

08-1325-CD

North Star Capital vs G. Webster

171919

**COURT OF COMMON PLEAS OF CLEARFIELD COUNTY  
PENNSYLVANIA**

NORTH STAR CAPITAL ACQUISITION  
LLC

(Plaintiff)

c/o Apothaker & Associates, P.C.

2417 Welsh Road, Suite 21 #520

(Street Address)

Philadelphia, PA 19114

(City, State, ZIP)

CIVIL ACTION

No. 2008-1325-CD

Type of Case: CIVIL

Type of Pleading: PLEADING

VS.

Filed on Behalf of:

GRACE E WEBSTER

(Defendant)

65 IRWIN DR APT 303

(Street Address)

PHILIPSBURG, PA 16866

(City, State, ZIP)

NORTH STAR CAPITAL ACQUISITION  
LLC

(Plaintiff)

David J. Apothaker, Esq.

Apothaker & Associates, P.C.

(Filed by)

2417 Welsh Road, Suite 21 #520

Philadelphia, PA 19114

(Address)

215 634-8920

(Phone)

**FILED**

M 10:25 a.m. GK  
JUL 21 2008

William A. Shaw  
Prothonotary/Clerk of Courts

ICC AMY

ICOMPL. TO

SHFF

AMT PAID

95.00

(Signature)

Our File No.: 171919  
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

NORTH STAR CAPITAL ACQUISITION	)	COURT OF COMMON PLEAS
LLC	)	CLEARFIELD COUNTY
c/o Apothaker & Associates, P.C.	)	
2417 Welsh Road, Suite 21 #520	)	NO.:
Philadelphia, PA 19114	)	
Plaintiff,	)	
vs.	)	
	)	
GRACE E WEBSTER	)	
65 IRWIN DR APT 303	)	
PHILIPSBURG, PA 16866	)	
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.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE

COURT ADMINISTRATOR  
CLEARFIELD COUNTY COURTHOUSE  
SECOND & MARKET STREETS  
CLEARFIELD, PA 16830  
814-765-2641

APOTHAKE & 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

NORTH STAR CAPITAL ACQUISITION LLC	)	COURT OF COMMON PLEAS
	)	CLEARFIELD COUNTY
c/o Apothaker & Associates, P.C.	)	
2417 Welsh Road, Suite 21 #520	)	NO.:
Philadelphia, PA 19114	)	
Plaintiff,	)	
vs.	)	
	)	
GRACE E WEBSTER	)	
65 IRWIN DR APT 303	)	
PHILIPSBURG, PA 16866	)	
Defendant.	)	

CIVIL ACTION COMPLAINT  
FIRST COUNT

1. Plaintiff is NORTH STAR CAPITAL ACQUISITION LLC c/o Apothaker & Associates, P.C., 2417 Welsh Road, Suite 21 #520, Philadelphia, PA 19114.
2. Defendant(s) is/are GRACE E WEBSTER, an adult individual residing at 65 IRWIN DR APT 303 PHILIPSBURG, PA 16866.
3. Plaintiff, NORTH STAR CAPITAL ACQUISITION LLC, is the Assignee and Successor in Interest of Account #4388641485162361; and said account was issued to Defendant(s) by CAPITAL ONE BANK (USA) NA, the Original creditor.
4. Defendant received, accepted and used the account to its benefit.
5. This account is in default and Defendant(s) has an unpaid balance of \$4,023.72. A true and correct copy of the total due and owing is attached hereto, made a part hereof and marked as Exhibit "A".
6. All credits, if any, to which Defendant(s) is entitled, have been applied to the account and are included in Exhibit "A".
7. Although demand has been made, Defendant(s) 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 \$4,023.72 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: 

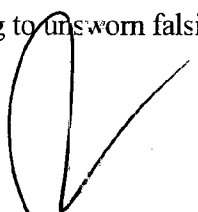
David J. Apothaker

Dated: 7/14/2008

Our File No.: 171919

**VERIFICATION**

David J. Apothaker, Esq. hereby states that I am counsel 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.



