

08-507-CD
Capital One vs Dale R. McCoy

736173

COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
PENNSYLVANIA

Capital One Bank
(Plaintiff)

CIVIL ACTION

c/o 2417 Welsh Road Suite 21 #520

(Street Address)

Phila., PA 19114

(City, State ZIP)

No. 08-507-CD

Type of Case: CIVIL

Type of Pleading: COMPLAINT

VS.

DALE R. MCCOY
(Defendant)

Filed on Behalf of:

Capital One Bank
(Plaintiff/Defendant)

135 EMMA ST.
(Street Address)

PRYOR PA 16654
(City, State ZIP)

David J. Apothaker, Esquire

(Filed by)

2417 Welsh Road Suite 21 #520

(Address) Phila., PA 19114

215-634-8920

(Phone)

FILED Att'y fee \$5.00

MAR 20 2008

ICC Att'y

ICC Sheriff

William A. Shaw
Prothonotary/Clerk of Courts

(Signature)

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

AFOTHAKE & 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. |) | |
| |) | |
| DALE R MCCOY |) | |
| 135 EMMA ST |) | |
| IRVONA, PA 16656 |) | |
| 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 DALE R MCCOY, an adult individual residing at 135 EMMA ST IRVONA, PA 16656.
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 \$2,839.69.

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 \$2,839.69 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: 2/29/2008

Our File No.: 136173

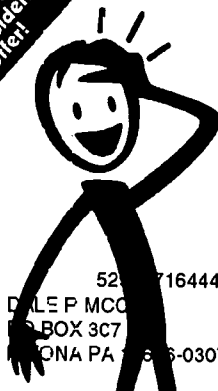
VERIFICATION

Lucy Pellic, 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.

Lucy Pellic

DATE:

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a month;
\$9.95/mo. thereafter

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- 🚫 Pop-Up Blocker™
- 📧 Spam Controls
- 📞 Smart Dialer
- 🔒 Phisher Security
- 📞 Internet Call Waiting

UNLIMITED INTERNET ACCESS

Capital One

MASTERCARD ACCOUNT

AUG 04 - SEP 03, 2004

5291-0716-4443-2526

Page 1 of 1

Account Summary

| | |
|-----------------------------------|-------------------|
| Previous Balance | \$1,713.15 |
| Payments, Credits and Adjustments | \$0.00 |
| Transactions | \$29.00 |
| Finance Charges | \$23.28 |
| New Balance | \$1,765.43 |
| Minimum Amount Due | \$365.43 |
| Payment Due Date | October 02, 2004 |
| Total Credit Line | \$1,400 |
| Total Available Credit | \$0.00 |
| Credit Line for Cash | \$1,400 |
| Available Credit for Cash | \$0.00 |

At your service

To call Customer Relations or to report a lost or stolen card:
1-800-903-3637

For free online account service and special customer offers, log on to:
www.capitalone.com

Send payments to:
Attn: Remittance Processing
Capital One Services
P.O. Box 85147
Richmond, VA 23276

Send inquiries to:
Capital One Services
P.O. Box 85015
Richmond, VA 23285-5015

Payments, Credits and Adjustments

Transactions

| | | | |
|---|--------|--------------|---------|
| 1 | 03 SEP | PAST DUE FEE | \$29.00 |
|---|--------|--------------|---------|

Your request to close your account has been received. Your account will be closed when it reaches a \$0 balance. Until then, you will continue to receive statements and must continue to make payments. All terms and conditions of the account will apply while a balance remains. Please remember to cut your cards and cancel all charges which automatically bill to your account.

You were assessed a past due fee of \$29.00 on 09/03/2004 because your minimum payment was not received by the due date of 09/03/2004. To avoid this fee in the future, we recommend that you allow at least 7 business days for your payment to reach Capital One.

Important Account Information

Are you registered to vote in this year's general election? It's not too late! There's still time to register, so go for it. Your vote can make a difference this November. Call or visit your local voters' registration office or go to www.everyvotecounts2004.com to make sure your voice is heard. Every vote counts!

Finance Charges

Please see reverse side for important information

| | Balance rate applied to | Periodic rate | Corresponding APR | FINANCE CHARGE |
|-----------|-------------------------|---------------|-------------------|----------------|
| PURCHASES | \$676.40 | .04576% | 15.50% | \$9.13 |
| CASH | \$1,047.98 | .04576% | 15.50% | \$14.15 |

ANNUAL PERCENTAGE RATE applied this period

15.90%

▼ PLEASE RETURN PORTION BELOW WITH PAYMENT ▼

Capital One

0000000 0 529107164432526 C3 1765430140000365432

New Balance **\$1,765.43**
Minimum Amount Due **\$365.43**
Payment Due Date **October 02, 2004**

Total enclosed \$
Account Number: 5291-0716-4443-2526

Please print mailing address and/or e-mail changes below using blue or black ink.

