

**NOTICE: THIS DOCUMENT  
CONTAINS SENSITIVE DATA**

NO. 26-0317-CC5

CAPITAL ONE, N.A.	§	IN THE COUNTY COURT
	§	
vs.	§	AT LAW NO. ____ OF
	§	
BRIAN D STEWART	§	WILLIAMSON 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, complaining of BRIAN D STEWART, Defendant herein ("Defendant"), and for cause of action would respectfully show this Honorable Court the following:

PARTIES. Plaintiff is CAPITAL ONE, N.A.

Defendant is BRIAN D STEWART, who may be served with process at **2309 GABRIELS HORN RD, LEANDER TX 78641-5202**, or any other valid address.

**I. DISCOVERY LEVEL**

1. Plaintiff intends discovery to be conducted under Level 1 of Rule 190 of the Texas Rules of Civil Procedure.

**II. VENUE AND JURISDICTION**

2. Venue is proper in this Court because Williamson County, Texas is where the Defendant resides.
3. The amount in controversy is within the jurisdictional limits of this Court. Plaintiff seeks only monetary relief of \$250,000 or less, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees.

**III. FACTS**

4. 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 December 23, 2022. At all times relevant hereto, Defendant was the primary cardholder under the account.

5. Defendant requested that the account currently bearing number XXXXXXXXXXXXX2224 (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.
6. 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.
7. The Account was used to make purchases of goods and/or services and/or to receive cash advances.
8. The Account represents a transaction or series of transactions, of which a systematic record has been kept.
9. In accordance with the Terms and Conditions, Defendant was properly billed for payment of the extensions of credit on the Account.
10. Defendant has failed to pay the amounts due and owing.
11. The amount being sought on the Account is \$9,209.20. 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).
12. As a result of Defendant's failure to pay, Plaintiff found it necessary to employ an attorney to collect such amounts.
13. In compliance with the Soldiers and Sailors Relief Act, the Affidavit of Non-Military Service is attached as Exhibit "2".
14. All conditions precedent have been performed or have occurred.

#### **IV. ACCOUNT STATED**

15. 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.

#### **V. ATTORNEY'S FEES & POST JUDGMENT INTEREST**

16. 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.

#### **VI. 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.**

5110 80th Street, Suite B

Lubbock, Texas 79424

(806) 796-7375

FAX (806) 771-0062

Email: e-Service@mosslawfirmnpc.com

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.**



QUICKSILVER

Quicksilver Credit Card | World Elite Mastercard ending in 2224

Apr 17, 2025 - May 17, 2025 | 31 days in Billing Cycle

### Payment Information

Payment Due Date  
**PAST DUE**

For online and phone payments, the deadline is 8pm ET.

New Balance  
**\$9,209.20**

Minimum Payment Due  
**\$9,209.20**

**IMPORTANT:** Your account has charged off and is now serviced by the Recoveries department at 1-800-258-9319. Your full balance is due. Any payment you make will reduce your balance and help pay off your debt faster. The amount you owe may differ if you've entered into a separate payment agreement.

### Account Summary

Previous Balance	\$9,081.66
Payments	- \$100.00
Other Credits	\$0.00
Transactions	+ \$0.00
Cash Advances	+ \$0.00
Fees Charged	+ \$0.00
Interest Charged	+ \$227.54
<b>New Balance</b>	<b>= \$9,209.20</b>
Available Credit (as of May 17, 2025)	N/A

### Account Notifications

- ① Welcome to your account notifications. Check back here each month for important updates about your account.

Pay or manage your account at [capitalone.com](https://capitalone.com)

Customer Service: 800-227-4825

See reverse for Important Information



### RECORDERS MEMORANDUM

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BRIAN D STEWART



Payment Due Date: Past Due

Account ending in 2224

New Balance	Minimum Payment Due	Amount Enclosed
<b>\$9,209.20</b>	<b>\$9,209.20</b>	\$ _____

Please send us this portion of your statement and only one check (or one money order) payable to Capital One to ensure your payment is processed promptly. Allow at least seven business days for delivery.