---

David J. Apothaker  
Attorney for Plaintiff

DATE: 7/14/2008

NORTH STAR CAPITAL ACQUISITION LLC

GRACE E WEBSTER  
65 IRWIN DR APT 303  
PHILIPSBURG, PA 16866

STATEMENT OF ACCOUNT

Debtor's Name:	GRACE E WEBSTER
Account Number:	4388641485162361
Original Creditor:	CAPITAL ONE BANK (USA) NA
Balance Due:	\$4,023.72

Our File No.: 171919

EXHIBIT "A"

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NO: 08-1325-CD

NORTH STAR CAPITAL ACQUISITION LLC

vs

GRACE E. WEBSTER

SERVICE # 1 OF 1

COMPLAINT

SERVE BY: 08/20/2008

HEARING:

PAGE: 104432

DEFENDANT: GRACE E. WEBSTER  
ADDRESS: 65 IRWIN DR. APT 303  
PHILIPSBURG, PA 16866

ALTERNATE ADDRESS

SERVE AND LEAVE WITH: DEFENDANT/AAR

CIRCLE IF THIS HIGHLIGHTED ADDRESS IS:

VACANT

OCCUPIED

ATTEMPTS

**SHERIFF'S RETURN**

NOW, 7/24/08 AT 2:09 AM / PM ☒ SERVED THE WITHIN

COMPLAINT ON GRACE E. WEBSTER, DEFENDANT

BY HANDING TO Grace Webster, self

A TRUE AND ATTESTED COPY OF THE ORIGINAL DOCUMENT AND MADE KNOW TO HIM / HER THE CONTENTS THEREOF.

ADDRESS SERVED 65 Irwin Dr Apt. 303

NOW \_\_\_\_\_ AT \_\_\_\_\_ AM / PM POSTED THE WITHIN

COMPLAINT FOR GRACE E. WEBSTER

AT (ADDRESS) \_\_\_\_\_

NOW \_\_\_\_\_ AT \_\_\_\_\_ AM / PM AFTER DILIGENT SEARCH IN MY BAILIWICK,

I MAKE RETURN OF **NOT FOUND** AS TO GRACE E. WEBSTER

REASON UNABLE TO LOCATE \_\_\_\_\_

SWORN TO BEFORE ME THIS

\_\_\_\_\_ DAY OF \_\_\_\_\_ 2008

So Answers: CHESTER A. HAWKINS, SHERIFF

BY:

*[Signature]*  
Deputy Signature  
S. Hunter.  
Print Deputy Name



To: The Honorable Judge  
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

In response to the civil action suite being brought against me, I would like to submit the  
following in my defense. 8/8/2008

: CIVIL ACTION

No. 2008-1325-cd  
Type of Case: Civil  
Type of Pleading: PLEADING

Plaintiff  
NORTH STAR CAPITAL ACQUISITION  
LLC  
(Plaintiff)  
c/o Apothaker & Associates, P.C.  
2417 Welsh Road, Suite 21 #520  
Philadelphia, PA 19114

Vs.

GRACE E WEBSTER  
65 IRWIN DR APT 303  
PHILIPSBURG, PA 16866

FILED No CC  
m 12:52 PM  
AUG 11 2008 (60)

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY  
PENNSYLVANIA CIVIL ACTION – LAW

: CIVIL ACTION

No. 2008-1325-cd

Type of Case: Civil

Type of Pleading: PLEADING

Plaintiff

NORTH STAR CAPITAL ACQUISITION  
LLC

(Plaintiff)

c/o Apothaker & Associates, P.C.

2417 Welsh Road, Suite 21 #520

Philadelphia, PA 19114

Vs.

GRACE E WEBSTER

65 IRWIN DR APT 303

PHILIPSBURG, PA 16866

ANSWER

1. I am 75 years old and on a limited income. I receive veterans pension of \$485.00 and \$139.00 in social security and \$38.00 in SSI. I receive \$40 dollars in food stamp and I am on the medical access card.
2. I am medically disabled, I am on oxygen 24/7, I have COPD, I am a diabetic, I have emphysema, and I have high blood pressure.
3. I live in HUD approved apartment.
4. I own no appliances.
5. I own no real estate.
6. I own no vehicles.
7. This particular account was opened July of 1998 it was closed on October of 2003 by the credit grantor and the pay status: charged off as bad credit.