Street Apt #
City State ZIP
Home Phone Alternate Phone
Email Address

Capital One Bank
P.O. Box 85147
Richmond, VA 23276



#9024868863494083# MAIL ID NUMBER
DALE R MCCOY
PO BOX 307
IRVONA PA 16656-0307



Please write your account number on your check or money order made payable to Capital One Bank and mail in the enclosed envelope.

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

Capital One Bank,
Plaintiff

vs.

Dale R. McCoy,
Defendant

*
*
* NO.: 08-507-CD
*
* Type of Case: Custody
*
* Type of Pleading: Preliminary
* Objections
*
* Filed on Behalf of: Dale R. McCoy
*
* Counsel of Record for this Party:
* Robin Jean Foor, Esquire
*
* Supreme Court No.: 41520
*
* MidPenn Legal Services
* 211 East Locust Street
* Clearfield, PA 16839
* (814)765-9646

FILED 3cc
0/2:55/34
APR 18 2008
Atty Foor
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CAPITAL ONE BANK,

Plaintiff

vs.

DALE R. MCCOY,

Defendant

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Civil Action

No. 08-507-CD

DEFENDANT'S PRELIMINARY OBJECTIONS
TO PLAINTIFF'S COMPLAINT

Pursuant to Pa. R.C.P. No. 1028(c), Defendant Dale R. McCoy, by and through his attorneys, Robin Jean Foor, and MidPenn Legal Services preliminarily objects to Plaintiff's Complaint and moves for its dismissal as follows:

I. PRELIMINARY OBJECTIONS RAISING FAILURE OF A PLEADING TO CONFORM TO LAW OR RULE OF COURT Pa. R.C.P. 1028 (a)(2)

1. Pennsylvania Rule of Civil Procedure 1019(i) states that "when a claim is based on upon a writing, the pleader shall attach a copy of the writing or the material part thereof..."

2. Plaintiff lists its principal place of business as c/o Apothaker and Associates and therefore, defendant believes and alleges that the plaintiff is not Capital One Bank but an assignee of Capital One Bank.

3. Plaintiff has failed to attach any documentation of the assignment.

4. Plaintiff filed a Complaint demanding damages in the amount of \$2,839.68 plus attorney fees and costs.

5. Plaintiff has failed to attach to the Complaint a signed written contract between

Plaintiff and Defendant. Such writing would form the very core of Plaintiff's case, but such writing has not been appended to the Complaint, nor its absence explained, as required by Pa.R.C.P. No. 1019(h) and (i).

WHEREFORE, Defendant respectfully requests that the Court sustain Defendant's Preliminary Objections and dismiss Plaintiff's Complaint.

II. PRELIMINARY OBJECTION RAISING INSUFFICIENT SPECIFICITY IN A PLEADING Pa. R.C.P. 1028 (a)(3)

1. The Complaint contains alleged claims for money owed but fails to provide adequate documentation or accounting of charges allegedly made by Defendant, which would support Plaintiff's claim of damages, such as a breakdown of charges, payments, and interest, so that Defendant can properly formulate a response and assert any counterclaims.

2. The Complaint is deficient in reciting factual averments and Defendant is without information upon which she can premise a meaningful response and formulate a defense.

WHEREFORE, Defendant respectfully requests that the Court sustain Defendant's Preliminary Objections and dismiss Plaintiff's Complaint.

III. PRELIMINARY OBJECTION RAISING FAILURE OF A PLEADING TO CONFORM TO LAW OR RULE OF COURT Pa. R.C.P. 1028 (a)(2)

1. The Plaintiff/real-party-in interest is allegedly Capital One.
2. Pa.R.C.P. No. 1024 requires, *inter alia*, that pleadings containing averments of fact must be verified by the party making those averments.
3. The Complaint has what appears to be a photocopy that is undated as the verification.
4. Defendant believes and therefore alleges that the complaint was not actually

reviewed and verified by an agent of Capital One Bank.

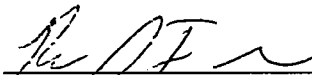
5. No verification in conformity with the aforesaid Rule is appended to the Complaint in this case.

WHEREFORE, Defendant respectfully requests that the Court sustain Defendant's Preliminary Objections and dismiss Plaintiff's Complaint.

Respectfully submitted,

MidPenn Legal Services
Attorneys for Defendant

4-18-08
Date

BY: 
Robin Jean Foor, Esquire
ID# 41520

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

Capital One Bank,
Plaintiff

vs.