Capital One  
P.O. Box 60519  
City of Industry CA 91716-0519



2224

**How can I Avoid Paying Interest Charges?** If you pay your New Balance in full by the due date each month, we will not charge interest on new transactions that post to the purchase balance. If you have been paying in full without interest charges, but fail to pay your next New Balance in full, we will charge interest on the unpaid balance. Interest Charges on Cash Advances and Special Transfers start on the transaction date. Promotional offers may allow you to pay less than the total New Balance and avoid paying interest on new transactions that post to your purchase balance. See the front of your statement for additional information.

**How is the Interest Charge Determined?** Interest Charges accrue from the date of the transaction, date the transaction is processed or the first day of the Billing Cycle. Interest accrues daily on every unpaid amount until it is paid in full. Interest accrued during a Billing Cycle posts to your account at the end of the Billing cycle and appears on your next statement. You may owe interest charges even if you pay the entire New Balance one month, but did not do so the prior month. Once you start accruing interest charges, you generally must pay your New Balance in full two consecutive Billing Cycles before interest charges stop being posted to your Statement. Interest Charges are added to the corresponding segment of your account.

**Do you assess a Minimum Interest Charge?** We may assess a minimum interest charge of \$0.00 for each Billing Cycle if your account is subject to an interest charge.

**How do you Calculate the Interest Charge?** We use a method called Average Daily Balance (including new transactions).

1. First, for each segment we take the beginning balance each day and add in new transactions and the periodic interest charge on the previous day's balance. Then we subtract any payments and credits for that segment as of that day. The result is the daily balance for each segment. However, if your previous statement balance was zero or a credit amount, new transactions which post to your purchase segment are not added to the daily balance.

2. Next, for each segment, we add the daily balances together and divide the sum by the number of days in the Billing Cycle. The result is the Average Daily Balance for each segment.

3. At the end of each Billing Cycle, we multiply your Average Daily Balance for each segment by the daily periodic rate (APR divided by 365) for that segment, and then we multiply the result by the number of days in the Billing Cycle. We add the interest charges for all segments together. The result is your total interest charge for the Billing Cycle.

The Average Daily Balance is referred to as the Balance Subject to Interest Rate in the interest charge calculation section of this Statement.

NOTE: Due to rounding or a minimum interest charge, this calculation may vary slightly from the interest charge actually assessed.

**How can I Avoid Membership Fees?** If a Renewal Notice is printed on this statement, you may avoid paying an annual membership fee by contacting Customer Service fewer than 40 days after the annual membership fee was assessed to request that we close your account. To avoid paying a monthly membership fee, close your account and we will stop assessing your monthly membership fee.

**How can I Close My Account?** You can contact Customer Service anytime to request that we close your account.

**How do you Process Payments?** When you make a payment, you authorize us to initiate an ACH or electronic payment that will be debited from your bank account or other related account. When you provide a check or check information to make a payment, you authorize us to use information from the check to make a one-time ACH or other electronic transfer from your bank account. We may also process it as a check transaction. Funds may be withdrawn from your bank account as soon as the same day we process your payment.

**How do you Apply My Payment?** We generally apply payments up to your Minimum Payment first to the balance with the lowest APR (including 0% APR), and then to balances with higher APRs. We apply any part of your payment exceeding your Minimum Payment to the balance with the highest APR, and then to balances with lower APRs.

#### **Billing Rights Summary (Does not Apply to Small Business Accounts)**

**What To Do If You Think You Find A Mistake On Your Statement:** If you think there is an error on your statement, write to us at:  
P.O. Box 30285, Salt Lake City, UT 84130-0285.

In your letter, give us the following information:

- Account information: Your name and account number.
- Dollar amount: The dollar amount of the suspected error.
- Description of Problem: If you think there is an error on your bill, describe what you believe is wrong and why you believe it is a mistake. You must contact us within 60 days after the error appeared on your statement. You must notify us of any potential errors in writing. You may call us or notify us electronically, but if you do we are not required to investigate any potential errors and you may have to pay the amount in question. We will notify you in writing within 30 days of our receipt of your letter. While we investigate whether or not there has been an error, the following are true:
  - We cannot try to collect the amount in question, or report you as delinquent on that amount. The charge in question may remain on your statement, and we may continue to charge you interest on that amount. But, if we determine that we made a mistake, you will not have to pay the amount in question or any interest or other fees related to that amount.
  - While you do not have to pay the amount in question until we send you a notice about the outcome of our investigation, you are responsible for the remainder of your balance.
  - We can apply any unpaid amount against your credit limit. Within 90 days of our receipt of your letter, we will send you a written notice explaining either that we corrected the error (to appear on your next statement) or the reasons we believe the bill is correct.