I respectfully request that this complaint against me be dismissed.

Thank you,

Grace Webster

*Grace Webster*

2008-1325-cd

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

**FILED**

AUG 11 2008

William A. Shaw  
Prothonotary/Clerk of Courts

Deborah A. Gillen on  
behalf of Cody W. Gillen,  
Plaintiff

No. 08-1412-CD

vs.

Type of Case: Protection from Abuse

Michael J. Shelow,  
Defendant

Type of Pleading: Praecipe to  
Enter Appearance

Filed on Behalf of: Deborah A.  
Gillen for Cody W. Gillen

Counsel of Record for this Party:  
Katherine M. Forcey, Esquire

Supreme Court No.: 95110

MidPenn Legal Services  
211 East Locust Street  
Clearfield, PA 16830  
(814)765-9646

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

Deborah A. Gillen on  
behalf of Cody W. Gillen,  
Plaintiff

vs.

Michael J. Shelow,  
Defendant

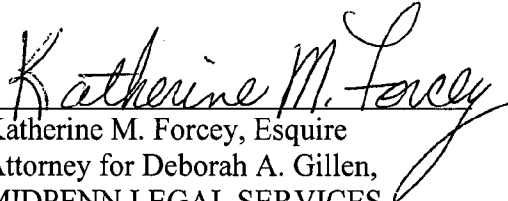
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No. 08-1412-CD

PRAECIPE TO ENTER APPEARANCE

To the Prothonotary:

Please enter my appearance on behalf of Deborah A. Gillen for Cody W. Gillen.

  
Katherine M. Forcey, Esquire  
Attorney for Deborah A. Gillen,  
MIDPENN LEGAL SERVICES  
211 East Locust Street  
Clearfield, PA 16830  
(814)765-9646

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

NORTH STAR CAPITAL  
ASSOCIATES,  
Plaintiff

vs.

GRACE E. WEBSTER,  
Defendant

\*  
\*  
\*  
\* NO.: 08-1325-CD  
\*  
\* Type of Case: Civil  
\*  
\* Type of Pleading: Preliminary  
\* Objections  
\*  
\*  
\* Filed on Behalf of: Defendant  
\*  
\* Counsel of Record for this Party:  
\* Shana M. Pugh, Esquire  
\*  
\* Supreme Court No.: 200952  
\*  
\* MidPenn Legal Services  
\* 230 Lincoln Way East, Suite A  
\* Chambersburg, PA  
\* (717) 264-5354

FILED 3cc Atty  
0/9:202m Pugh  
AUG 19 2008

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

NORTH STAR CAPITAL	:	
ACQUISITION, LLC	:	
Plaintiff	:	Civil Action
	:	
vs.	:	No. 08-1325-CD
	:	
GRACE E. WEBSTER,	:	
Defendant	:	

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

Defendant, Grace E. Webster, by and through her undersigned counsel, Shana M. Pugh, of MidPenn Legal Services, hereby files these Preliminary objections to Plaintiff's Complaint and avers the following in support thereof:

**I. MOTION TO STRIKE/FAILURE OF PLEADING TO CONFORM  
TO LAW OR RULE OF COURT – VERIFICATION**

1. North Star Capital Acquisition c/o Apothaker & Associates, (hereinafter referred to as "Plaintiff"), filed a Complaint in this Honorable Court against Grace E. Webster, (hereinafter referred to as "Defendant") on July 21, 2008, seeking damages in excess of four thousand twenty-three dollars and seventy-two cents (\$4,023.72).
2. Pa. R.C.P. No. 1024(c) requires that a pleading be verified by a party, with two exceptions: (1) *all* of the parties lack sufficient knowledge or information or (2) *all* of the parties are outside of the jurisdiction of the

court *and* the verification of none of them can be obtained within the time allowed for the filing of the pleading. (emphasis added).