Dale R. McCoy,
Defendant

*
*
* NO.: 08-507-CD
*
* Type of Case: Custody
*
* Type of Pleading: Certificate of
Service
*
* Filed on Behalf of: Dale R. McCoy
*
* Counsel of Record for this Party:
* Robin Jean Foor, Esquire
*
* Supreme Court No.: 41520
*
* MidPenn Legal Services
* 211 East Locust Street
* Clearfield, PA 16839
* (814)765-9646

FILED ^{icc}
01/02:5831
APR 22 2008
Wm A Shaw
Prothonotary/Clerk of Courts
Amy Foor

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

CAPITAL ONE BANK,

Plaintiff

vs.

DALE R. MCCOY,

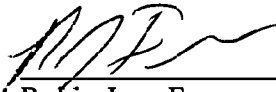
Defendant

:
:
: Civil Action
:
: No. 08-507-CD
:
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CERTIFICATE OF SERVICE

I, Robin Jean Foor, Esquire, hereby certify that on the 18th day of April, 2008, I served a copy of the Preliminary Objections filed in that above captioned matter to the following individual by first class mail, postage prepaid:

David J. Apothaker, Esquire
2417 Welsh Road, Suite 21 #520
Philadelphia, PA 19114



Robin Jean Foor
PA ID # 41520
MidPenn Legal Services Inc.
211 East Locust Street
Clearfield, PA 16803
(814)765-9646

Our File No.: 136173
APOTHAKER & ASSOCIATES, P.C.
BY: Kimberly F. Seian, Esquire
Attorney I.D.# 55140
2417 Welsh Road, Suite 21 #520
Philadelphia, PA 19114
(215) 634-8920
Attorneys for Plaintiff

FILED
MAY 08 2008
2/11/08 ✓
William A. Shaw
Prothonotary/Clerk of Courts
2 CLEAR TO
ATTN
GP

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

Plaintiff,

vs.

DALE R MCCOY
135 EMMA ST
IRVONA, PA 16656

Defendant.

) COURT OF COMMON PLEAS
) CLEARFIELD COUNTY
)
) NO.: 08-507-CD
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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 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 edemandante 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 SUFICIENTE 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

APOTHAKE & ASSOCIATES, P.C.
BY: Kimberly F. Scian, Esquire
Attorney I.D.# 55140
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.: 08-507-CD |
| Plaintiff, |) | |
| vs. |) | |
| |) | |
| |) | |
| DALE R MCCOY |) | |
| 135 EMMA ST |) | |
| IRVONA, PA 16656 |) | |
| Defendant. |) | |

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 DALE R MCCOY, an adult individual residing at 135 EMMA ST IRVONA, PA 16656.
3. Defendant applied for and received a credit card from Capital One Bank, account number 5291071644432526.
4. Defendant used the credit card, account number 5291071644432526, and as of March 04, 2008 there was an outstanding balance due and owing in the amount of \$2,839.69
5. Attached hereto as Exhibit "A" are the Application and the Statement.
6. In addition, Plaintiff avers that Defendant has failed and continues to fail to make any payments, leaving a balance due and owing of \$2,839.69.
7. 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 \$2,839.69 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: 

Kimberly F. Scian, Esquire

Dated: 5/5/2008

Our File No.: 136173

VERIFICATION

Randy Palby, 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 Palby

DATE: 5-5-08

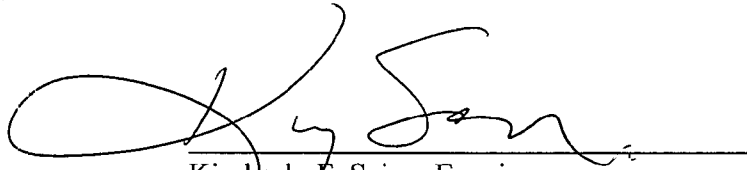
· APOTHEKER & ASSOCIATES, P.C.
BY: Kimberly F. Scian, Esquire
Attorney I.D.# 55140
2417 Welsh Road, Suite 21 #520
Philadelphia, PA 19114
(215) 634-8920
Attorney for Plaintiff

| | | | |
|---------------|------------|---|-----------------------|
| <hr/> | |) | COURT OF COMMON PLEAS |
| | |) | CLEARFIELD COUNTY |
| | |) | |
| | Plaintiff, |) | |
| vs. | |) | |
| | |) | NO.: 08-507-CD |
| | |) | |
| DALE F. MCCOY | |) | |
| | |) | |
| | Defendant. |) | |
| <hr/> | |) | |

CERTIFICATION OF SERVICE

I, Kimberly F. Scian, Esquire, attorney for Plaintiff, certify that on 5/5/2008, I mailed a copy of the
Amended Complaint by Regular mail to

