

15-1820-CC4

Cause No.

CACH, LLC,  
Plaintiff

vs.

JAMES T FLANNIGAN A/K/A JIMMY  
Defendant

§ IN THE COUNTY COURT  
§  
§  
§ AT LAW NUMBER  
§  
§  
§ WILLIAMSON COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION AND PLAINTIFF'S FIRST REQUESTS FOR  
ADMISSIONS, FIRST REQUEST FOR PRODUCTION, AND FIRST REQUEST FOR  
INTERROGATORIES

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff CACH, LLC complains of Defendant JAMES T FLANNIGAN A/K/A JIMMY  
and would respectfully show the following:

**PARTIES**

1. Plaintiff is a foreign Limited Liability Company, according to the laws of the State of Colorado. Plaintiff may be contacted through its undersigned attorney of record.
2. Defendant is an individual and may be served by citation at 12505 Shasta Ln , Austin, TX 78729, Williamson COUNTY, or at another location where they may be served.

**DISCOVERY**

3. Discovery will be conducted at Level 1, per Texas Rules of Civil Procedure using the attached Request for Admissions, Interrogatories and Request for Production.

**REQUEST FOR DISCLOSURE**

4. Plaintiff requests Disclosure per Texas Rules of Civil Procedure 192.3.

**VENUE**



5. Venue of this action is proper in the county named above because Defendant is an individual believed to be residing in said county at the time of commencement of suit.

#### AMOUNT IN CONTROVERSY

6. The amount in controversy is under \$100,000.00 including actual damages, interest, and costs of court.

#### FACTS

7. On or about 12/18/1997, MBNA America, N.A. ("the Issuer") issued a credit card in Defendant's name under its account number XXXXXXXXXXXXX6383. Defendant received and used (or authorized the use of) the card and thereby became obligated to pay for the charges incurred with this credit card.

8. Defendant defaulted on the obligation to make monthly payments on the credit card account, and the card was subsequently canceled on or about 03/31/2012. The entire balance on the credit card account is presently due and payable in full.

9. The credit card account was charged off to profit and loss by the Issuer. Ownership of the account has been assigned to Plaintiff. The total account balance assigned to Plaintiff was \$16025.97. Since Plaintiff was assigned ownership of the account, Defendant has made payments totaling \$0.00.

#### CAUSE OF ACTION – BREACH OF CONTRACT

10. The issuance of a credit card constitutes the offer of a contract. Even in the absence of such an agreement the issuance of the credit card constitutes an offer of credit, and the use of the credit card constitutes the acceptance of the offer of credit. *See Texas Business and Commerce Code §26.02(a)(2)(A), Winchek v. Am. Express Travel Related Servs. Co., 232*

S.W.3d 197, 204 (Tex. App.—Houston [1<sup>st</sup> Dist.] 2007, no. pet.), and *Ainsworth v. CACH, LLC*, No. 14-11-00502-CV, Tex. App.—Houston [14<sup>th</sup> Dist.], pet. ref'd, n.r.e. 2012).

11. By using and/or authorizing the use of the credit card Defendant accepted the contract with the Issuer and became bound to pay for all charges incurred with the credit card. Defendants also became subject to all of the terms and conditions of the Issuer's cardholder agreement.

12. The Issuer sent to Defendant monthly bills reflecting, *inter alia*, all charges incurred with the credit card, the monthly payment due, and the total balance due. To the best of Plaintiff's knowledge and belief Defendant did not ever send to the Issuer any disputes of the monthly bills or the charges reflected thereon. Defendant was required to submit any disputes of the charges set forth in such statement within sixty days from the date the statement was sent. Defendant's failure to submit such disputes constitutes an admission of the account balance.

13. Defendant defaulted in the payment obligation on the credit card. Such breach of contract proximately caused the Issuer damages in the amount of the remaining balance due on the credit card. That obligation has been assigned to Plaintiff, who is the party entitled to enforce the contract and receive payment of the credit card unpaid balance. See *Monroe v. Unifund CCR Partners*, 01-09-001-01-CV (Tex. App.—Houston [1<sup>st</sup> Dist.] 2010), citing *Gulf Ins. Co. v. Burns Motors Inc.*, 22 S.W.3d 417, 420 (Tex. 2000).

14. Defendant is presently indebted to Plaintiff in the amount of \$16,025.97. Plaintiff seeks judgment for such sums, together with post-judgment interest at the maximum rate allowed by law.

#### ACCOUNT STATED

15. In the alternative, and without waiving the foregoing, Plaintiff asserts that Defendant's use of the credit card to purchase goods and services represented a periodic account, for which the Issuer generated regular monthly statements. Defendant is liable to Plaintiff, the assignee of the account, for the account balance, together with interest thereon at the rate allowed by law. See *Neil v. Agrus*, 693 S.W.2d 604 (Tex. App.—Houston [14<sup>th</sup> Dist.] 1985, no writ), and *Magnuson v. Citibank (South Dakota) N.A.*, 2-06-465-CV (Tex. App.—Fort Worth 2<sup>nd</sup> Dist. 2008).

