

08-82-CD
Captial One vs Nicole Kovalyak

135041

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

FILED

CAPITAL ONE BANK
(Plaintiff)

CIVIL ACTION

c/o 2417 Welsh Road Suite 21 #520

(Street Address)

Phila., PA 19114

(City, State ZIP)

No. 2008-82-C0

Type of Case: CIVIL

Type of Pleading: COMPLAINT

JAN 17 2008
m 14.00 (reg)
William A. Shaw
Prothonotary/Clerk of Courts
1 C.P.R. to Army
+
SHPE.

vs.

Filed on Behalf of:

Nicole L Kovalyak (Plaintiff/Defendant)
CAPITAL ONE BANK

204 E Second Ave
(Street Address)

Dubois PA 15801
(City, State ZIP)

David J. Apotheker, Esquire

(Filed by)

2417 Welsh Road Suite 21 #520

(Address) Phila., PA 19114

215-634-8920

(Phone)

(Signature)

Our File No.: 135041

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.

NICOLE L KOVALYAK

204 E SECOND AVE

DU BOIS, PA 15801-3172

Defendant.

) COURT OF COMMON PLEAS

) CLEARFIELD COUNTY

)

) NO.:

)

)

)

)

)

)

)

)

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 paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta asentar una comparencia 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 tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademas, 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.

NICOLE L KOVALYAK
204 E SECOND AVE
DU BOIS, PA 15801-3172

Defendant.

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

**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 NICOLE L KOVALYAK, an adult individual residing at 204 E SECOND AVE DU BOIS, PA 15801-3172.

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.

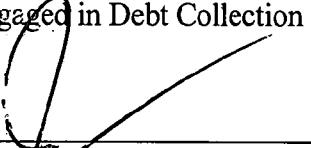
6. All credits, if any, to which Defendant is entitled, are set forth in Exhibit "A".

7. In addition, Plaintiff avers that Defendant has failed and continues to fail to make any payments, leaving a balance due and owing of \$2,642.32.

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 \$2,642.32 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. Apotheker

Dated: 1/8/2008

Our File No.: 135041

VERIFICATION

Frank P. Kallig, 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.

Frank P. Kallig

DATE:

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

NICOLE L KOVALYAK
204 E SECOND AVE
DU BOIS, PA 15801-3172

STATEMENT OF ACCOUNT

Debtor's Name: NICOLE L KOVALYAK

Account Number: 4862362374990193

Balance Due: \$2,642.32

Our File No.: 135041

EXHIBIT "A"

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

CAPITAL ONE BANK
Plaintiff

VS.

NICOLE L. KOVALYAK
Defendant

: No. 08 - 82 - CD
:
: TYPE OF CASE: Civil Action
:
: TYPE OF PLEADING:
: Answer
:
: FILED ON BEHALF OF:
: Defendant
:
: COUNSEL OF RECORD FOR
: THIS PARTY:
:
: Pro Se
: Nicole L. Kovalyak
:
: 1702 Treasure Lake
: DuBois, PA 15801
: (814) 375 - 8682

FILED

FEB 25 2008
07/11:50/08
William A. Shaw
Prothonotary/Clerk of Courts

1 CENT TO ~~MAIL~~

DEPT.

(60)

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

CAPITAL ONE BANK
Plaintiff

VS.

: No. 08 - 82 - CD

NICOLE L. KOVALYAK
Defendant

COMPLAINT

AND NOW, comes the Defendant, NICOLE L. KOVALYAK, Pro Se, and files the following Answer to the Plaintiff's Complaint, and in support thereof avers as follows:

1. Denied. Despite reasonable investigation, Defendant is neither able to admit or deny the allegations contained in paragraph 1 of the Plaintiff's Complaint. Therefore the same are denied and strict proof thereof is demanded at trial. By way of further averment, it is expressly denied that the Plaintiff, Capital One Bank has a principle place of business at an attorney's office in Philadelphia, and Defendant demands strict proof that Plaintiff is an authorized agent of the Plaintiff rather than simply counsel for the Plaintiff and is able to sign the verification to the complaint acting as an agent for Capital One.
2. Admitted in part and denied in part. It is admitted that the Defendant is Nicole L. Kovalyak. The remaining allegations contained in paragraph 2 of the Plaintiff's

Complaint are denied. To the contrary, the Defendant Nicole L. Kovalyak resides at 1702 Treasure Lake, DuBois, Clearfield County Pennsylvania 15801, and has never resided at 204 East Second Avenue in DuBois, Pennsylvania.