ROBIN JEAN FOR, ESQUIRE
211 EAST LOCUST STREET
CLEARFIELD, PA 16830



Kimberly F. Scian, Esquire
Attorney for Plaintiff

Date: 5/5/2008

Our File No.: 136173

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- Phisher Security
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CapitalOne®

MASTERCARD ACCOUNT

AUG 04 - SEP 03, 2004

5291-0715-4443-2526

Page 1 of 1

Account Summary

| | |
|-----------------------------------|-------------------|
| Previous Balance | \$1,713.15 |
| Payments, Credits and Adjustments | \$0.00 |
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| Finance Charges | \$23.28 |
| New Balance | \$1,765.43 |
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| Payment Due Date | October 02, 2004 |
| Total Credit Line | \$1,400 |
| Total Available Credit | \$0.00 |
| Credit Line for Cash | \$1,400 |
| Available Credit for Cash | \$0.00 |

At your service

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Send payments to: Send inquiries to:
Attn: Remittance Processing Capital One Services
P.O. Box 85147 P.O. Box 85015
Richmond, VA 23276 Richmond, VA 23285-5015

Important Account Information

Are you registered to vote in this year's general election? It's not too late! There's still time to register, so go for it. Your vote can make a difference this November. Call or visit your local voters' registration office or go to www.everyvotecounts2004.com to make sure your voice is heard. Every vote counts!

Payments, Credits and Adjustments

Transactions

| | | |
|---|--------------------|---------|
| 1 | C SEF PAST DUE FEE | \$29.00 |
|---|--------------------|---------|

Your request to close your account has been received. Your account will be closed when it reaches a \$0 balance. Until then, you will continue to receive statements and must continue to make payments. All terms and conditions of the account will apply while a balance remains. Please remember to cut your cards and cancel all charges which automatically bill to your account.

You were assessed a past due fee of \$29.00 on 09/03/2004 because your minimum payment was not received by the due date of 09/03/2004. To avoid this fee in the future, we recommend that you allow at least 7 business days for your payment to reach Capital One.

Finance Charges

Please see reverse side for important information

| | Balance rate applied to | Period rate | Corresponding APR | FINANCE CHARGE |
|-----------|-------------------------|-------------|-------------------|----------------|
| PURCHASES | \$676.40 | .04356% | 15.90% | \$9.13 |
| CASH | \$1,047.98 | .04356% | 15.90% | \$14.15 |

ANNUAL PERCENTAGE RATE applied this period 15.90%

▼ PLEASE RETURN PORTION BELOW WITH PAYMENT ▼

CapitalOne®

0000000 0 529071644432526 03 1765430040000365432

| | |
|--------------------|------------------|
| New Balance | \$1,765.43 |
| Minimum Amount Due | \$365.43 |
| Payment Due Date | October 02, 2004 |

Total enclosed \$
Account Number: 5291-0715-4443-2526

Please print mailing address and/or e-mail changes below using blue or black ink.

| | |
|---------------|-----------------|
| Street | Apt. # |
| City | State ZIP |
| Home Phone | Alternate Phone |
| Email Address | |

Capital One Bank
P.O. Box 85147
Richmond, VA 23276



052081



#9024868883494083# MAIL ID NUMBER
DALE R MCCOY
PO BOX 307
IRVONA PA 16656-0307



Please write your account number on your check or money order made payable to Capital One Bank and mail in the enclosed envelope.

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SIGN UP TODAY!

1-877-778-1207

Mention Offer Code: ONYX

Or visit www.peoplepc.com/go/onyx

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For questions, call toll free at 1-877-778-1207.

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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 accordance with the Important Notice for payments below, 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. **Accruing Finance Charge.** Transactions which are not subject 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 unpaid balance until the unpaid balance 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. **Minimum Finance Charge.** For each 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 rate(s) is less than \$0.50, we will subtract that amount from the \$0.50 minimum and the difference will be billed to the purchase segment of your account.

d. **Temporary 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, purchase, special transfer, and special 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 results of these daily calculations to arrive at the total 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's balance for that segment. We then subtract any payments or credits 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 which post to your purchase or special 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 and by the number of 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 charge included in the balance of each segment.) This gives us the daily balance of 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 Rates (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 quarterly 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 months January, April, July and October.

c. If the code D (Prime), F (1-mo. LIBOR) or G (3-mo. LIBOR Reversed 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 customer 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 the fee or to have such fee credited to you if you cancel 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 thirty-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 receipt of a charge your authorization to reopen 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 advance fees and any other fees assessed to your account. You are responsible for these 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 membership fee for your account, the fee will continue to be charged, to the extent permitted 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 think your bill is wrong, or if you need more 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 no 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 rights. In your letter, give us 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 unsure about. You do not have to pay any amount in question while we are investigating it, but 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 \$50.00 and the purchase was made in 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

† Does not apply to business non-credit card accounts

Capital One supports information privacy protection: see our website at www.capitalone.com. Capital One is a federally registered service mark of Capital One Financial Corporation. All rights reserved. © 2003 Capital One 01LSLBK

52081S

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.

