

**NOTICE: THIS DOCUMENT  
CONTAINS SENSITIVE DATA**

264100054704

NO. \_\_\_\_\_

IN

CAPITAL ONE, N.A.	§	IN THE JUSTICE COURT
	§	
vs.	§	PRECINCT 4, PLACE 1 OF
	§	
DIANA P HERNANDEZ	§	HARRIS COUNTY, TEXAS

**PLAINTIFF'S ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, CAPITAL ONE, N.A. ("Plaintiff"), and files this, its Original Petition under Rule 502.2 and Rule 508.2 of the Texas Rules of Civil Procedure, complaining of DIANA P HERNANDEZ, Defendant herein ("Defendant"), and for cause of action would respectfully show this Honorable Court the following:

PARTIES. Plaintiff is CAPITAL ONE, N.A. , a National Bank located at 4851 Cox Rd., Glen Allen, VA 23060. CAPITAL ONE, N.A. may be contacted by phone or fax via the undersigned counsel of record.

Defendant is DIANA P HERNANDEZ, who may be served with process at **2503 UNION MILL RD, HOUSTON TX 77067-2026**, or any other valid address. The Defendant's telephone number is unknown to Plaintiff.

**I. VENUE AND JURISDICTION**

1. Venue is proper in this Court because Harris County, Texas is where the Defendant resides.
2. The amount in controversy is within the jurisdictional limits of this Court.

**II. FACTS**

3. In the usual course of business, Defendant entered into an agreement for the credit account that forms the basis of this suit on or about March 14, 2018. At all times relevant hereto, Defendant was the primary cardholder under the account.

4. Defendant requested that the CAPITAL ONE BANK credit card account currently bearing number XXXXXXXXXXXXX7144 (the "Account") be opened, and the account was opened. The term "account number" means the full and complete account number assigned to the credit card account by the bank.
5. The Account is governed by the applicable Terms and Conditions ("Terms and Conditions"), as they may be amended from time to time. Defendant is responsible for repayment of extensions of credit, as set out by the Terms and Conditions.
6. The Account was used to make purchases of goods and/or services and/or to receive cash advances.
7. The Account represents a transaction or series of transactions, of which a systematic record has been kept.
8. In accordance with the Terms and Conditions, Defendant was properly billed for payment of the extensions of credit on the Account.
9. Defendant has failed to pay the amounts due and owing. The Account was charged-off by Plaintiff on or about September 12, 2025.
10. The amount being sought on the Account is \$3,442.17. A true and correct copy of the Account statement showing the balance sought is attached hereto and marked as Exhibit "1" and is incorporated herein by reference. (This is not a suit on a sworn account). Plaintiff is not seeking ongoing pre-judgment interest.
11. As a result of Defendant's failure to pay, Plaintiff found it necessary to employ an attorney to collect such amounts.
12. In compliance with the Soldiers and Sailors Relief Act, the Affidavit of Non-Military Service is attached as Exhibit "2".
13. All conditions precedent have been performed or have occurred.

### III. ACCOUNT STATED

14. Plaintiff alleges that it should recover from Defendant for an account stated. Defendant's series of transactions on the Account has resulted in the indebtedness of Defendant to Plaintiff. A written statement of the amount owed was transmitted to Defendant. Defendant has failed to pay.

### IV. ATTORNEY'S FEES & POST JUDGMENT INTEREST

15. Capital One expressly disclaims any request for attorney's fees and/or post judgment interest whether or not Capital One is entitled to such an award by law.

### V. PRAYER

WHEREFORE, Plaintiff, CAPITAL ONE, N.A. , prays that --

- A. Defendant be cited to appear and answer herein;
- B. Plaintiff be granted judgment for the amount due;
- C. Plaintiff be granted judgment for all costs of court;
- D. Plaintiff be granted such other and further relief, special or general, legal or equitable, to which Plaintiff may be justly entitled.

Respectfully Submitted,

MOSS LAW FIRM, P.C.  
P.O. Box 65020, Lubbock, Texas 79464  
(806) 796-7375  
FAX (806) 771-0062  
Email: e-Service@mosslawfirmmpc.com

Alexander S. Chamales  
SBN: 24146256

By: 

**MICHAEL A. MOSS, ATTORNEY IN CHARGE per TRCP 8, SBN 24054360**  
**AMBER O. TEAL, SBN 24092918**  
**ATTORNEYS FOR PLAINTIFF**

**THE DEFENDANT IS PUT ON NOTICE THAT THE TEXAS RULES OF CIVIL PROCEDURE REQUIRE THAT A COPY OF ALL DOCUMENTS FILED WITH THE COURT BE SENT TO OPPOSING COUNSEL.**