3. Denied. Despite reasonable investigation, Defendant is neither able to admit or deny the allegations contained in paragraph 3 of the Plaintiff's Complaint. Therefore the same are denied and strict proof thereof is demanded at trial. By way of further averment, Defendant is without any knowledge whatsoever, and Plaintiff's exhibit "A" does not set forth any specifics that would allow the Defendant to determine that she ever received any goods or services from Plaintiff. Defendant can not recall ever having a credit card from Capital One, ever had a loan through or assigned to Capital One upon which she could have received any services from Plaintiff for which she would have ever owed Capital One any money. Therefore the same is denied, and Defendant demands strict proof thereof at trial including but not limited to any and all documents bearing her signature wherein she applied for credit through the Plaintiff an such credit was used to purchase any goods or services for which the Plaintiff now claims Defendant owes the sum claimed.

4. Denied. To the contrary, Defendant incorporates by reference as though set forth herein at length the allegations contained in paragraph 3 of this answer in complete response to the redundant allegations of paragraph 4 of the Plaintiff's Complaint.

5. Denied. Despite reasonable investigation specifically into the Exhibit "A", defendant is not able to form a conclusion as to the truth or accuracy of the allegations contained in Paragraph 5 of the Plaintiff's Complaint. Since the prices for the respective goods and or services are not contained in Exhibit "A", and Defendant does not believe

she ever had any account with this Defendant, she cannot determine the accuracy of these allegations. Therefore the same are denied, and strict proof thereof is demanded at trial.

6. Denied. Despite reasonable investigation specifically into the Exhibit "A", defendant is not able to form a conclusion as to the truth or accuracy of the allegations contained in Paragraph 6 of the Plaintiff's Complaint. Since the Defendant does not believe she ever had any account with this Defendant, and consequently she has never made any payments toward this "non-existent" account, she cannot determine the accuracy of these allegations. Therefore the same are denied, and strict proof thereof is demanded at trial.

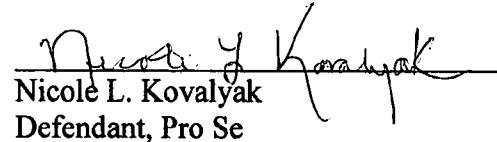
7. Admitted in part denied in part. It is admitted that Defendant has failed to pay Plaintiff \$2,642.32. The remaining allegations of paragraph 7 of the Plaintiff's complaint are denied. To the contrary, Defendant has never paid on this account because she never had any account with Plaintiff and consequently, she does not owe Plaintiff \$2,642.32 or any other sum, and Defendant demands strict proof that she owes Plaintiff this or any sum.

8. Denied. To the contrary, Defendant avers that no demand was ever made to her by Plaintiff, or any agent of the Plaintiff, by telephone, mail, invoice or statement or otherwise, for this or any sum of money. By way of further averment, Defendant avers that the first notice she has received about this alleged debt is when she was served with the Plaintiff's complaint.

WHEREFORE, Defendant respectfully demands that judgment be entered against the Plaintiff and in favor of the Defendant that the Defendant owes Plaintiff nothing. Furthermore, Defendant demands an appropriate sum representing the value of her time

to defendant against this vexatious legal action brought against her by an attorney that either does not have the specific information about this alleged account or failed to include any specific information in the complaint. Furthermore, Defendant demands that the prayer for attorney's fees be stricken from the complaint as absent an agreement to this effect, Defendant cannot be made to pay the attorney's fees of the Plaintiff, and the inclusion of this prayer without any facts wherein Plaintiff is entitled to attorney's fees amounts to inappropriate conduct by an Officer of the Court.