1-MINUTE ACCEPTANCE CERTIFICATE

MasterCard

YES! I want my Pre-Approved MasterCard® with a credit line up to \$2,000!



This Offer Expires:
May 12, 1999

I have read the IMPORTANT DISCLOSURES and Miscellaneous Information on the reverse and agree to be bound as specified therein. You are authorized to check my credit and employment history. This offer is non-transferable.

X Dale R. McCoy 4/15/99
Signature Date

To avoid delays, please provide all information requested.

2366500773579 011 004

Dale R. McCoy

2409 Main St

Linton, PA 15475-0026

PO Box 307 IRVONNA, PA 16656

Please cross out and change name and address if necessary.

59142

- ☒ Yes ☐ No I would be interested in blank checks for cash advances.
☐ Yes ☒ No I would like an Express Account (\$19.95 nonrefundable fee).**
☒ Yes ☐ No I have a checking account.
☒ Yes ☐ No I have a car

Social Security Number 177 66 2676 Date of Birth 110168

Home Phone 814 672 5421 Housing
☐ Own ☐ Rent
☒ Parents ☐ Other

Monthly Housing Payment \$ Gross Annual Income (see reverse) \$

Current Business Phone

Mother's Maiden Name (for security purposes)

MARGARET MCGEE MYERS 2360-4,5,12,14



4111

CP

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

Capital One Bank,
Plaintiff

vs.

Dale R. McCoy,
Defendant

*
*
* NO.: 08-507-CD
*
* Type of Case: Civil
*
* Type of Pleading: Preliminary Objections
* to Amended Complaint
*
* Filed on Behalf of: Dale R. McCoy
*
* Counsel of Record for this Party:
* Robin Jean Foor, Esquire
*
* Supreme Court No.: 41520
*
* MidPenn Legal Services
* 211 East Locust Street
* Clearfield, PA 16839
* (814)765-9646

FILED 300 AHH
0/9:102m
MAY 21 2008
Foor
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

| | |
|-------------------|-----------------|
| CAPITAL ONE BANK, | : |
| | : |
| Plaintiff | : Civil Action |
| | : |
| vs. | : No. 08-507-CD |
| | : |
| DALE R. MCCOY, | : |
| | : |
| Defendant | : |

DEFENDANT'S PRELIMINARY OBJECTIONS
TO PLAINTIFF'S AMENDED COMPLAINT

Pursuant to Pa. R.C.P. No. 1028(c), Defendant Dale R. McCoy, by and through his attorneys, Robin Jean Foor, and MidPenn Legal Services preliminarily objects to Plaintiff's Amended Complaint and moves for its dismissal as follows:

I. PRELIMINARY OBJECTIONS RAISING FAILURE OF A PLEADING TO CONFORM TO LAW OR RULE OF COURT Pa. R.C.P. 1028 (a)(2)

1. Pennsylvania Rule of Civil Procedure 1019(i) states that "when a claim is based on upon a writing, the pleader shall attach a copy of the writing or the material part thereof..."

2. Plaintiff lists its principal place of business as c/o Apothaker and Associates and therefore, defendant believes and alleges that the plaintiff is not Capital One Bank but an assignee of Capital One Bank.

3. Plaintiff has failed to attach any documentation of the assignment.

WHEREFORE, Defendant respectfully requests that the Court sustain Defendant's Preliminary Objections and dismiss Plaintiff's Amended Complaint.

II. PRELIMINARY OBJECTION RAISING INSUFFICIENT SPECIFICITY IN A PLEADING Pa. R.C.P. 1028 (a)(3)

1. The Amended Complaint contains alleged claims for money owed but fails to provide adequate documentation or accounting of charges allegedly made by Defendant, which would support Plaintiff's claim of damages, such as a breakdown of charges, payments, and interest, so that Defendant can properly formulate a response and assert any counterclaims.
2. The Complaint is deficient in reciting factual averments and Defendant is without information upon which she can premise a meaningful response and formulate a defense.

WHEREFORE, Defendant respectfully requests that the Court sustain Defendant's Preliminary Objections and dismiss Plaintiff's Amended Complaint.

III. PRELIMINARY OBJECTION RAISING FAILURE OF A PLEADING TO CONFORM TO LAW OR RULE OF COURT Pa. R.C.P. 1028 (a)(2)

1. The Plaintiff/real-party-in interest is allegedly Capital One.
2. Pa.R.C.P. No. 1024 requires, *inter alia*, that pleadings containing averments of fact must be verified by the party making those averments.
3. The Amended Complaint has what appears to be a photocopy as the verification.
4. Defendant believes and therefore alleges that the amended complaint was not actually reviewed and verified by an agent of Capital One Bank.
5. No verification in conformity with the aforesaid Rule is appended to the Amended Complaint in this case.