3. Moreover, Pa.R.C.P. No. 1024(c) requires that in the event that one of the aforementioned exceptions is applicable, the person verifying the pleading must set forth the source of the person's information as to matters not stated upon his or her own knowledge *and* the reason why the verification is not made by a party. (emphasis added).
4. In the instant case, Plaintiff's counsel verified the Complaint. However, Plaintiff's counsel fails to set forth the exception to Pa. R.C.P. No.1024(c) upon which counsel bases his ability to verify the Complaint.
5. In addition, Plaintiff's counsel fails to state a reason why a party to the action was unable to verify the Complaint.
6. Thus, the verification of the Complaint by Plaintiff's counsel in this matter fails to conform to Pa. R.C.P. No. 1024(c) and preliminary objections are therefore appropriate. Pa. R.C.P. No.1028(a)(2).

WHEREFORE, Defendant Grace E. Webster respectfully requests that this Honorable Court sustain her preliminary objections and dismiss Plaintiff's Complaint with prejudice.

**II. MOTION TO STRIKE/FAILURE OF PLEADING TO CONFORM TO  
LAW OR RULE OF COURT – FAILURE TO ATTACH  
COPY OF WRITTEN AGREEMENT**

7. Pennsylvania Rule of Civil Procedure 1019(h) requires that when “[w]hen any claim or defense is based upon an agreement, the pleading shall state specifically whether the agreement is oral or written.”
8. Plaintiff does not state, as required by Pa. R.C.P. No. 1019(h), whether any of the agreements upon which the claim is based are oral or written.
9. The Pennsylvania Rules of Civil Procedure go on to state that when the claim or defense is based upon a writing a copy of the writing shall be attached. Pa. R.C.P. 1919(i).
10. Plaintiff references an assignment of the alleged account from Capital One Bank to North Star Capital Acquisition, LLC but fails to attach a valid written assignment from the original creditor properly identifying the account alleged to be owed by Defendant. The assignment is essential to Plaintiff's case to establish that Plaintiff is in fact a party in interest, a requirement of Pa. R.C.P. No. 2002 and to establish that Plaintiff is in fact an assignee.
11. Plaintiff alleges Defendant received, accepted and used the alleged account to its benefit, which would appear to suggest that a written agreement would have been made between either Plaintiff and Defendant or Defendant and the alleged original creditor.



12. Again, Plaintiff failed to attach any written agreement or explain the absence of said agreement, despite the requirement to do so under Pa. R.C.P. No. 1019(i).

13. Therefore, Plaintiff has failed to adhere to the requirements of Pa. R.C.P. No. 1019(h) and (i) requiring the filing of Preliminary Objections pursuant to Pa. R.C.P. No. 1028(a)(2).

WHEREFORE, Defendant Grace E. Webster respectfully requests that this Honorable Court sustain her preliminary objections and dismiss Plaintiff's Complaint with prejudice.

### **III. MOTION TO STRIKE/INSUFFICIENT SPECIFICITY OF PLEADING**

14. Pennsylvania Rule of Civil Procedure 1019(a) requires that the "material facts" upon which a cause of action is based be stated in a concise and summary form.

15. Plaintiff alleges Defendant's default in paragraph five (5) of the Complaint but does not set forth the date on which the alleged default occurred.

16. Plaintiff alleges a total unpaid balance of four thousand twenty-three dollars and seventy-two cents to be owed by Defendant. Plaintiff attached a document as Exhibit "A" that is described as "a true and correct copy of the total due and owing".

17. This exhibit is nothing more than Plaintiff's rendition of a "Statement of Account" that provides no more information than that contained in the Complaint.

18. The information contained in the Statement of Account is inadequate to allow Defendant to properly prepare a defense to the action or prepare any meaningful response in light of the failure of the document to provide an accounting of alleged charges, payments, and interest.

19. Therefore, Plaintiff has failed to adhere to the requirements of Pa. R.C.P. No. 1019(a) requiring the filing of Preliminary Objections pursuant to Pa. R.C.P. No. 1028(a)(2).

WHEREFORE, Defendant Grace E. Webster respectfully requests that this Honorable Court sustain her preliminary objections and dismiss Plaintiff's Complaint with prejudice.

Respectfully submitted,

**MidPenn Legal Services**  
Attorneys for Defendant

8-19-08  
Date

BY: Shana M. Pugh / DO  
Shana M. Pugh, Esquire  
ID# 200952

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

NORTH STAR CAPITAL  
ACQUISITION,  
Plaintiff

vs.

