

08-506-CD  
Capital One vs Donald L. McCracken

750335

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY  
PENNSYLVANIA

Capital One Bank  
(Plaintiff)

c/o 2417 Welsh Road Suite 21 #520

(Street Address)

Phila., PA 19114

(City, State ZIP)

CIVIL ACTION

No. 2008-506-CD

Type of Case: CIVIL

Type of Pleading: COMPLAINT

vs.

Donald L McCracken  
(Defendant)

Filed on Behalf of:

Capital One Bank  
(Plaintiff/Defendant)

325 Knarr St.

(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)

**FILED**  
012:59 p.m. GK  
MAR 20 2008  
Atty PAID 95.00  
ICC Atty  
ICC Sheriff

William A. Shaw  
Prothonotary/Clerk of Courts

Our File No.: 150335  
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. )  
DONALD L MCCRACKEN )  
325 KNARR ST )  
DU BOIS, PA 15801-1915 )  
Defendant. )

**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 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

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

Plaintiff,

vs.

DONALD L MCCRACKEN  
325 KNARR ST  
DU BOIS, PA 15801-1915  
Defendant.

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) 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 DONALD L MCCRACKEN, an adult individual residing at 325 KNARR ST DU BOIS, PA 15801-1915.

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.

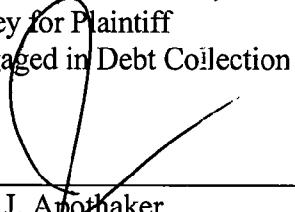
6. All credits, if any, to which Defendant is entitled, are set forth in Exhibit "A".

7. In addition, Plaintiff avers that Defendant has failed and continues to fail to make any payments, leaving a balance due and owing of \$1,588.64.

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 \$1,588.64 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: 2/29/2008

Our File No.: 150335

**VERIFICATION**

Frank J. Fehrig, hereby states that I am Att'l 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 J. Fehrig

**DATE:**

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

DONALD L MCCRACKEN  
325 KNARR ST  
DU BOIS, PA 15801-1915

STATEMENT OF ACCOUNT

Debtor's Name: DONALD L MCCRACKEN

Account Number: 4862362191374431

Balance Due: \$1,588.64

Our File No.: 150335

EXHIBIT "A"

original

IN THE COURT OF COMMON PLEAS OF Clearfield COUNTY  
PENNSYLVANIA CIVIL ACTION - LAW

Plaintiff Capital One Bank : NO. 2008-506-CD

Defendant Donald McCracken

ANSWER

FILED  
M 10:40 AM  
APR 25 2008  
Def.

William A. Shumy  
Prothonotary/Clerk of Courts

1. Admitted

2. Admitted

3. denied

Exhibit A does not contain a signed contract

4. denied

Exhibit A lacking this evidence

5. denied

Exhibit A lacking this information

6. denied

Exhibit A lacking this information

7. denied

Insufficient evidence for the requested amount due

8. denied

Have not been in contact with Capital One  
for several years

9.

10

11.

12.

13.

14.

15.

(Add extra paragraphs (and pages) as needed.)

WHEREFORE, the Defendant respectfully requests that the Plaintiff's Complaint be dismissed.

(If new matter is to be completed, continue with the next number after the last number of your answer.)

NEW MATTER

The averments of paragraphs 1 through 8 above are incorporated with this new matter as though fully set forth herein.

9. The last payment on this account was over 4 years ago which exceeds the Statute of limitations.

WHEREFORE, the Plaintiff respectfully requests that the following relief be granted:

dismiss civil action

If Counterclaim(s) is\are to be completed, continue with the next number after the last number of your answer.

COUNTERCLAIM ONE

The averments of paragraphs      through      above are incorporated with this  
COUNTERCLAIM as though fully set forth herein.

WHEREFORE, the Defendant respectfully requests that the following relief be granted:

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COUNTERCLAIM TWO

The averments of paragraphs        through        above are incorporated with this  
COUNTERCLAIM as though fully set forth herein.