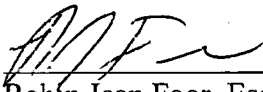
WHEREFORE, Defendant respectfully requests that the Court sustain Defendant's

Preliminary Objections and dismiss Plaintiff's Amended Complaint.

Respectfully submitted,

MidPenn Legal Services
Attorneys for Defendant

5-21-08
Date

BY: 
Robin Jean Foor, Esquire
ID# 41520

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

Capital One Bank,
Plaintiff

vs.

Dale R. McCoy,
Defendant

*
*
* NO.: 08-507-CD
*
* Type of Case: Civil
*
* Type of Pleading: Certificate of
* Service
*
* Filed on Behalf of: Defendant
*
* Counsel of Record for this Party:
* Robin Jean Focr, Esquire
*
* Supreme Court No.: 41520
*
* MidPenn Legal Services
* 211 East Locust Street
* Clearfield, PA 16839
* (814)765-9646

FILED
27 MAY 28 2008

William A. Shaw
Prothonotary/Clerk of Courts
I went to
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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

CAPITAL ONE BANK,

Plaintiff

vs.

DALE R. MCCOY,

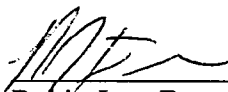
Defendant

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:
: Civil Action
:
: No. 08-507-CD
:
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CERTIFICATE OF SERVICE

I, Robin Jean Foor, Esquire, hereby certify that on the 22nd day of May, 2008, I served a copy of the Preliminary Objections to Amended Complaint filed in that above captioned matter to the following individual by first class mail, postage prepaid:

Kimberly F. Scian, Esquire
2417 Welsh Road, Suite 21 #520
Philadelphia, PA 19114



Robin Jean Foor
PA ID # 41520
MidPenn Legal Services Inc.
211 East Locust Street
Clearfield, PA 16803
(814)765-9646

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

Capital One Bank,
Plaintiff

vs.

Dale R. McCoy,
Defendant

*
*
* NO.: 08-507-CD
*
* Type of Case: Civil
*
* Type of Pleading: Petition to Schedule
* Argument
*
* Filed on Behalf of: Dale R. McCoy
*
* Counsel of Record for this Party:
* Robin Jean Foor, Esquire
*
* Supreme Court No.: 41520
*
* MidPenn Legal Services
* 211 East Locust Street
* Clearfield, PA 16839
* (814)765-9646

FILED

0 10:23 a.m GK 3cc Atty
JUN 24 2008

William A. Shaw
Prothonotary/Clerk of Courts

GK

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

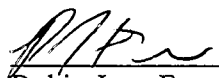
| | | |
|-------------------|---|---------------|
| Capital One Bank, | : | |
| | : | |
| Plaintiff | : | Civil Action |
| | : | |
| vs. | : | No. 08-507-CD |
| | : | |
| Dale R. McCoy, | : | |
| | : | |
| Defendant | : | |

PETITION TO SCHEDULE ARGUMENT ON DEFENDANT'S PRELIMINARY
OBJECTIONS TO PLAINTIFF'S COMPLAINT

Defendant, Dale R. McCoy, by and through his attorneys, Robin Jean Foor, Esq
and MidPenn Legal Services, requests the court to schedule the argument on defendant's
objections and alleges as follows:

1. Defendant was served plaintiff's complaint on or about March 20, 2008.
2. Defendant filed preliminary objections to the complaint and served them on
April 18, 2008.
3. Plaintiff filed an Amended Complaint on or about May 5, 2008.
4. Defendant filed preliminary objections to the amended complaint and served
them on May 22, 2008.
5. As of June 23, 2008, the plaintiff has not filed an amended complaint.

WHEREFORE, defendant requests the Court to schedule argument on the
Preliminary Objections to the Amended Complaint.



Robin Jean Foor

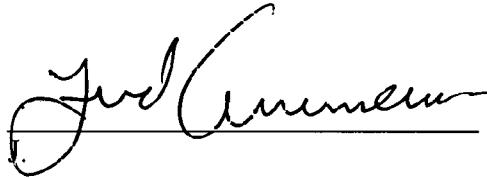
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

| | | |
|-------------------|---|---------------|
| Capital One Bank, | : | |
| | : | |
| Plaintiff | : | Civil Action |
| | : | |
| vs. | : | Nc. 08-507-CD |
| | : | |
| Dale R. McCoy, | : | |
| | : | |
| Defendant | : | |

ORDER

AND NOW, this 25 day of June, 2008, upon consideration of Defendant Dale R. McCoy's Preliminary Objections to Amended Complaint filed in the above captioned matter, it is the Order of the Court that argument has been scheduled for the 23rd day of July, 2008 at 11:00 o'clock A.m. in Courtroom # 1, Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT,



FILED 3cc Atty
0/8:36am Four
JUN 26 2008 (62)

William A. Shaw
Prothonotary/Clerk of Courts

DATE 6-26-2008

☒ 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:

FILED

JUN 26 2008

William A. Shaw
Prothonotary/Clerk of Courts

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

Capital One Bank,
Plaintiff

vs.