GRACE E. WEBSTER,  
Defendant

\*  
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\*  
\* NO.: 08-1325-CD  
\*  
\* Type of Case: Civil  
\*  
\* Type of Pleading: Certificate of Service  
\*  
\*  
\* Filed on Behalf of: Defendant  
\*  
\* Counsel of Record for this Party:  
\* Shana M. Pugh, Esquire  
\*  
\* Supreme Court No.: 200952  
\*  
\* MidPenn Legal Services  
\* 230 Lincoln Way East, Suite A  
\* Chambersburg, PA  
\* (717) 264-5354

FILED <sup>ICE</sup>  
0110:33/01 *Shana Pugh*  
AUG 20 2008

William A. Shaw  
Prothonotary/Clerk of Courts

GV

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

NORTH STAR CAPITAL  
ACQUISITION, LLC

Plaintiff

vs.

GRACE E. WEBSTER,

Defendant

Civil Action

No. 08-1325-CD

**CERTIFICATE OF SERVICE**

I, Shana M. Pugh, Esquire, hereby certify that on the 19th day of August, 2008, I served a copy of Defendant's Preliminary Objections to Plaintiff's Complaint filed in the above captioned matter to the following individual by first class mail, postage prepaid:

David J. Apothaker, Esquire  
Apothaker & Associates, P.C.  
2417 Welsh Road  
Suite 21, No. 520  
Philadelphia, PA 19114

Date: 8-19-08

Shana M. Pugh/DO  
Shana M. Pugh  
Supreme Court ID No. 200952  
MidPenn Legal Services, Inc.  
230 Lincoln Way East, Suite A  
Chambersburg, PA 17201  
(717) 264-5354  
Attorney for Defendant

NORTH STAR CAPITAL ACQUISITION ) COURT OF COMMON PLEAS  
LLC ) CLEARFIELD COUNTY  
c/o Apothaker & Associates, P.C. )  
520 Fellowship Road C306 ) NO.: 2008-1325-CD  
Mount Laurel, NJ 08054 )  
Plaintiff, )  
vs. )  
GRACE E WEBSTER )  
65 IRWIN DR APT 303 )  
PHILIPSBURG, PA 16866 )  
Defendant. )

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.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

FILED NO CC  
SEP 15 2008 (60)

William A. Shaw  
Prothonotary/Clerk of Courts

Our File No.: 171919  
APOTHAKE & ASSOCIATES, P.C.  
BY: Kimberly F. Scian, Esquire  
Attorney I.D.#55140  
520 Fellowship Road C306  
Mount Laurel, NJ 08054  
(800) 672-0215  
Attorneys for Plaintiff

NORTH STAR CAPITAL ACQUISITION	)	COURT OF COMMON PLEAS
LLC	)	CLEARFIELD COUNTY
c/o Apothaker & Associates, P.C.	)	
520 Fellowship Road C306	)	NO.: 2008-1325-CD
Mount Laurel, NJ 08054	)	
	)	
Plaintiff,	)	
vs.	)	
	)	
	)	
GRACE E WEBSTER	)	
65 IRWIN DR APT 303	)	
PHILIPSBURG, PA 16866	)	
Defendant.		

AMENDED COMPLAINT  
FIRST COUNT

1. Plaintiff, NORTH STAR CAPITAL ACQUISITION LLC, is a company with its principal place of business located at 220 John Glen Drive, Suite 1, Amherst, NY 14228.
2. Defendant(s) is/are GRACE E WEBSTER, an adult individual residing at 65 IRWIN DR APT 303 PHILIPSBURG, PA 16866.
3. Plaintiff, NORTH STAR CAPITAL ACQUISITION LLC, is the Assignee and Successor in Interest of #4388641485162361; and said account was issued to Defendant(s) by CAPITAL ONE BANK (USA) NA, the Original creditor.
4. Defendant(s) received, accepted, and used the account to its benefit.
5. This account is in default and Defendant(s) has an unpaid balance of \$4,023.72.
6. All credits, if any, to which Defendant(s) is entitled, have been applied to the account.
7. At present, additional documents evidencing Defendant's indebtedness are not accessible. Per Pa. R.C.P. 1019 (i), Plaintiff is retrieving all documents and will provide same.