**Your Rights If You Are Dissatisfied With Your Purchase:** If you are dissatisfied with the goods or services that you have purchased with your 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 purchase. To use this right, the following must be true:

- 1) You must have used your credit card for the purchase. Purchases made with cash advances from an ATM or with a check that accesses your credit card account do not qualify; and
  - 2) You must not yet have fully paid for the purchase.
- If all of the criteria above are met and you are still dissatisfied with the purchase, contact us in writing at: P.O. Box 30285, Salt Lake City, UT 84130-0285. While we investigate, the same rules apply to the disputed amount as discussed above. After we finish our investigation, we will tell you our decision. At that point, if we think you owe an amount and you do not pay we may report you as delinquent.

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ETC-08 07/13/2023

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Pay online at [capitalone.com](https://capitalone.com)



Pay using the Capital One mobile app



Customer Service 800-227-4825

### Changing your mailing address?

You can change your address by signing into your account online or by calling Customer Service.

Any written request on this form will not be honored.

**How do I Make Payments?** You may make your payment in several ways:

1. Online Banking by logging into your account;
2. Capital One Mobile Banking app for approved electronic devices;
3. Calling the telephone number listed on the front of this statement and providing the required payment information;
4. Sending mail payments to the address on the front of this statement with the payment coupon or your account information.

#### **When will you Credit My Payment?**

- ♦ For mobile, online or over the phone, as of the business day we receive it, as long as it is made by 8 p.m. ET.
- ♦ For mail, as of the business day we receive it, as long as it is received by 5 p.m. local time at our processing center. You must send the bottom portion of this statement and your check to the payment address on the front of this statement. Please allow at least seven (7) business days for mail delivery. Mailed payments received by us at any other location or payments in any other form may not be credited as of the day we receive them.

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QUICKSILVER

**Transactions**Visit [capitalone.com](https://capitalone.com) to see detailed transactions.**BRIAN D STEWART #2224: Payments, Credits and Adjustments**

Trans Date	Post Date	Description	Amount
May 9	May 9	CAPITAL ONE MOBILE PYMTAuthDate 09-May	- \$100.00

**BRIAN D STEWART #2224: Transactions**

Trans Date	Post Date	Description	Amount
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**Fees**

Trans Date	Post Date	Description	Amount
Total Fees for This Period			\$0.00

**Interest Charged**

Interest Charge on Purchases	\$227.54
Interest Charge on Cash Advances	\$0.00
Interest Charge on Other Balances	\$0.00
Total Interest for This Period	\$227.54

**Totals Year-to-Date**

Total Fees charged	\$0.00
Total Interest charged	\$1,086.86

**Interest Charge Calculation**

Your Annual Percentage Rate (APR) is the annual interest rate on your account.

Type of Balance	Annual Percentage Rate (APR)	Balance Subject to Interest Rate	Interest Charged
Purchases	29.24% P	\$9,162.49	\$227.54
Cash Advances	29.24% P	\$0.00	\$0.00

**Variable APRs:** If you have a letter code displayed next to any of the above APRs, this means they are variable APRs. They may increase or decrease based on one of the following indices (reported in The Wall Street Journal) as described below.

Code next to your APR(s)	How do we calculate your APR(s)?	When your APR(s) will change
P	Prime Rate + margin	The first day of the Billing Cycles that end in Jan., April, July and Oct.
L	3 month LIBOR + margin	
D	Prime Rate + margin	The first day of each Billing Cycle
F	1 month LIBOR + margin	

**Protect yourself from scams.**

When dealing with uninvited contacts from people, businesses, or social networking sites, always use caution.

Scan this QR Code with your phone's camera to learn more or visit  
[www.capitalone.com/stopscams](https://www.capitalone.com/stopscams)

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

CAPITAL ONE, N.A.

vs.