Dale R. McCoy,
Defendant

*
*
* NO.: 08-507-CD
*
* Type of Case: Civil
*
* Type of Pleading: Certificate of
* Service
*
* Filed on Behalf of: Dale R. McCoy
*
* Counsel of Record for this Party:
* Robin Jean Foor, Esquire
*
* Supreme Court No.: 41520
*
* MidPenn Legal Services
* 211 East Locust Street
* Clearfield, PA 16839
* (814)765-9646

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JUL 03 2008
William A. Shaw
Prothonotary/Clerk of Courts
1 cc
Amy Foor

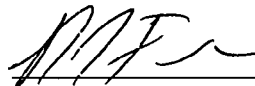
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA

| | | |
|-------------------|---|---------------|
| Capital One Bank, | : | |
| | : | |
| Plaintiff | : | Civil Action |
| | : | |
| vs. | : | No. 03-507-CD |
| | : | |
| Dale R. McCoy, | : | |
| | : | |
| Defendant | : | |

CERTIFICATE OF SERVICE

I, Robin Jean Foor, Esquire, hereby certify that on the 1st day of July, 2008, I served a copy of the Petition to Schedule Argument and the Order Scheduling Argument filed in that above captioned matter to the following individual by first class mail, postage prepaid:

Kimberly F. Scian, Esquire
2417 Welsh Road, Suite 21 #520
Philadelphia, PA 19114



Robin Jean Foor
PA ID # 41520
MidPenn Legal Services Inc.
211 East Locust Street
Clearfield PA 16803
(814)765-9646

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 103922
NO: 08-507-CD
SERVICE # 1 OF 1
COMPLAINT

PLAINTIFF: CAPITAL ONE BANK
vs.
DEFENDANT: DALE R. MCCOY

FILED

073:00/34
JUL 09 2008

William A. Shaw
Prothonotary/Clerk of Courts

SHERIFF RETURN

NOW, April 01, 2008 AT 1:48 PM SERVED THE WITHIN COMPLAINT ON DALE R. MCCOY DEFENDANT AT 135 EMMA ST., IRVONA, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO MARGARET MCCOY, MOTHER A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: DAVIS / MORGILLO

| PURPOSE | VENDOR | CHECK # | AMOUNT |
|-----------------|----------|---------|--------|
| SURCHARGE | APOTHAKE | 79426 | 10.00 |
| SHERIFF HAWKINS | APOTHAKE | 79426 | 45.27 |

Sworn to Before Me This

____ Day of _____ 2008

So Answers,

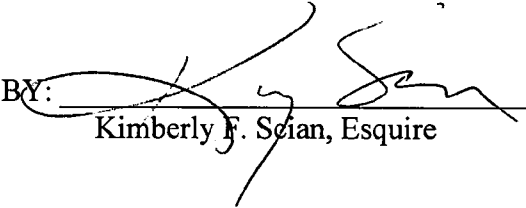
Chester A. Hawkins
by Marilyn Harris

Chester A. Hawkins
Sheriff

1. Plaintiff, CAPITAL ONE BANK, is a company with its principal place of business located at 100 East Shore Drive, Glen Allen, VA 23059.
2. Defendant is DALE R MCCOY, an adult individual residing at 135 EMMA ST IRVONA, PA 16656.
3. Defendant applied for and received a credit card from Capital One Bank, account number 5291071644432526.
4. Defendant used the credit card, account number 5291071644432526, and as of July 17, 2008 there was an outstanding balance due and owing in the amount of \$2,839.69.
6. At present, the documents evidencing Defendant's indebtedness are not accessible and attached hereto. Per Pa. R.C.P. 1019 (i), Plaintiff is retrieving all documents and will provide same.
7. In addition, Plaintiff avers that Defendant has failed and continues to fail to make any payments, leaving a balance due and owing of \$2,839.69.
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 \$2,839.69 and requests this Court award Plaintiff attorney's fees and costs to the extent permitted by applicable law.

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

BY: 
Kimberly F. Seian, Esquire

Dated: 7/17/2008

Our File No.: 136173

VERIFICATION

Ready, 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.

