

08-1834-CD

Capital One vs Cheri M. Smith

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

**CIVIL ACTION -- (LAW) (EQUITY)**

No. 08-1834-CD

Type of Case: Civil

Type of Pleading: Complaint in Civil Action

CAPITAL ONE BANK USA NA  
Plaintiff(s)

Filed on Behalf of: Plaintiff

v.

CHERI M SMITH  
Defendant(s)

Counsel of Record for this Party:

Paul J. Klemm, Esquire  
Nudelman, Nudelman, & Ziering, P.C.  
425 Eagle Rock Avenue  
Roseland, NJ 07068  
973-618-0000 tel  
973-618-0647 fax  
Attorney ID # 92125

Dated: September 20, 2008

**FILED** *Atty. pd.*  
*95.00*  
*7/2:05 PM*  
**SEP 26 2008**  
*(U)* *ICC Atty*  
William A. Shaw  
Prothonotary/Clerk of Courts  
*ICC Sheriff*

**PAUL J. KLEMM, ESQUIRE  
NUDELMAN, NUDELMAN, & ZIERING, P.C.  
425 EAGLE ROCK AVENUE  
ROSELAND, NJ 07068  
973-618-0000  
ID # 92125**

**ATTORNEY FOR PLAINTIFF**

CAPITAL ONE BANK USA NA

CLEARFIELD COUNTY

Plaintiff(s)

v.

CHERI M SMITH

Defendant(s)

**COMPLAINT IN CIVIL ACTION**

**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.

DANIEL J. NELSON, COURT ADMINISTRATOR  
CLEARFIELD COUNTY COURTHOUSE  
CLEARFIELD, PA 16830

**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 en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. See avisado que si usted no se defiende, la corte tomara medidas y puede continuar le demanda en contra suya sin previo aviso o notificacion. Además, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO 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

DANIEL J. NELSON, COURT ADMINISTRATOR  
CLEARFIELD COUNTY COURTHOUSE  
CLEARFIELD, PA 16830

PAUL J. KLEMM, ESQUIRE  
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ATTORNEY FOR PLAINTIFF

CAPITAL ONE BANK USA NA,

CLEARFIELD COUNTY

Plaintiff(s)

v.

CHERI M SMITH

Defendant(s)

**COMPLAINT IN CIVIL ACTION**

AND NOW, comes Plaintiff, CAPITAL ONE BANK USA NA, by and through its attorney, Paul J. Klemm and the law offices of Nudelman, Nudelman & Ziering, P.C., and files the following **Complaint in Civil Action** and in support thereof aver as follows:

1. Plaintiff, CAPITAL ONE BANK USA NA, is a corporation licensed to do business in the State of Pennsylvania.
2. Defendant, CHERI M SMITH, is an individual and citizen of the Commonwealth of Pennsylvania, who is believed to currently reside at , 411 BRISBIN ST, HOUTZDALE PA 16651-1105.
3. At the special insistence and request of the Defendant, Defendant was issued a credit card by CAPITAL ONE BANK USA NA, account number 4802131949724699.

4. The Defendant is responsible for an unpaid balance in the amount of \$6,845.53 and interest in the amount of \$1,165.31.

5. Plaintiff has made demand to Defendant for \$8,010.84, but Defendant has willfully failed and/or refused to reimburse Plaintiff for the aforesaid sum due.

Wherefore, Plaintiff demands Judgment in its favor and against the Defendant in the amount of \$8,010.84, plus attorney fees of \$1,506.02 and interest from the date of breach, with continuing interest thereon at the legal rate from the date of Judgment plus anticipated court costs. The damages requested are less than the maximum amount for compulsory arbitration as set by the Court.

Respectfully Submitted:

NUDELMAN, NUDELMAN & ZIERING, P.C.




---

Paul J. Klemm, Esquire  
425 Eagle Rock Avenue  
Roseland, NJ 07068  
(973) 618-0000

### VERIFICATION

The undersigned, Paul J. Klemm, Esquire, hereby states that he is the attorney for Plaintiff in this action and verifies that the statements made in the foregoing pleading are true and correct to the best of his knowledge, information and belief. Counsel has signed this verification at the request of Plaintiff as a matter of time and convenience. Plaintiff has represented to counsel that there is a debt due and owing from Defendant to Plaintiff in the amount as set forth within the foregoing pleading. Plaintiff has provided counsel with all relevant information in order to allow counsel to sign this verification. Plaintiff agrees to provide a verification signed by Plaintiff upon request by Defendant. The undersigned understands that the statements herein are made subject to the penalties of 19 Pa.C.S.A Section 4904 relating to unsworn falsification to authorities.