BRIAN D STEWART

§  
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§  
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IN THE COUNTY COURT

AT LAW NO. \_\_\_\_ OF

WILLIAMSON COUNTY, TEXAS

**SERVICEMEMBERS CIVIL RELIEF ACT AFFIDAVIT**


BEFORE ME, the undersigned authority, on this day personally appeared the below-named affiant, who, being by me duly sworn on oath deposed and said that affiant has read the affidavit; and that every statement contained in this affidavit is within affiant's personal knowledge and is true and correct.

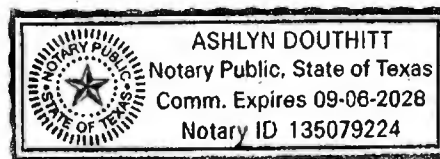
I am over the age of eighteen (18) years and am competent to make this affidavit. I am an Attorney for Plaintiff in the above-entitled and numbered matter. The Servicemembers Civil Relief Act (SCRA) website at <https://www.dmdc.osd.mil/appj/scra/scraHome.do> shows whether a person is in the military. A true and correct copy of the printout from this website regarding the Defendant is attached hereto and incorporated herein as if set forth at length. Said printout reflects the Defendant's current military status, if any.

MOSS LAW FIRM, P.C.

  
\_\_\_\_\_  
**Michael A. Moss**

SUBSCRIBED AND SWORN TO before me on February 9, 2026.

  
\_\_\_\_\_  
Notary Public, State of Texas



**Exhibit 2**





# Status Report Pursuant to Servicemembers Civil Relief Act

SSN: XXX-XX-  
Birth Date: -XX-  
Last Name: STEWART  
First Name: BRIAN  
Middle Name: D  
Status As Of: Feb-05-2026  
Certificate ID: G8BH84991X90GHP

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects the individual's active duty status based on the Active Duty Status Date			

Left Active Duty Within 367 Days of Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects where the individual left active duty status within 367 days preceding the Active Duty Status Date			

The Member or His/Her Unit Was Notified of a Future Call-Up to Active Duty on Active Duty Status Date			
Order Notification Start Date	Order Notification End Date	Status	Service Component
NA	NA	No	NA
This response reflects whether the individual or his/her unit has received early notification to report for active duty			

Upon searching the data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the status of the individual on the active duty status date as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, Space Force, NOAA, Public Health, and Coast Guard). This status includes information on a Servicemember or his/her unit receiving notification of future orders to report for Active Duty.

RECORDERS MEMORANDUM  
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The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense (DoD) that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Servicemembers Civil Relief Act (50 USC App. § 3901 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced only a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual was on active duty for the active duty status date, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service. Service contact information can be found on the SCRA website's FAQ page (Q35) via this URL: <https://scra.dmdc.osd.mil/scra/#/faqs>. If you have evidence the person was on active duty for the active duty status date and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. § 3921(c).

This response reflects the following information: (1) The individual's Active Duty status on the Active Duty Status Date (2) Whether the individual left Active Duty status within 367 days preceding the Active Duty Status Date (3) Whether the individual or his/her unit received early notification to report for active duty on the Active Duty Status Date.

### More information on "Active Duty Status"

Active duty status as reported in this certificate is defined in accordance with 10 USC § 101(d) (1). Prior to 2010 only some of the active duty periods less than 30 consecutive days in length were available. In the case of a member of the National Guard, this includes service under a call to active service authorized by the President or the Secretary of Defense under 32 USC § 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy Training and Administration of the Reserves (TARs), Marine Corps Active Reserve (ARs) and Coast Guard Reserve Program Administrator (RPAs). Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps).

### Coverage Under the SCRA is Broader in Some Cases

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate. SCRA protections are for Title 10 and Title 14 active duty records for all the Uniformed Services periods. Title 32 periods of Active Duty are not covered by SCRA, as defined in accordance with 10 USC § 101(d)(1).

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of the SCRA extend beyond the last dates of active duty.

Those who could rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected.

**WARNING:** This certificate was provided based on a last name, SSN/date of birth, and active duty status date provided by the requester. Providing erroneous information will cause an erroneous certificate to be provided.