Ready, Kelly

DATE: 7-17-08

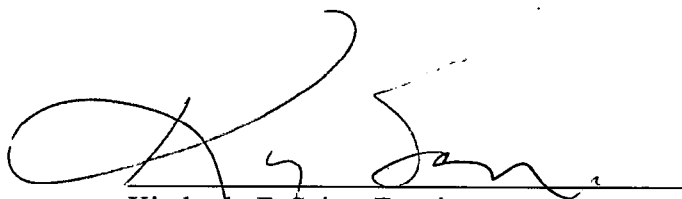
APOTHAKE & ASSOCIATES, P.C.
BY: Kimberly F. Scian, Esquire
Attorney I.D.# 55140
2417 Welsh Road, Suite 21 #520
Philadelphia, PA 19114
(215) 634-8920
Attorney for Plaintiff

| | | | |
|------------------|------------|---|-----------------------|
| CAPITAL ONE BANK | |) | COURT OF COMMON PLEAS |
| | |) | CLEARFIELD COUNTY |
| | |) | |
| | Plaintiff, |) | |
| vs. | |) | |
| | |) | NO.: 08-507-CD |
| | |) | |
| DALE R MCCOY | |) | |
| | |) | |
| | |) | |
| | Defendant. |) | |
| | |) | |

CERTIFICATION OF SERVICE

I, Kimberly F. Scian, Esquire, attorney for Plaintiff, certify that on 7/17/2008, I mailed a copy of the Amended Complaint by Regular mail to

ROBIN JEAN FOOR, ESQUIRE
211 EAST LCCUST ST
CLEARFIELD, PA 15830



Kimberly F. Scian, Esquire
Attorney for Plaintiff

Date: 7/17/2008

Our File No.: 136173

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

CAPTIAL ONE,
Plaintiff

vs.

DALE R. McCOY,
Defendant


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*
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NO. 08-507-CD

ORDER

NOW, this 23rd 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 30 days from this date to file an Amended Complaint which shall contain a detailed statement 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
01/4:00 PM
JUL 24 2008

William A. Shaw
Prothonotary/Clerk of Courts
1 cc Atty's: Apothaker
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(61)

FILED

JUL 24 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 7/24/08

☐ 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:

MT

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

Capital One Bank,
Plaintiff

vs.

Dale R. McCoy,
Defendant

*
*
* NO.: 08-507-CD
*
* Type of Case: Civil
*
* Type of Pleading: Motion to
Dismiss
*
* Filed on Behalf of: Dale R. McCoy
*
* Counsel of Record for this Party:
* Robin Jean Foor, Esquire
*
* Supreme Court No.: 41520
*
* MidPenn Legal Services
* 211 East Locust Street
* Clearfield, PA 16839
* (814)765-9646

FILED 302
012:33/31 Atty Foor
SEP 11 2008
(610)

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CAPITAL ONE BANK,

Plaintiff

vs.

DALE R. MCCOY,

Defendant

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: Civil Action
:
: No. 08-507-CD
:
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:

DEFENDANT'S MOTION TO DISMISS

Defendant, Dale R. McCoy, by and through his attorneys, MidPenn Legal Services and Robin Jean Foor, Esquire request the Court dismiss plaintiff's complaint and allege as follows:

1. Following an argument on July 23, 2008 at which counsel for the plaintiff and the defendant appeared, the court sustained defendant's preliminary objections.
2. On July 23, 2008, the Court issued an order giving the plaintiff thirty days to file an amended complaint.
3. That order was served on plaintiff's counsel by the prothonotary on July 24, 2008.
4. The plaintiff has not filed an amended complaint.

Wherefore, defendant requests the court dismiss the complaint with prejudice.



Robin Jean Foor, PA ID # 41520
MidPenn Legal Services
211 East Locust Street
Clearfield, PA 16830
(814) 765-9646

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CAPITAL ONE BANK,

Plaintiff

vs.

DALE R. MCCOY,

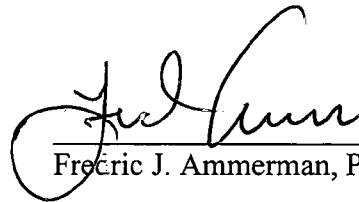
Defendant

:
:
: Civil Action
:
: No. 08-507-CD
:
:
:
:

ORDER

AND NOW this 5th day of Sept, 2008, upon consideration of defendant's preliminary objections and plaintiff's failure to file an amended complaint, plaintiff's complaint is dismissed with prejudice.

By the Court,



Frederic J. Ammerman, P.J.

FILED

012:28/61

300

Atty For

(60)

William A. Shaw
Magistrate/Clerk of Courts

FILED

SEP 05 2008

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 9/5/08

☒ 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: