworn to Before Me This

____ Day of _____ 2008

So Answers,

*Chester A. Hawkins
by Marilyn Hawn*
Chester A. Hawkins
Sheriff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CAPITAL ONE BANK,

Plaintiff

CIVIL DIVISION

No. 08 - 80 - CD

vs.

HARRY R. KANOUFF,

Defendant

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

Filed on Behalf of:

Defendant, HARRY R. KANOUFF

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
01312 2008 Atty Colavecchi
JUN 04 2008
60

William A. Shaw
Prothonotary/Clerk of Courts

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

CAPITAL ONE BANK, :
Plaintiff : No. 08 - 80 - CD
vs. :
HARRY R. KANOUFF, :
Defendant :

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

Defendant, Harry R. Kanouff, through his attorney, Joseph Colavecchi, Esquire, files 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 January 17, 2008, alleging a credit card account between Defendant and Capital One Bank.
2. Plaintiff alleges there is an unpaid balance on the credit card account of Two Thousand Eighty-five Dollars and Fifty-five Cents (\$2,085.55).
3. Plaintiff failed to attach a copy of the alleged credit card agreement between Defendant and Capital One Bank.
4. Plaintiff has failed to produce detailed statements of the account showing all purchases and/or charges made on said account and how Plaintiff calculates the amount claimed to be due.

5. Plaintiff fails to state what, if any charges were made for interest, late fees and other various items which may have been imposed by Plaintiff and the legal authority for such charges.

6. Plaintiff's Complaint is insufficient on its face and should be dismissed because Plaintiff failed to produce an original copy of the agreement, a detailed monthly statement of the account setting out purchases and costs incurred so that Defendant is able to calculate the details leading to the conclusion of the Plaintiff in order to enter into a proper defense of the claims.

WHEREFORE, Defendant respectfully requests that Plaintiff's Complaint be stricken pursuant to Pennsylvania Rule of Civil Procedure 1028 on the grounds of legal insufficiency.



JOSEPH COLAVECCHI, ESQUIRE
Attorney for Defendant

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CAPITAL ONE BANK,

Plaintiff

CIVIL DIVISION

No. 08 - 80 - CD

vs.

HARRY R. KANOUFF,

Defendant

RULE

Filed on Behalf of:

Defendant, HARRY R. KANOUFF

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
07/31/08 Atty Colavecchi
JUN 11 2008
(6K)

William A. Shaw
Prothonotary/Clerk of Courts

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

CAPITAL ONE BANK,

Plaintiff : No. 08 - 80 - CD

vs.

HARRY R. KANOUFF,

Defendant :

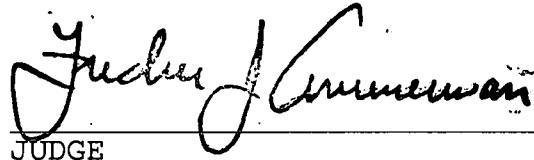
RULE

AND NOW, this 10th day of June, 2008, upon consideration of the foregoing Preliminary Objections to Plaintiff's Complaint filed on behalf of the Defendant, a Rule is issued on the Plaintiff to appear and show cause why the relief requested therein should not be granted.

Rule made Returnable the 18th day of July, 2008, at 10:45 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

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. 08 - 80 - CD

vs.

HARRY R. KANOUFF,

Defendant :

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Defendant's Preliminary Objections to Plaintiff's Complaint and Rule Returnable in the above-captioned action was mailed by First Class Mail, postage prepaid, the 12th day of June 2008, to the attorney of record:

David Apotheker, Esquire
Apotheker & 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

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

Dated: 6/18/08

FILED NO CC
07/10/38/08
JUN 13 2008
LAW OFFICES OF
COLAVECCHI
& COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

William A. Shaw
Prothonotary/Clerk of Courts

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

CAPTIAL ONE,
Plaintiff

vs.

HARRY R. KANOUFF,
Defendant

*
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* NO. 08-80-CD
*
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ORDER

NOW, this 18th day of July, 2008, 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 20 days from this date to file an Amended Complaint which shall contain a true and correct copy of the agreement or application, signed by the Defendant, entered into by the Defendant at the time the credit card was issued as well as detailed statements of the account showing purchases made, the name the account was in 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
0123467
JUL 18 2008

ICC Atty's:
Apostaker
J. Colavecchi

William A. Shaw
Prothonotary/Clerk of Courts

(60)

FILED

JUL 18 2008

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

DATE: 7/18/08

You are responsible for serving all appropriate parties.

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

**____ Plaintiff(s) Plaintiff(s) Attorney _____ Other
____ Defendant(s) Defendant(s) Attorney _____
____ Special Instructions:**

Our File No.: 135667
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

CAPITAL ONE BANK

Plaintiff,

vs.

HARRY R KANOUFF

Defendant.

) COURT OF COMMON PLEAS
) CLEARFIELD COUNTY
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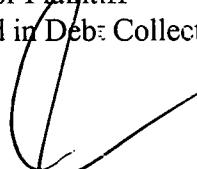
PRAECIPE TO DISMISS WITHOUT PREJUDICE

TO THE PROTHONOTARY:

Kindly dismiss this action without prejudice.

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

By:


David J. Apothaker, Esquire

Dated: August 6, 2008

FILED 1cc & 1Cert of
m/11:50am disc issued to
AUG 13 2008 Atty Apothaker
William A. Shaw 
Prothonotary/Clerk of Courts *Copy to c/a*

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

COPY

Capital One Bank

Vs. **No. 2008-00080-CD**
Harry R. Kanouff

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 August 13, 2008, marked:

Dismissed without prejudice

Record costs in the sum of \$95.00 have been paid in full by David J. Apotheker Esq.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal of this Court at Clearfield, Clearfield County, Pennsylvania this 13th day of August A.D. 2008.



LM

William A. Shaw, Prothonotary