Respectfully,


Nicole L. Kovalyak
Defendant, Pro Se

VERIFICATION

I, Nicole L. Kovalyak, Defendant in the above captioned action, state that I have read the foregoing Complaint and affirm that the statements therein are true and correct to the best of my knowledge, information and belief.

This statement and verification is made subject to the penalties of 18 Pa. C.S.A. Section 4904 relating to unsworn falsification to authorities, which provides that if I make knowingly false statements, I may be subject to criminal penalties.

Nicole L. Kovalyak
Nicole L. Kovalyak

Dated: 2/23/08

FILED COPY

RECEIVED
FEB 25 2008
CLERK, U.S. DISTRICT COURT FOR THE DISTRICT OF HAWAII
BY MAIL

RECEIVED
FEB 25 2008
CLERK, U.S. DISTRICT COURT FOR THE DISTRICT OF HAWAII

RECEIVED
FEB 25 2008
CLERK, U.S. DISTRICT COURT FOR THE DISTRICT OF HAWAII

RECEIVED
FEB 25 2008
CLERK, U.S. DISTRICT COURT FOR THE DISTRICT OF HAWAII

RECEIVED
FEB 25 2008
CLERK, U.S. DISTRICT COURT FOR THE DISTRICT OF HAWAII

RECEIVED
FEB 25 2008
CLERK, U.S. DISTRICT COURT FOR THE DISTRICT OF HAWAII

RECEIVED
FEB 25 2008
CLERK, U.S. DISTRICT COURT FOR THE DISTRICT OF HAWAII

RECEIVED
FEB 25 2008
CLERK, U.S. DISTRICT COURT FOR THE DISTRICT OF HAWAII

RECEIVED
FEB 25 2008
CLERK, U.S. DISTRICT COURT FOR THE DISTRICT OF HAWAII

RECEIVED
FEB 25 2008
CLERK, U.S. DISTRICT COURT FOR THE DISTRICT OF HAWAII

RECEIVED
FEB 25 2008
CLERK, U.S. DISTRICT COURT FOR THE DISTRICT OF HAWAII

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 103655
NO: 08-82-CD
SERVICE # 1 OF 1
COMPLAINT

PLAINTIFF: CAPITAL ONE BANK
vs.
DEFENDANT: NICOLE L. KOVALYAK

SHERIFF RETURN

NOW, February 05, 2008 AT 9:49 AM SERVED THE WITHIN COMPLAINT ON NICOLE L. KOVALYAK DEFENDANT AT RESIDENCE SECTION 13, LOT 77, MONTEGO BAY ROAD., TREASURE LAKE, DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO NICHOLE KOVALYAK, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: COUDRIET /

FILED
02:40pm
MAY 14 2008
15

William A. Shaw
Prothonotary/Clerk of Courts

PURPOSE	VENDOR	CHECK #	AMOUNT
SURCHARGE	APOTHAKER	71391	10.00
SHERIFF HAWKINS	APOTHAKER	71391	90.00

Sworn to Before Me This

____ Day of _____ 2008

So Answers,

*Chester A. Hawkins
by Maelyn Hawkins*
Chester A. Hawkins
Sheriff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA

CAPITAL ONE BANK

Plaintiff

vs.

NICOLE L KOVALYAK
1702 TREASURE LK # D
DU BOIS, PA 15801-3172

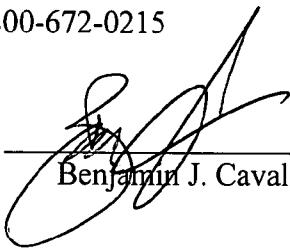
Defendant

) CIVIL ACTION
)
) No. 2008-82-CD
)
) Type of Case: Breach of Contract
)
) Type of Pleading: Certificate of Readiness
)
) Filed on Behalf of: Plaintiff
)
)
)

Filed by: APOTHAKER & ASSOCIATES, P.C.
Attorneys for Plaintiff

Address: 520 Fellowship Road C306
Mount Laurel, NJ 08054

Phone: 800-672-0215

Signature: 

Benjamin J. Cavallaro, Esquire

FILED *Atty pd.*
NOV 15 2010 *\$20.00*
NOV 29 2010

William A. Shaw
Prothonotary/Clerk of Courts

QCC Atty
(60)

Our File No.: 135041

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

Civil Trial Listing / Certificate of Readiness

Plaintiff(s): CAPITAL ONE BANK

Case Number: 2008-82-CD

Defendant(s): NICOLE L KOVALYAK

To the Prothonotary:

Arbitration Limit:

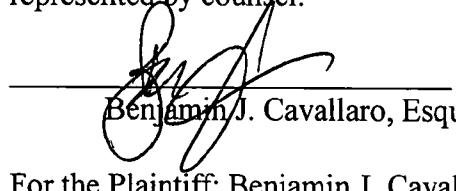
Type Trial Requested: Jury Non-Jury Arbitration
Estimated Trial Time: 15 minutes.

Jury Demand Filed By: N/A

Date Jury Demand Filed: N/A

Please place the above-captioned case on the trial list. I certify that all discovery in the case has been completed; all necessary parties and witnesses are available; serious settlement negotiations have been conducted; the case is ready in all respects for trial, and a copy of this Certificate has been served upon all counsel of record and upon all parties of record who are not represented by counsel.

Dated: November 19, 2010



Benjamin J. Cavallaro, Esquire

For the Plaintiff: Benjamin J. Cavallaro, Esquire 800-672-0215

For the Defendant: NICOLE L KOVALYAK, Pro Se

Certification of Current Address for all parties or counsel of record:

Name: CAPITAL ONE BANK
Address: c/o Apotheker & Associates, P.C. 520 Fellowship Rd C 306
Mt. Laurel, NJ 08054

Name: NICOLE L KOVALYAK, Pro Se
Address: 1702 TREASURE LK # D DU BOIS, PA 15801-3172

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

CAPITAL ONE BANK

Plaintiff,

vs.

NO. 2008-0082-C.D.

NICOLE L. KOVALYAK

Defendant,

ORDER

NOW, this 20th day of January, 2011, it is the ORDER of the Court that the above-captioned matter is scheduled for Arbitration on Tuesday, February 15, 2011 at 1:00 P.M. in the Conference/Hearing Room No. 3, 2nd Floor, Clearfield County Courthouse, Clearfield, PA. The following have been appointed as Arbitrators:

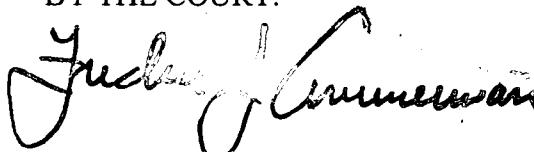
Ronald L. Collins, Esquire, Chairman

Kimberly M. Kubista, Esquire

Lea Ann Heltzel, Esquire

Pursuant to Local Rule 1306A, you must submit your Pre-Trial Statement seven (7) days prior to the scheduled Arbitration. The original should be forwarded to the Court Administrator's Office and copies to opposing counsel and each member of the Board of Arbitrators. For your convenience, a Pre-Trial (Arbitration) Memorandum Instruction Form is enclosed as well as a copy of said Local Rule of Court.

BY THE COURT:

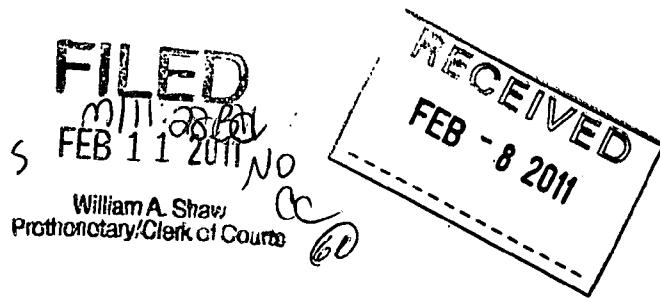


FREDRIC J. AMMERMAN
President Judge

FILED
02/3/2011 5CC
JAN 20 2011 CIA
S

William A. Shaw
Prothonotary/Clerk of Courts
d

Our file No.: 135041
Apotheker & Associates, P.C.
520 Fellowship Road C306
Mount Laurel, NJ 08054
(800) 672-0215
Attorneys for Plaintiff



CAPITAL ONE BANK

Plaintiff,

vs.

NICOLE L KOVALYAK

Defendant.

-) COURT OF COMMONS PLEAS
-) CLEARFIELD COUNTY
-)
-) DOCKET NO.: 2008-82-CD
-)
-) Civil Action
-)
-) STIPULATION IN LIEU OF JUDGMENT
-)
-)

The matters and things in controversy having been discussed by and between the parties, and a settlement having been agreed upon:

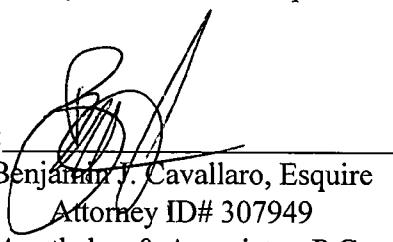
It is on January 28, 2011, STIPULATED by and between CAPITAL ONE BANK ("Plaintiff") and NICOLE L KOVALYAK ("Defendant"), as follows:

1. Plaintiff filed suit in the above captioned matter seeking damages in the amount of \$2,642.32.
2. Defendant agrees to pay to Plaintiff the sum of \$2,070.00, which sum Plaintiff agrees to accept in full settlement of its claim herein.
3. As of this date, payments totaling \$1,035.00 have been applied to the aforementioned sum.
4. Defendant shall remit payment(s) in the following manner:
 - a. \$1,035.00 to be paid on or before February 18, 2011.
5. All checks shall be made payable to "CAPITAL ONE BANK", and sent to the office of Plaintiff's attorney, Apotheker & Associates, P.C., located at the following address:

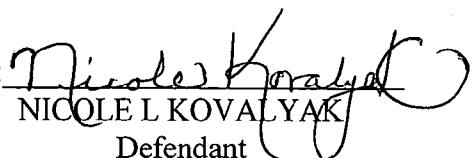
Apotheker & Associates, P.C.
520 Fellowship Road C306
Mount Laurel, NJ 08054

6. In the event Defendant fails to pay in accordance with the terms set forth in this Stipulation and the default is not cured within ten (10) days, then Plaintiff shall be entitled to obtain the entry of Judgment against Defendant in the suit amount specified in paragraph one (1) of this stipulation less any sums paid pursuant to this Stipulation, upon *ex parte* application, with supporting certification, and with notice to Defendant in the form of a copy of the application addressed to Defendant by first-class, postage prepaid.

We hereby consent to the form and entry of the within Stipulation.

By: 

Benjamin J. Cavallaro, Esquire
Attorney ID# 307949
Apotheker & Associates, P.C.
Attorneys for Plaintiff

By: 

NICOLE L KOVALYAK
Defendant

Our File No.: 135041
APOTHAKER & ASSOCIATES, P.C.
BY: David J. Apothaker, Esquire
Attorney I.D.# 38423
520 Fellowship Road C306
Mount Laurel, NJ 08054
(800) 672-0215
Attorney for Plaintiff

FILED
MAY 24/2011
MAR 16 2011
NO. CC
SJC

William A. Sirav
Prothonotary Clerk of Courts

CAPITAL ONE BANK) COURT OF COMMON PLEAS
Plaintiff,) CLEARFIELD COUNTY
vs.)
NICOLE L KOVALYAK) NO. 2008-82-CD
Defendant.)

)

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: 3/9/2011



* Q 1 3 5 0 4 1 D I S N 1 - *