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 \$4,023.72 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: 

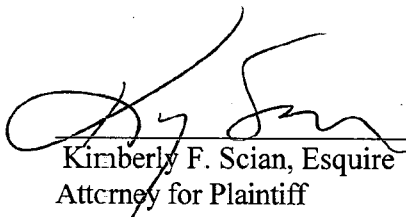
Kimberly F. Scian, Esquire

Dated: 9/9/2008

Our File No.: 171919

**VERIFICATION**

Kimberly F. Scian, Esquire hereby states that I am counsel 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.

  
\_\_\_\_\_  
Kimberly F. Scian, Esquire  
Attorney for Plaintiff

DATE: 9/9/2008



Our File No.: 171919  
APOTHAKER & ASSOCIATES, P.C.  
BY: Kimberly F. Scian, Esquire  
Attorney I.D.#55140  
520 Fellowship Road C306  
Mount Laurel, NJ 08054  
(800) 672-0215  
Attorneys for Plaintiff

NORTH STAR CAPITAL  
ACQUISITION LLC

Plaintiff,

vs.

GRACE E WEBSTER

Defendant.

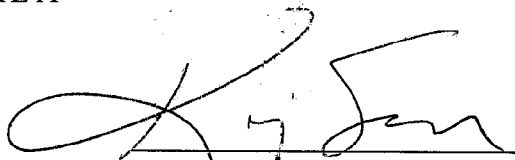
) COURT OF COMMON PLEAS  
) CLEARFIELD COUNTY  
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NO.: 2008-1325-CD

CERTIFICATION OF SERVICE

I, Kimberly F. Scian, Esquire, attorney for Plaintiff, certify that on 9/9/2008, I mailed a copy of the Amended Complaint by Regular mail to

MIDPENN LEGAL SERVICES  
ATTN: SHANA M PUGH, ESQUIRE  
230 LINCOLN WAY EAST SUITE A  
CHAMBERSBURG, PA 17201

  
\_\_\_\_\_  
Kimberly F. Scian, Esquire  
Attorney for Plaintiff

Date: 9/9/2008

Our File No.: 171919

**FILED**

**SEP 15 2008**

William A. Shaw  
Prothonotary/Clerk of Courts

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

NORTH STAR CAPITAL  
ASSOCIATES,  
Plaintiff

vs.

GRACE E. WEBSTER,  
Defendant

\*  
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\* NO.: 08-1325-CD  
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\* Type of Case: Civil  
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\* Filed on Behalf of: Defendant  
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\* Counsel of Record for this Party:  
\* Shana M. Pugh, Esquire  
\*  
\* Supreme Court No.: 200952  
\*  
\* MidPenn Legal Services  
\* 230 Lincoln Way East, Suite A  
\* Chambersburg, PA  
\* (717) 264-5354

FILED ICC AAA  
0/3:30 Lm Pugh  
OCT 01 2008  
William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

NORTH STAR CAPITAL  
ACQUISITION, LLC  
Plaintiff

vs.

GRACE E. WEBSTER,  
Defendant

:  
:  
: Civil Action  
:  
: No. 08-1325-CD  
:  
:

**CERTIFICATE OF SERVICE**

I, Shana M. Pugh, Esquire, hereby certify that on the 1<sup>st</sup> day of October, 2008, I served a copy of Defendant's Preliminary Objections to Plaintiff's Amended Complaint filed in the above captioned matter to the following individual by first class mail, postage prepaid:

Kimberly F. Scian, Esquire  
Apothaker & Associates, P.C.  
520 Fellowship Road C306  
Mount Laurel, NJ 08054

Date: 10-1-08

Shana M. Pugh /s/  
Shana M. Pugh  
Supreme Court ID No. 200952  
MidPenn Legal Services, Inc.  
230 Lincoln Way East, Suite A  
Chambersburg, PA 17201  
(717) 264-5354  
Attorney for Defendant

CH

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

NORTH STAR CAPITAL  
ASSOCIATES,  
Plaintiff

vs.

GRACE E. WEBSTER,  
Defendant

\*  
\*  
\*  
\* NO.: 08-1325-CD  
\*  
\* Type of Case: Civil  
\*  
\* Type of Pleading: Preliminary  
\* Objections to Plaintiff's Amended  
\* Complaint  
\*  
\*  
\* Filed on Behalf of: Defendant  
\*  
\* Counsel of Record for this Party:  
\* Shana M. Pugh, Esquire  
\*  
\* Supreme Court No.: 200952  
\*  
\* MidPenn Legal Services  
\* 230 Lincoln Way East, Suite A  
\* Chambersburg, PA  
\* (717) 264-5354

**FILED**

0/10:15 *lm*

OCT 01 2008

*2cc Att  
Pugh*

*(lm)*

*S*

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF  
CLEARFIELD COUNTY, PENNSYLVANIA

NORTH STAR CAPITAL	:	
ACQUISITION, LLC	:	
Plaintiff	:	Civil Action
	:	
vs.	:	No. 08-1325-CD
	:	
GRACE E. WEBSTER,	:	
Defendant	:	

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

Defendant, Grace E. Webster, by and through her undersigned counsel, Shana M. Pugh, of MidPenn Legal Services, hereby files these Preliminary Objections to Plaintiff's Amended Complaint and avers the following in support thereof:

**I. MOTION TO STRIKE/FAILURE OF PLEADING TO CONFORM  
TO LAW OR RULE OF COURT – VERIFICATION**

1. North Star Capital Acquisition c/o Apothaker & Associates, (hereinafter referred to as "Plaintiff"), filed an Amended Complaint in this Honorable Court against Grace E. Webster, (hereinafter referred to as "Defendant"), seeking a judgment in excess of four thousand twenty-three dollars and seventy-two cents (\$4,023.72).
2. Pa. R.C.P. No. 1024(c) requires that a pleading be verified by a party, with two exceptions: (1) *all* of the parties lack sufficient knowledge or

information or (2) *all* of the parties are outside of the jurisdiction of the court *and* the verification of none of them can be obtained within the time allowed for the filing of the pleading. (emphasis added).

3. Moreover, Pa.R.C.P. No. 1024(c) requires that in the event that one of the aforementioned exceptions is applicable, the person verifying the pleading must set forth the source of the person's information as to matters not stated upon his or her own knowledge *and* the reason why the verification is not made by a party. (emphasis added).
4. In the instant case, Plaintiff's counsel verified the Amended Complaint. However, Plaintiff's counsel fails to set forth the exception to Pa. R.C.P. No.1024(c) upon which counsel bases his ability to verify the Amended Complaint.
5. In addition, Plaintiff's counsel fails to state a reason why a party to the action was unable to verify the Amended Complaint.
6. Thus, the verification of the Amended Complaint by Plaintiff's counsel in this matter fails to conform to Pa. R.C.P. No. 1024(c) and preliminary objections are therefore appropriate. Pa. R.C.P. No.1028(a)(2).

WHEREFORE, Defendant Grace E. Webster respectfully requests that this Honorable Court sustain her preliminary objections and dismiss Plaintiff's Amended Complaint with prejudice.

**II. MOTION TO STRIKE/FAILURE OF PLEADING TO CONFORM TO  
LAW OR RULE OF COURT – FAILURE TO ATTACH  
COPY OF WRITTEN AGREEMENT**

7. Pennsylvania Rule of Civil Procedure 1019(h) requires that when “[w]hen any claim or defense is based upon an agreement, the pleading shall state specifically whether the agreement is oral or written.”
8. Plaintiff does not state, as required by Pa. R.C.P. No. 1019(h), whether any of the agreements upon which the claim is based are oral or written.
9. The Pennsylvania Rules of Civil Procedure go on to state that when the claim or defense is based upon a writing a copy of the writing shall be attached. Pa. R.C.P. 1019(i).
10. Plaintiff references an assignment of the alleged account from Capital One Bank to North Star Capital Acquisition, LLC but fails to attach a valid written assignment from the original creditor properly identifying the account alleged to be owed by Defendant. The assignment is essential to Plaintiff's case to establish that Plaintiff is in fact a party in interest, a requirement of Pa. R.C.P. No. 2002 and to establish that Plaintiff is in fact an assignee.
11. Plaintiff alleges Defendant received, accepted and used the alleged account to its benefit and the documents evidencing such indebtedness are not accessible.
12. Plaintiff fails to allege an agreement between Defendant and the alleged original creditor or provide a copy of the writing evidencing the agreement, if such a document exists.



