

NO1243003

DISCOVER BANK

PLAINTIFF,

V.

CARL E HOWARD AND DORIS J MOORE

DEFENDANTS

IN THE COUNTY COURT

AT LAW NO.

HARRIS COUNTY, TEXAS

Plaintiff's Original Petition

PARTIES

Plaintiff, DISCOVER BANK, brings this suit against Defendants, CARL E HOWARD, as follows:

1. Plaintiff is an entity organized and existing under the laws of the United States of America and authorized to bring this action in the State of Texas.
2. Defendants, CARL E HOWARD and DORIS J MOORE, reside at 20126 RAINGOLD DR, HUMBLE TX 77338-4421, which is also where service of process can be made upon the Defendants.
3. Discovery will be conducted under Level 1 of Rule 190 of the Texas Rules of Civil Procedure.

JURISDICTION

4. Plaintiff seeks only monetary relief of \$250,000 or less, excluding interest, statutory or punitive damages and penalties, and attorney fees and costs.
5. Plaintiff asserts that the above-named court has jurisdiction over the subject matter of this case and the person of Defendants and that damages sought are within the jurisdictional limits of the Court.

VENUE

6. Venue is proper in Harris County, Texas under section 15.002(a)(2) of the Texas Civil Practice and Remedies Code because it is the county of residence for the Defendants at the time the cause of action accrued.

FACTS

7. Defendants applied for and received a credit account, which is owned and administered by the Plaintiff (“the Account”). Defendants used or authorized the use of the Account for the purchase of goods, services, balance transfers or cash advances in accordance with the customer agreement (“Agreement”). By using the Account, the Defendants are obligated to repay the Plaintiff per the Agreement for all amounts and charges advanced.

8. The Defendants ceased making payments on the Account, thereby creating a default.

9. On 10/11/2024, the Plaintiff sent a letter to Defendants demanding payment in full of the Account.

10. After all just and lawful offsets, the Defendants owe \$21,034.32 on the Account as of the petition date. Plaintiff is not seeking attorney fees. The last four digits of the account number are XXXXXXXXXXXX2221. Plaintiff is the original creditor. The Account was opened on 08/11/1986, and was charged off on 07/31/2024.

COUNT 1 – Suit on Debt/Account Stated

11. Paragraphs 1 through 10 are incorporated by reference.

12. Plaintiff is the owner and beneficiary of all claims related to the Account. Plaintiff sent monthly periodic statements on the Account to the Defendants. Based on the Plaintiff’s records, there are no unresolved billing disputes related to the Account. After all lawful offsets, payments, and credits have been applied, the amount owing on the Account is \$21,034.32.

13. Plaintiff is entitled to recover on the Account because the transactions between the Plaintiff and the Defendants produced the indebtedness, there was an agreement between the Plaintiff and Defendants establishing the amount due, and the Defendants promised to pay the Plaintiff on the debt incurred but failed to do so.

14. Plaintiff has presented its claim to Defendants for payment, but Defendants has refused to pay the amount owed.

COUNT II – Breach of Contract

15. Paragraphs 1 through 9 are incorporated by reference.

16. Plaintiff is the owner and beneficiary of all rights under the Account opened by the Defendants.

17. Plaintiff and Defendants entered into a credit account agreement. Under the terms of the credit agreement, Plaintiff rendered credit services to Defendants. Defendants accepted the credit services and under the credit agreement became bound to Plaintiff the amounts of such credit services, plus additional amounts due under the credit agreement.

18. Defendants have failed to repay all of the credit services rendered under the credit agreement. The current balance due and owing, after allowing all just and lawful payments, credits and offsets, is \$21,034.32.

19. Plaintiff has presented its claim to Defendants for payment, but Defendants have refused to pay the amount owed.

CONDITIONS PRECEDENT

20. All conditions precedent to Plaintiff's right of recovery have been fulfilled.

PRAYER

WHEREFORE, premises considered, Plaintiff requests that the Defendants be cited to appear and answer herein, and that this Court set this matter for hearing. Upon final hearing, the Plaintiff seeks a judgment against the Defendants for damages totaling \$21,034.32, costs of court, as well as all other relief to which they are entitled.

Submitted by,
Suttell & Hammer, P.C.

Ashley Smith

- ☐ Rachel M. Flores, SBOT #24101760
- ☒ Ashley B. Smith, SBOT #24117887
- ☐ Andrew Agbanobi, SBOT #24104837
- ☐ Maxine Okwah, SBOT #24140349
- ☐ Colin Brogan, SBOT #24096499

PO Box C-90006
Bellevue, WA 98009
425-455-8220
888-788-8355
Texas@suttelllaw.com
Attorney for Plaintiff

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Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
ABC Legal		ServeonlyTX@abclegal.com	1/15/2025 1:12:11 PM	NOT SENT