Date: August 26, 2008



---

Paul J. Klemm, Esquire  
Nudelman, Nudelman & Ziering, P.C.  
425 Eagle Rock Avenue  
Roseland, NJ 07068  
(973) 618-0000

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

NO: 08-1834-CD

CAPITAL ONE BANK USA NA

vs

CHERI M. SMITH

SERVICE # 1 OF 1

COMPLAINT

SERVE BY: 10/26/2008

HEARING:

PAGE: 104710

DEFENDANT:

CHERI M. SMITH

ADDRESS:

411 BRISBIN ST.

HOUTZDALE, PA 16651

ALTERNATE ADDRESS

SERVE AND LEAVE WITH: DEFENDANT/AAR

CIRCLE IF THIS HIGHLIGHTED ADDRESS IS:

VACANT

OCCUPIED

ATTEMPTS

10-6-08-11:01<sup>AM</sup> N/H

10-20-08-11:14<sup>AM</sup> N/H

10-7-08-10:30<sup>AM</sup> N/H

**SHERIFF'S RETURN**

NOW, \_\_\_\_\_ AT \_\_\_\_\_ AM / PM **SERVED** THE WITHIN

COMPLAINT ON CHERI M. SMITH, DEFENDANT

BY HANDING TO \_\_\_\_\_

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

ADDRESS SERVED \_\_\_\_\_

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

COMPLAINT FOR CHERI M. SMITH

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

NOW 11-13-08 AT 3:31 AM / PM **AFTER DILIGENT SEARCH IN MY BAILIWICK,**

I MAKE RETURN OF **NOT FOUND** AS TO CHERI M. SMITH

REASON UNABLE TO LOCATE

LEFT notes, Nobody Home

SWORN TO BEFORE ME THIS

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

So Answers: CHESTER A. HAWKINS SHERIFF

BY:

James E. Davis  
Deputy Signature

JAMES E. DAVIS  
Print Deputy Name

**FILED**

0/8:30 am  
DEC 02 2008

William A. Shaw  
Prothonotary/Clerk of Courts

**SHERIFF'S OFFICE  
CLEARFIELD COUNTY  
CASE # 104710**

DEAR CHERI M. SMITH

Would you please contact the Sheriff's Office EXTENSION **1360** concerning legal papers we have for you

When you call, please give your name and the case # noted above (**104710**) and someone in the Office will be able to help you.

Thank you for your consideration in this matter.

SHERIFF CHESTER A. HAWKINS

OFFICE HOURS: 8:30 A.M. to 4:00 P.M.  
PHONE (814) 765-2641



PAUL J. KLEMM, ESQUIRE  
NUDELMAN, NUDELMAN, & ZIERING, P.C.  
425 EAGLE ROCK AVENUE  
ROSELAND, NJ 07068  
973-618-0000  
ID # 92125

ATTORNEY FOR PLAINTIFF

CAPITAL ONE BANK USA NA

CLEARFIELD COUNTY

Plaintiff(s)

v.

CHERI M SMITH

Defendant(s)

08-1834-CD

COMPLAINT IN CIVIL ACTION

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CLEARFIELD COUNTY COURTHOUSE  
CLEARFIELD, PA 16830

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DANIEL J. NELSON, COURT ADMINISTRATOR  
CLEARFIELD COUNTY COURTHOUSE  
CLEARFIELD, PA 16830

I hereby certify this to be a true  
and attested copy of the original  
statement filed in this case.

SEP 26 2008

Attest.

*William L. Brown*  
Prothonotary/  
Notary Public

PAUL J. KLEMM, ESQUIRE  
NUDELMAN, NUDELMAN, & ZIERING, P.C.  
425 EAGLE ROCK AVENUE  
ROSELAND, NJ 07068  
973-618-0000  
ID #92125

ATTORNEY FOR PLAINTIFF

CAPITAL ONE BANK USA NA,

Plaintiff(s)

v.

CHERI M SMITH

Defendant(s)

CLEARFIELD COUNTY

**COMPLAINT IN CIVIL ACTION**

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Respectfully Submitted:

NUDELMAN, NUDELMAN & ZIERING, P.C.



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Paul J. Klemm, Esquire  
425 Eagle Rock Avenue  
Roseland, NJ 07068  
(973) 618-0000

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Date: August 26, 2008

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Paul J. Klemm, Esquire  
Nudelman, Nudelman & Ziering, P.C.  
425 Eagle Rock Avenue  
Roseland, NJ 07068  
(973) 618-0000

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 104710  
NO: 08-1834-CD  
SERVICES 1  
COMPLAINT

PLAINTIFF: CAPITAL ONE BANK USA NA  
vs.  
DEFENDANT: CHERI M. SMITH

SHERIFF RETURN

RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	NUDELMAN	027497	10.00
SHERIFF HAWKINS	NUDELMAN	027497	77.18

FILED

0/3:30LM  
JAN 15 2009

William A. Shaw  
Prothonotary/Clerk of Courts

Sworn to Before Me This

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

So Answers,



Chester A. Hawkins  
Sheriff

PAUL J. KLEMM, ESQUIRE  
NUDELMAN, NUDELMAN, & ZIERING, P.C.  
425 EAGLE ROCK AVENUE  
ROSELAND, NJ 07068  
973-613-0000  
ID #92125

ATTORNEY FOR PLAINTIFF

CAPITAL ONE BANK USA NA : CLEARFIELD COUNTY  
: COURT OF COMMON PLEAS  
v. :  
: NO. 2008-01834-CD  
CHERI M SMITH :

**ORDER TO DISCONTINUE AND END**

TO THE PROTHONOTARY:

Kindly mark the above-captioned matter as discontinued and ended upon payment of your costs only.

Date: March 12, 2010

Respectfully Submitted:

NUDELMAN, NUDELMAN & ZIERING, P.C.



Paul J. Klemm, Esquire  
425 Eagle Rock Avenue  
Roseland, NJ 07068  
(973) 618-0000

PKN318C8

FILED <sup>no</sup> cc  
MAR 18 2010  
William A. Shaw  
Prothonotary/Clerk of Courts

**FILED**

**MAR 18 2010**

William A. Shaw  
Prothonotary/Clerk of Courts