13. Plaintiff states in paragraph seven (7) of the Amended Complaint that "Per Pa. R.C.P. 1019(i), Plaintiff is retrieving all documents and will provide same." Plaintiff did not set forth the substance of writings, which is the final element of rule 1019(i).

14. Therefore, Plaintiff has failed to adhere to the requirements of Pa. R.C.P. No. 1019(h) and (i) requiring the filing of Preliminary Objections pursuant to Pa. R.C.P. No. 1028(a)(2).

WHEREFORE, Defendant Grace E. Webster respectfully requests that this Honorable Court sustain her preliminary objections and dismiss Plaintiff's Amended Complaint with prejudice.

### **III. MOTION TO STRIKE/INSUFFICIENT SPECIFICITY OF PLEADING**

15. Pennsylvania Rule of Civil Procedure 1019(a) requires that the "material facts" upon which a cause of action is based be stated in a concise and summary form.

16. Plaintiff alleges Defendant's default in paragraph five (5) of the Amended Complaint but does not set forth the date on which the alleged default occurred.

17. Plaintiff alleges a total unpaid balance of four thousand twenty-three dollars and seventy-two cents owed by Defendant.

18. Plaintiff alleges Defendant received, accepted and used the alleged account to its benefit and the documents evidencing such indebtedness are not accessible.

19. Plaintiff states in paragraph seven (7) of the Amended Complaint that "Per Pa. R.C.P. 1019(i), Plaintiff is retrieving all documents and will provide same."

20. Plaintiff's reliance on Pa. R.C.P. 1019(i) is misplaced because Pa R.C.P. No. 1019(a) requires "[t]he material facts on which a cause of action or defense is based shall be stated in a concise and summary form".

21. Therefore, Plaintiff has failed to adhere to the requirements of Pa. R.C.P. No. 1019(a) requiring the filing of Preliminary Objections pursuant to Pa. R.C.P. No. 1028(a)(2).

WHEREFORE, Defendant Grace E. Webster respectfully requests that this Honorable Court sustain her preliminary objections and dismiss Plaintiff's Amended Complaint with prejudice.

Respectfully submitted,

**MidPenn Legal Services**  
Attorneys for Defendant

10-1-08  
Date

BY: Shana M. Pugh /dp  
Shana M. Pugh, Esquire  
ID# 200952

Our File No.: 171919  
APOTHAKER & ASSOCIATES, P.C.  
BY: Kimberly F. Scian, Esquire  
Attorney I.D.#.55140  
520 Fellowship Road C306  
Mount Laurel, NJ 08054  
(800) 672-0215  
Attorney for Plaintiff

NORTH STAR CAPITAL	)	COURT OF COMMON PLEAS
ACQUISITION LLC	)	CLEARFIELD COUNTY
	)	
Plaintiff,	)	
vs.	)	
	)	NO. 2008-1325-CD
GRACE E WEBSTER	)	
	)	
	)	
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: 

Kimberly F. Scian, Esquire

Dated: 10/2/2008

FILED 2008  
10/11/10 um  
OCT 09 2008  
William A. Shaw  
Prothonotary/Clerk of Courts  
*Scian*

**FILED**

**OCT 09 2008**

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 104432  
NO: 08-1325-CD  
SERVICES 1  
COMPLAINT

PLAINTIFF: NORTH STAR CAPITAL ACQUISITION LLC  
vs.  
DEFENDANT: GRACE E. WEBSTER

SHERIFF RETURN

RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	APOTHAKE	98141	10.00
SHERIFF HAWKINS	APOTHAKE	98141	36.72

FILED  
013:1680  
OCT 15 2008  
William A. Shaw  
Prothonotary/Clerk of Courts

Sworn to Before Me This

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

So Answers,



Chester A. Hawkins  
Sheriff