FILED

APR 25 2008

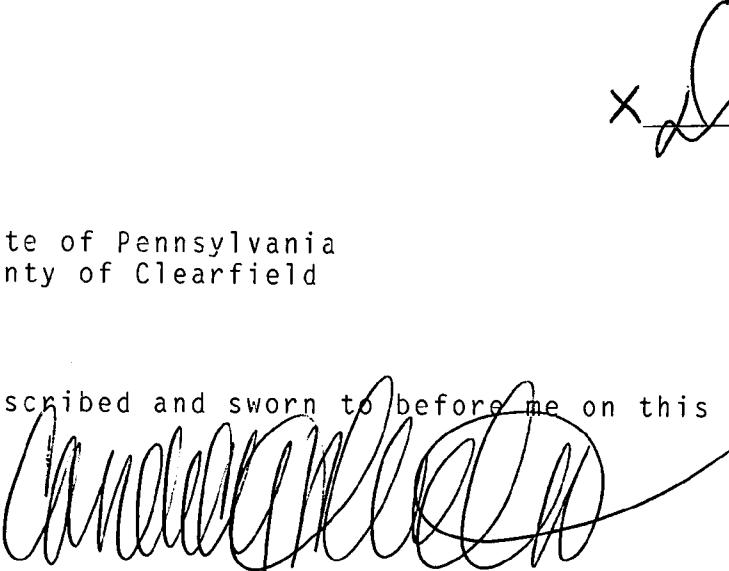
William A. Shaw  
Prothonotary/Clerk of Courts

WHEREFORE, the Defendant respectfully requests that the following relief be granted:

Respectfully submitted,

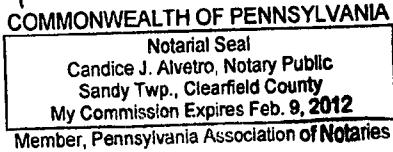
VERIFICATION

I hereby verify that the statements made in this Pleading are true and correct. I understand that false statements herein are made subject to the penalties of 18 PACS 4904, relating to unsworn falsification to authorities.

  
X

State of Pennsylvania  
County of Clearfield

Subscribed and sworn to before me on this 21st day of April, 2008



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 103921  
NO: 08-506-CD  
SERVICE # 1 OF 1  
COMPLAINT

PLAINTIFF: CAPITAL ONE BANK  
vs.  
DEFENDANT: DONALD L. MCCRACKEN

FILED  
JUL 09 2008  
William A. Shaw  
Prothonotary/Clerk of Courts

SHERIFF RETURN

NOW, April 03, 2008 AT 1:30 PM SERVED THE WITHIN COMPLAINT ON DONALD L. MCCRACKEN DEFENDANT AT 325 KNARR ST., DUBOIS, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO DONALD MCCRACKEN, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: COUDRIET / NEVLING

PURPOSE	VENDOR	CHECK #	AMOUNT
SURCHARGE	APOTHAKER	79418	10.00
SHERIFF HAWKINS	APOTHAKER	79418	37.19

Sworn to Before Me This

\_\_\_\_ Day of \_\_\_\_\_ 2008

So Answers,

  
Chester A. Hawkins  
Sheriff

## Notice of Proposed Termination of Court Case

January 26, 2012

RE: 2008-00506-CD

Capital One Bank (USA) N.A.

Vs.

Donald L. McCracken

**FILED**  
JAN 26 2012  
B&W William A. Shay  
Prothonotary/Clerk of Court

To All Parties and Counsel:

Please be advised that the Court intends to terminate the above captioned case without notice, because the Court records show no activity in the case for a period of at least two years.

You may stop the Court terminating the case by filing a Statement of Intention to Proceed. The Statement of Intention to Proceed must be filed with the Prothonotary of Clearfield County, PO Box 549, Clearfield, Pennsylvania 16830. The Statement of Intention to Proceed must be filed on or before March 28, 2012.

**If you fail to file the required statement of intention to proceed within the required time period, the case will be terminated.**

By the Court,

  
F. Cortez Bell, III, Esq.  
Court Administrator

Our File No.: 150335  
APOTHAKER & ASSOCIATES, P.C.  
BY: David J. Apothaker, Esquire  
Attorney I.D.# 38423  
520 Fellowship Road C306  
Mount Laurel, NJ 08054  
(800) 572-0215  
Attorney for Plaintiff

4 **FILED** NO  
M 10801 CC  
2 FEB 27 2012

William A. Shaw  
Prothonotary/Clerk of Courts  
6C

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CAPITAL ONE BANK  
Plaintiff,  
vs.  
DONALD L MCCRACKEN  
Defendant.

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) COURT OF COMMON PLEAS  
) CLEARFIELD COUNTY  
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NO. 2008-506-CD  
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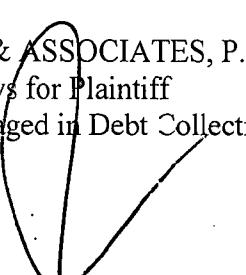
**PRAECIPE TO DISMISS WITHOUT PREJUDICE**

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: 2/14/2012