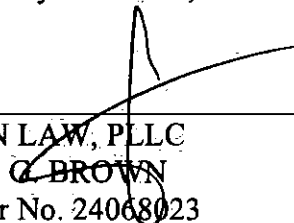
#### CONDITIONS PRECEDENT

16. Through its undersigned attorney Plaintiff has demanded payment from Defendant, but Defendant has not satisfied such demand. Plaintiff has performed all conditions precedent to the filing of this action, or all such conditions precedent have occurred.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that Defendant be summoned to appear and answer, and that upon final hearing, Plaintiff have judgment against Defendant for:

- a. \$16,025.97, which is the balance due on the credit card as of the date of Plaintiff's filing of this Petition;
- b. post-judgment interest at the maximum rate allowed by law;
- c. all costs of court; and
- d. All such other and further relief to which Plaintiff may be justly entitled, both in equity and in law.

Respectfully submitted,



---

BROWN LAW, PLLC  
SHAUN G. BROWN  
State Bar No. 24068023  
RICHARD E. CLARK  
State Bar No. 00785765  
ROBERT L. RODRIGUEZ  
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rclark@brownlaw-llc.com  
rrodriguez@brownlaw-llc.c.om  
ATTORNEYS FOR PLAINTIFF,  
CACH, LLC

Cause No.

CACH, LLC,  
Plaintiff

vs.

JAMES T FLANNIGAN A/K/A JIMMY,  
Defendant

§ IN THE COUNTY COURT  
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§ WILLIAMSON COUNTY, TEXAS

**PLAINTIFF'S FIRST REQUESTS FOR ADMISSIONS, FIRST REQUEST FOR PRODUCTION, AND FIRST REQUEST FOR INTERROGATORIES**

To: JAMES T FLANNIGAN, Defendant, 12505 Shasta Ln, Austin, TX 78729, Williamson COUNTY.

Pursuant to Rules 196, 197, and 198 of the Texas Rules of Civil Procedure, you are to answer and respond to the attached Requests for Admissions ("RFAs"), Interrogatories, and Requests for Production ("RFPs") separately, fully, and in writing. You should deliver a true copy of your answers and responses to the undersigned attorney by the deadlines stated below.

**Instructions Regarding Requests for Admissions**

Pursuant to Rule 198 of the Texas Rules of Civil Procedure, you are requested to admit the truth of each of the matters stated below.

You are to respond to each of the following requests in writing within fifty (50) days after service, by delivering or causing to be delivered to the undersigned attorney a statement admitting or denying specifically, in good faith, each matter of which an admission is requested, or stating in detail the reason(s) you cannot truthfully admit or deny the matter.

Please note that if after you submit your responses to these requests for admissions, you learn that any such response was either incomplete when made, or, although complete and correct when made, is no longer complete and correct, you must amend or supplement your response reasonably promptly after you discover the necessity for such an amendment or supplementation. Plaintiff will object at trial or any hearing to your use or attempted use of any evidence that is inconsistent with matters that you have admitted or that you have failed to deny on a timely basis.

**NOTICE REGARDING FAILURE TO TIMELY RESPOND TO REQUEST FOR ADMISSIONS: In the event Defendant(s) fails to respond in writing to Plaintiff's Request for Admissions within the time period required under Texas Rule of Civil Procedure 198.2(a), Plaintiff's Request for Admissions shall be deemed admitted without the necessity**

**of a court order as permitted under Texas Rule of Civil Procedure 198.2(c), and such Deemed Admissions may be relied upon by Plaintiff in support of its claims against Defendant(s).**

### **Instructions Regarding Requests for Production**

As to each Request for Production set forth below, the requested items are to be produced and delivered to the undersigned attorney at the office of Brown Law, PLLC, 3030 S. Gessner Dr., Suite 200, Houston, Texas 77063, for inspecting, copying or photographing pursuant to Rule 196 of the Texas Rules of Civil Procedure. These requests apply to all described documents and tangible things over which Defendant has possession, custody, or control, and production is to be made within fifty (50) days after the date of service of these requests. All original documents produced and identified as such shall be returned to Defendant within thirty days following receipt thereof. In connection with these requests you are instructed that the phrase "possession, custody or control" has the meaning set forth in the Definitions section below.

**Privileged Documents:** If you withhold any documents based upon a claim of privilege you are to provide a log of such documents, listing them by date, title (or description if untitled), author, and the specific privilege asserted.

**Lost, Discarded or Destroyed Documents:** If any document requested herein has been lost, discarded, or destroyed, please identify such document by providing the following information in your response:

1. Description of document.
2. Date of disposal or loss.
3. Manner of loss.
4. Reason for disposal or explanation of loss.
5. Person authorizing disposal.
6. Persons having knowledge of disposal or loss.
7. Person disposing of document.

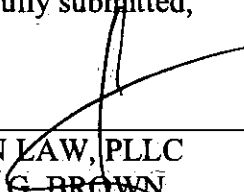
**Authentication and Use at Hearings and Trial:** You are hereby notified that all documents produced in response to this request will be used in any pretrial proceeding and at trial.

### **Instructions Regarding Interrogatories**

Pursuant to Rule 197 of the Texas Rules of Civil Procedure, you are to answer the attached interrogatories separately, fully, in writing, and under oath. You should deliver a true copy of your answers to the undersigned attorney within fifty (50) days after the date of service of these interrogatories. To the extent that may be required by the applicable rules of procedure and evidence you are hereby notified that Plaintiff intends to use any and all answers to the attached interrogatories as evidence at trial or any other hearing in this case.

Please note that if after you submit your responses to these interrogatories, you learn that any such response was either incomplete when made, or, although complete and correct when made, is no longer complete and correct, you must amend or supplement your response reasonably promptly after you discover the necessity for such an amendment or supplementation. Any amended or supplemental response made less than thirty days before trial will be presumed not to have been made reasonably promptly. A failure to make, amend, or supplement a response in a timely manner may result in your not being able to introduce into evidence the material or information not timely disclosed.

Respectfully submitted,



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BROWN LAW, PLLC  
SHAUN G. BROWN  
State Bar No. 24068823  
RICHARD E. CLARK  
State Bar No. 00785765  
ROBERT L. RODRIGUEZ  
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sbrown@brownlaw-llc.com  
rclark@brownlaw-llc.com  
rrodriguez@brownlaw-llc.com  
ATTORNEYS FOR PLAINTIFF,  
CACH, LLC



## DEFINITIONS

- A. "You", "Your", or "Defendant" refers to JAMES T FLANNIGAN A/K/A JIMMY, the Defendant.
- B. "Plaintiff" refers to CACH, LLC and encompasses any person, employee, or other entity authorized to act on Plaintiff's behalf.
- C. "Communication" shall include, but is not limited to, any oral communications, correspondence, memoranda, reports, records and/or recordings of telephone calls and reports of meetings.
- D. "Account", "card", "credit card", "credit card debt", "debt", and/or "credit card account" means the FIA CARD SERVICES, N.A. credit card account, account number XXXXXXXXXXXX6383, that the Plaintiff contends the Defendant accepted, received, and/or was used by the Defendant.
- E. "Charge off date" means the date the Account was classified as a bad debt by Issuer.
- F. "Issuer" refers to MBNA America, N.A..
- G. "Document" means all written, typed or printed matter and all magnetic, electronic, or other records or documentation of any typed or kind. This definition is intended to encompass any type of thing subject to production under the Texas Rules of Civil Procedure. Without limitation, "document" includes: letters, correspondence, telegrams, memoranda, notes, records, minutes, contracts, agreements, records or notations of telephone or personal conversations, conferences, or interoffice communications, microfilm, bulletins, circulars, pamphlets, facsimiles, invoices, tape recordings, photographs, video tapes, films, and other graphical matters, as well as electronic mail messages, web pages, computer files, databases or other information stored in or accessible from a computer system, personal computer, or mobile device. The term further includes drafts and copies not identical to the originals, however produced or reproduced, and all versions of a document if the document has changed in content or appearance over time.
- H. "Possession, custody or control" of an item means that the person or his officer, director, agent, employee, representative, attorney, or other person acting on the person's behalf either has physical possession of the item or has a right to possession or access that is equal to or superior to the person who has physical possession of the item.
- I. "File" means any collection or group of documents maintained, held, stored, or used together, including without limitation, all collections of documents indexed, maintained, held, or stored in folders, notebooks, or other devices for accessing, storing, separating or organizing documents.

J. "Person" means any natural person, corporation, firm, association, partnership, joint venture, proprietorship, governmental body, or any other organization, business, or legal entity, and all predecessors and successors in interest.

K. "Relating to or relates to" means, without limitation, embodying, mentioning, or concerning, directly or indirectly, the subject matter identified in the request.

L. "Concerning" means, in whole or in part, directly or indirectly, referring to, relating to, connected with, commenting on, responding to, showing, describing, analyzing, reflecting or constituting.

M. "Communication" includes any oral, written, electronic, or other communication.

N. "Date" means the exact date, month and year, if ascertainable, or if not the best possible approximation.

O. "Mobile Devices" means cellular telephone, satellite telephone, pager, personal digital assistant, palm top, handheld, or laptop computer, electronic rolodex or other similar device that can be used to access, store or retrieve information.

P. "Identify", when referring to a person, means you must state the person's:

- a. Full Name;
- b. Present or last known residential address and telephone number; and
- c. Present or last known work address and telephone number. Provided, that it is not necessary to state a person's address or telephone information more than once as long as subsequent identifications of the person are sufficient to associate the person with the previously supplied address and telephone information.

Q. "Identify", when referring to a document, means you must either produce the document and refer to it by means of its identifying number in a sequential numbering system or other unique identifier or state the following:

- a. The nature (e.g. letter, handwritten note) of the document.
- b. The title or heading that appears on the document
- c. The date of the document
- d. The identity of the author and/or signer of the document.
- e. The identity of the recipient of the document.
- f. The present location of the document and the identity of the person or persons who have custody of the document.

R. "Credit bureau" means any person who, for compensation, gathers, records, and disseminates information relative to the creditworthiness, financial responsibility, paying habits, and other similar information regarding any person, for the purpose of furnishing consumer reports to third parties.

## **PLAINTIFF'S FIRST REQUEST FOR ADMISSIONS**

RFA No. 1: Defendant requested and/or applied for the credit card that is at issue in this lawsuit.

RFA No. 2: The credit card was issued to Defendant.

RFA No. 3: Defendant received and accepted the credit card.

RFA No. 4: Defendant used or authorized the use of the credit card to make purchases, obtain extensions of credit or take cash advances.

RFA No. 5: By accepting and using the credit card, Defendant accepted all of the account terms and conditions.

RFA No. 6: Defendant was notified of all changes to the terms and conditions for the account.

RFA No. 7: Defendant knew and agreed that he/she would be assessed interest, late fees, over-limit fees, balance transfer fees, cash advance fees, and other fees and/or penalties in exchange for the ability to defer payment for purchases and/or cash advances made on the account.

RFA No. 8: Until at least the charge off date Issuer sent to Defendant on a monthly basis a statement of charges and balance due on the Account.

RFA No. 9: Defendant did not, within sixty days of the date of any billing statement on the Account, send Issuer a written dispute or objection regarding the account statements or any of the purchases, transactions, payments, credits, fees, penalties and/or interest rates referred to in the account statements

RFA No. 10: Defendant has failed to repay all sums due and owing to Issuer on the Account.

RFA No. 11: The balance due, owing, and unpaid on the Account, after allowing all just and lawful payments, credits and offsets is \$16,025.97.

RFA No. 12: Defendant has made no payments on the Account since Defendant's last payment on 12/27/2011.

RFA No. 13: Defendant's account was assigned to Plaintiff, and Plaintiff is the current owner of the account.

RFA No. 14: Defendant is indebted to Plaintiff for the amounts asserted in Plaintiff's Original Complaint in this case.

RFA No. 15: Defendant has no evidence to support any affirmative defenses or claims in this suit.

## **PLAINTIFF'S FIRST REQUEST FOR PRODUCTION**

RFP No. 1: Please produce all documents in Defendant's possession, custody, or control pertaining to the account.

RFP No. 2: Please produce all documents in Defendant's possession, custody, or control that support any alleged affirmative defenses or claims brought by Defendant or intended to be brought by Defendant in this suit.

RFP No. 3: Please produce true copies of all correspondence or communications from Defendant to Issuer and/or Plaintiff objecting to or disputing any terms, conditions, amendments, charge amounts, cash advance amounts, balance amounts, interest rates, late fees, or any other fees or penalties applied to the account, together with proof of sending and receipt of such correspondence.

RFP No. 4: Please produce copies of any documents that evidence proof of any payments made by Defendant on the Account. Please include in your response copies of any checks, payment confirmations, and/or banking account statements that reflect payment made on the account.

RFP No. 5: If Defendant denies having made charges or taken cash advances, please produce Defendant's account records from the Account open date, 12/18/1997, to the present.

RFP No. 6: If Defendant denies making the last payment on 12/27/2011, please produce Defendant's bank account records for that month, as well as the month after that payment.

RFP No. 7: Please produce all documents referenced in Defendant's response to Plaintiff's First Request for Interrogatories.

## **PLAINTIFF'S FIRST REQUEST FOR INTERROGATORIES**

Interrogatory No. 1: Identify all persons who participated in the preparation of the answers to these interrogatories.

Interrogatory No. 2: If Defendant has refused to admit Request for Admission No. 11 state the balance that Defendant believes to have been due on the Account and explain how such balance was calculated.

Interrogatory No. 3: If Defendant has refused to admit Request for Admission No. 12 state the date and amount of each payment that Defendant has made on the Account, including the last payment Defendant alleges to have been made.

Interrogatory No. 4: If Defendant denies he/she owes the amount claimed in Plaintiff's original petition, please state the factual basis for the denial.

Interrogatory No. 5: Please state the factual basis for any claims or affirmative defenses Defendant has asserted against Plaintiff or intends to assert against Plaintiff in this lawsuit, if any. Plaintiff is not requesting a detailed narrative. Plaintiff is simply requesting Defendant to set forth the actions or omissions allegedly committed by Plaintiff that serve the basis of the alleged claims or affirmative defenses, when they were allegedly committed, and the names of the individuals and/or entities that committed them.

**VERIFICATION FOR RESPONSES TO INTERROGATORIES**

STATE OF TEXAS                    §  
\_\_\_\_\_ COUNTY                   §

By signing this document, I hereby swear or affirm, subject to the penalty of perjury, that the answers and responses included in the foregoing document are true and correct. My signature affixed hereto also confirms that I have personally read each answer or response and personally affirm them as my own.

\_\_\_\_\_  
Signature of Affiant

Before me, the undersigned notary public, on this day personally appeared the above named authorized person known to me to be the person whose name is subscribed above in connection with the foregoing document and, being by me first duly sworn declared that the statements therein contained are true and correct.

SWORN TO ME, THE UNDERSIGNED AUTHORITY, ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
NOTARY PUBLIC IN AND FOR THE  
STATE OF TEXAS

MY COMMISSION EXPIRES: \_\_\_\_\_



JAMES T. FLANNIGAN  
 Account Number: [REDACTED] 6383  
 November 27 - December 28, 2011

**Account Information:**  
 www.bankofamerica.com

**Mail billing inquiries to:**  
 Bank of America  
 P.O. Box 982235  
 El Paso, TX 79998-2235

**Mail payments to:**  
 Bank of America  
 P.O. Box 851001  
 Dallas, TX 75285-1001

**Customer Service:**  
 1.800.789.6701

(1.800.346.3178 TTY)

Payment Information							
New Balance Total .....	\$15,022.77						
Current Payment Due .....	\$490.00						
Past Due Amount .....	\$1,409.00						
<hr/>							
Total Minimum Payment Due .....	\$1,899.00						
Payment Due Date .....	1/24/12						
<p><b>Late Payment Warning:</b> If we do not receive your Total Minimum Payment by the date listed above, you may have to pay a late fee of up to \$35.00 and your APRs may be increased up to the Penalty APR of 29.99%.</p> <p><b>Total Minimum Payment Warning:</b> If you make only the Total Minimum Payment each period, you will pay more in interest and it will take you longer to pay off your balance. For example:</p>							
<table border="1"> <tr> <td>If you make no additional charges using this card and each month you pay</td> <td>You will payoff the balance shown on this statement in about</td> <td>And you will end up paying an estimated total of</td> </tr> <tr> <td>Only the Total Minimum Payment</td> <td>33 years</td> <td>\$41,038.56</td> </tr> </table>	If you make no additional charges using this card and each month you pay	You will payoff the balance shown on this statement in about	And you will end up paying an estimated total of	Only the Total Minimum Payment	33 years	\$41,038.56	
If you make no additional charges using this card and each month you pay	You will payoff the balance shown on this statement in about	And you will end up paying an estimated total of					
Only the Total Minimum Payment	33 years	\$41,038.56					
<p>If you would like information about credit counseling services, call 1-866-300-5238.</p>							

Account Summary	
Previous Balance .....	\$15,078.66
Payments and Other Credits .....	-400.00
Purchases and Adjustments .....	0.00
Fees Charged .....	35.00
Interest Charged .....	309.11
<hr/>	
New Balance Total .....	\$15,022.77
<hr/>	
Total Credit Line .....	\$15,000.00
Cash Credit Line .....	\$4,500.00
Statement Closing Date .....	12/28/11
Days in Billing Cycle .....	32

**Transactions**

Transaction Date	Posting Date	Description	Reference Number	Account Number	Amount	Total
		<b>Payments and Other Credits</b>				
12/24	12/27	PAYMENT - NET ACCESS	0050		-400.00	-\$400.00
		<b>Fees</b>				
12/24	12/24	LATE FEE FOR PAYMENT DUE 12/24	5078		35.00	\$35.00
		<b>TOTAL FEES FOR THIS PERIOD</b>				
		<b>Interest Charged</b>				
12/28	12/28	Interest Charged on Purchases			309.11	
12/28	12/28	Interest Charged on Balance Transfers			0.00	

[REDACTED] 6383

BANK OF AMERICA  
 P.O. BOX 851001  
 DALLAS, TX 75285-1001

Account Number [REDACTED] 6383

New Balance Total ..... \$15,022.77  
 Total Minimum Payment Due ..... 1,899.00  
 Payment Due Date ..... 01/24/12

JAMES T FLANNIGAN  
 12505 SHASTA LN  
 AUSTIN TX 78729-3532

Enter payment amount \$

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Check here for a change of mailing address or phone numbers. Please provide all corrections on the reverse side.  
 Mail this coupon along with your check payable to: Bank of America

[REDACTED] 6383 311

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



**CUSTOMER TIPS FOR DISPUTED ITEMS**

Many times disputed charges are legitimate charges that customers may not recognize, or remember. Before disputing a charge, we recommend that you verify a few things and make every effort to resolve the dispute with the merchant. Often the merchant can answer your questions and easily resolve your dispute. The merchant's phone number may be located on your receipt or billing statement.

- **Has a credit posted to your account?**  
Please allow up to 30 days from the date on your credit voucher or acknowledgement letter for the merchant credit to post.
- **Is the charge or amount unfamiliar?**  
Check with other persons authorized to use the account to make sure they did not make the charge. It is possible that the merchants' billing names and store names are different or amounts can easily be confused with similar charges or include tips.

One way to check for the credits or to view transaction details is to look at your account statements online. If you are not enrolled in **Online Banking**, it is easy to enroll using the web address on the front of your statement or give us a call.

**Please remember: If you find an error on your bill, you must notify us no later than 60 days after we sent your first statement on which the error or problem appeared to preserve your billing rights.**



**ONLINE**

Online Banking is available 24 hours a day, 7 days a week and allows you to view the most recent activity on your account!



**PHONE**

**1.866.266.0212**

For prompt service, please have the merchant reference number(s) available for the charge(s) in question.



**MAIL**

**Attn: Billing Inquiries PO Box 982235, El Paso, TX 79998**

When writing, please include **Your Name, Account Number, the Disputed Amount, Merchant Name, Transaction Date, and reference number of the disputed item and specific details regarding your dispute, including dates of contact with the merchant and the merchant's response in each instance. Please include all supporting documentation, including sales and credit vouchers, contract and postage return receipts as proof of any returns.**

**PAYING INTEREST**

We will not charge interest on Purchases on the next statement if you pay the New Balance Total in full by the Payment Due Date, and you had paid in full by the previous Payment Due Date. We will begin charging interest on Balance Transfers and Cash Advances on the transaction date.

**CALCULATION OF BALANCES SUBJECT TO INTEREST RATE**

**Average Daily Balance Method (including new Purchases):**

We calculate separate Balances Subject to an Interest Rate for Purchases and for each Introductory or Promotional Offer balance consisting of Purchases. We do this by: (1) calculating a daily balance for each day in the billing cycle; (2) adding all the daily balances together; and (3) dividing the sum of the daily balances by the number of days in the billing cycle.

To calculate the daily balance for each day in this statement's billing cycle, we: (1) take the beginning balance; (2) add an amount equal to the applicable Daily Periodic Rate multiplied by the previous day's daily balance; (3) add new Purchases, new Account Fees, and new Transaction Fees; and (4) subtract applicable payments and credits. If any daily balance is less than zero we treat it as zero.

**Average Balance Method (including new Balance Transfers and new Cash Advances):**

We calculate separate Balances Subject to an Interest Rate for Balance Transfers, Cash Advances; and for each Introductory or Promotional Offer balance consisting of Balance Transfers or Cash Advances. We do this by: (1) calculating a daily balance for each day in this statement's billing cycle; (2) calculating a daily balance for each day prior to this statement's billing cycle that had a "Pre-Cycle balance" — a Pre-Cycle balance is a Balance Transfer or a Cash Advance with a transaction date prior to this statement's billing cycle but with a posting date within this statement's billing cycle; (3) adding all the daily balances together; and (4) dividing the sum of the daily balances by the number of days in this statement's billing cycle.

To calculate the daily balance for each day in this statement's billing cycle, we: (1) take the beginning balance; (2) add an amount equal to the applicable Daily Periodic Rate multiplied by the previous day's daily balance; (3) add new Balance Transfers, new Cash Advances and Transaction Fees; and (4) subtract applicable payments and credits. If any daily balance is less than zero we treat it as zero.

To calculate a daily balance for each day prior to this statement's billing cycle that had a Pre-Cycle balance; (1) we take the beginning balance attributable solely to Pre-Cycle balance (which will be zero on the transaction date of the first Pre-Cycle balance); (2) add an amount equal to the applicable Daily Periodic Rate multiplied by the previous day's daily balance; (3) and add only the applicable Pre-Cycle balances and their related Transaction Fees. We exclude from this calculation all transactions posted in previous billing cycles.

**PAYMENTS**

We credit mailed payments as of the date received, if the payment is: (1) received by 5 p.m. local time at the address shown on the remittance slip on the front of your monthly statement; (2) paid with a check drawn in U.S. dollars on a U.S. financial institution or a U.S. dollar money order; and (3) sent in the return envelope with only the remittance portion of your statement accompanying it. Payments received by mail after 5 p.m. local time at the remittance address on any day including the Payment Due Date, but that otherwise meet the above requirements, will be credited as of the next day. Payments made online or by phone will be credited as of the date of receipt if made by 5 p.m. Central. Credit for any other payments may be delayed up to five days.

No payment shall operate as an accord and satisfaction without the prior written approval of one of our Senior Officers.

We process most payment checks electronically by using the information found on your check. Each check authorizes us to create a one-time electronic funds transfer (or process it as a check or paper draft). Funds may be withdrawn from your account as soon as the same day we receive your payment. Checks are not returned to you. For more information or to stop the electronic funds transfers, call us at the number listed on the front.

If you have authorized us to pay your credit card bill automatically from your savings or checking account with us, you can stop the payment on any amount you think is wrong. To stop payment, your letter must reach us at least three business days before the automatic payment is scheduled to occur.

**TOTAL INTEREST CHARGE COMPUTATION**

Interest Charges accrue and are compounded on a daily basis. To determine the Interest Charges we multiply each Balance Subject to Interest Rate by its applicable Daily Periodic Rate and that result is multiplied by the number of days in the billing cycle. To determine the total Interest Charge for the billing cycle, we add the Periodic Rate Interest Charges together. A Daily Periodic Rate is calculated by dividing an Annual Percentage Rate by 365.

**HOW WE ALLOCATE YOUR PAYMENTS**

If your account has balances with different APRs, we will allocate the amount of your payment equal to the Total Minimum Payment Due to the lowest APR balances first (including transactions made after this statement). Payment amounts in excess of your Total Minimum Payment Due will be applied to balances with higher APRs before balances with lower APRs.

**IMPORTANT INFORMATION ABOUT PAYMENTS BY PHONE**

When using the optional Pay-by-Phone service, you authorize us to initiate an electronic payment from your account at the financial institution you designate. You must authorize the amount and timing of each payment. For your protection, we will ask for security information. A fee may apply for expedited service. To cancel, call us before the scheduled payment date. Same-day payments cannot be edited or canceled.

**YOUR CREDIT LINES**

The Total Credit Line is the amount of credit available for the account; however, only a portion of that is available for Bank Cash Advances. The Cash Credit Line is that amount you have available for Bank Cash Advances. Generally, Bank Cash Advances consist of ATM Cash Advances; Over the Counter (OTC) Cash Advances; Same-Day Online Cash Advances; Overdraft Protection Cash Advances; Cash Equivalents; Returned Payments; and applicable transaction fees.

**MISCELLANEOUS**

**\*\*Promotional Rate End Date:** This date is based on a future statement closing date. If you change your payment due date, this date could change. Transactions must meet offer conditions in order to qualify for the promotional rate.

For the complete terms and conditions of your account, consult your Credit Card Agreement. FIA Card Services is a trademark of FIA Card Services, N.A. This account is issued and administered by FIA Card Services, N.A.

**If your billing address or contact information has changed, or if your address is incorrect as it appears on this bill, please provide all corrections here.**

Address 1 \_\_\_\_\_

Address 2 \_\_\_\_\_

City \_\_\_\_\_

State \_\_\_\_\_ Zip \_\_\_\_\_

Area Code & Home Phone \_\_\_\_\_

Area Code & Work Phone \_\_\_\_\_



6383  
 November 27 - December 28, 2011  
 Page 3 of 4

**Transactions continued**

Transaction Date	Posting Date	Description	Reference Number	Account Number	Amount	Total
		<b>Interest Charged</b>				
12/28	12/28	Interest Charged on Dir Dep&Chk CashAdv			0.00	
12/28	12/28	Interest Charged on Bank Cash Advances			0.00	
		<b>TOTAL INTEREST FOR THIS PERIOD</b>				<b>\$309.11</b>

2011 Totals Year-to-Date	
Total fees charged in 2011	\$329.47
Total interest charged in 2011	\$3,459.22

**Important Messages**

Your statement balance exceeds the Total Credit Line. To ensure uninterrupted use of your account, please make a payment to bring your balance under the Total Credit Line. There is no fee for being over your Total Credit Line.

**Interest Charge Calculation**

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

	Annual Percentage Rate	Promotional Transaction Type	Promotional Offer ID	Promotional Rate End Date	Balance Subject to Interest Rate	Interest Charges by Transaction Type
Purchases	23.24%V				\$15,171.32	\$309.11
Balance Transfers	23.24%V				\$ 0.00	\$ 0.00
Direct Deposit and Check Cash Advances	24.99%V				\$ 0.00	\$ 0.00
Bank Cash Advances	25.24%V				\$ 0.00	\$ 0.00

APR Type Definitions: Daily Interest Rate Type: V= Variable Rate (rate may vary)







[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**CUSTOMER TIPS FOR DISPUTED ITEMS**

Many times disputed charges are legitimate charges that customers may not recognize or remember. Before disputing a charge, we recommend that you verify a few things and make every effort to resolve the dispute with the merchant. Often the merchant can answer your questions and easily resolve your dispute. The merchant's phone number may be located on your receipt or billing statement.

**• Has a credit posted to your account?**

Please allow up to 30 days from the date on your credit voucher or acknowledgement letter for the merchant credit to post.

**• Is the charge or amount unfamiliar?**

Check with other persons authorized to use the account to make sure they did not make the charge. It is possible that the merchants' billing names and store names are different or amounts can easily be confused with similar charges or include tips.

One way to check for the credits or to view transaction details is to look at your account statements online. If you are not enrolled in **Online Banking**, it is easy to enroll using the web address on the front of your statement or give us a call.

**Please remember: If you find an error on your bill, you must notify us no later than 60 days after we sent your first statement on which the error or problem appeared to preserve your billing rights.**



**ONLINE**

Online Banking is available 24 hours a day, 7 days a week and allows you to view the most recent activity on your account.



**PHONE**

**1.866.266.0212**

For prompt service, please have the merchant reference number(s) available for the charge(s) in question.



**MAIL**

**Attn: Billing Inquiries PO Box 982235, El Paso, TX 79998**

When writing, please include **Your Name, Account Number, the Disputed Amount, Merchant Name, Transaction Date, and reference number** of the disputed item and specific details regarding your dispute, including dates of contact with the merchant and the merchant's response in each instance. Please include all supporting documentation, including sales and credit vouchers, contract and postage return receipts as proof of any returns.

**PAYING INTEREST**

We will not charge interest on Purchases on the next statement if you pay the New Balance Total in full by the Payment Due Date, and you had paid in full by the previous Payment Due Date. We will begin charging interest on Balance Transfers and Cash Advances on the transaction date.

**CALCULATION OF BALANCES SUBJECT TO INTEREST RATE**

**Average Daily Balance Method (including new Purchases):**

We calculate separate Balances Subject to an Interest Rate for Purchases and for each Introductory or Promotional Offer balance consisting of Purchases. We do this by: (1) calculating a daily balance for each day in the billing cycle; (2) adding all the daily balances together; and (3) dividing the sum of the daily balances by the number of days in the billing cycle.

To calculate the daily balance for each day in this statement's billing cycle, we: (1) take the beginning balance; (2) add an amount equal to the applicable Daily Periodic Rate multiplied by the previous day's daily balance; (3) add new Purchases, new Account Fees, and new Transaction Fees; and (4) subtract applicable payments and credits. If any daily balance is less than zero we treat it as zero.

**Average Balance Method (including new Balance Transfers and new Cash Advances):**

We calculate separate Balances Subject to an Interest Rate for Balance Transfers, Cash Advances, and for each Introductory or Promotional Offer balance consisting of Balance Transfers or Cash Advances. We do this by: (1) calculating a daily balance for each day in this statement's billing cycle; (2) calculating a daily balance for each day prior to this statement's billing cycle that had a "Pre-Cycle balance" — a Pre-Cycle balance is a Balance Transfer or a Cash Advance with a transaction date prior to this statement's billing cycle but with a posting date within this statement's billing cycle; (3) adding all the daily balances together; and (4) dividing the sum of the daily balances by the number of days in this statement's billing cycle.

To calculate the daily balance for each day in this statement's billing cycle, we: (1) take the beginning balance; (2) add an amount equal to the applicable Daily Periodic Rate multiplied by the previous day's daily balance; (3) add new Balance Transfers, new Cash Advances and Transaction Fees; and (4) subtract applicable payments and credits. If any daily balance is less than zero we treat it as zero.

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For more information or to stop the electronic funds transfers, call us at the number listed on the front.

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Address 1 \_\_\_\_\_

Address 2 \_\_\_\_\_

City \_\_\_\_\_

State \_\_\_\_\_ Zip \_\_\_\_\_

Area Code & Home Phone \_\_\_\_\_

Area Code & Work Phone \_\_\_\_\_



6383  
 February 26 - March 28, 2012  
 Page 3 of 4

**Transactions continued**

Transaction Date	Posting Date	Description	Reference Number	Account Number	Amount	Total
03/28	03/28	Interest Charged				
		Interest Charged on Bank Cash Advances			0.00	
		<b>TOTAL INTEREST FOR THIS PERIOD</b>				<b>\$322.52</b>

2012 Totals Year-to-Date	
Total fees charged in 2012	\$105.00
Total interest charged in 2012	\$898.20

**Important Messages**

Your statement balance exceeds the Total Credit Line. To ensure uninterrupted use of your account, please make a payment to bring your balance under the Total Credit Line. There is no fee for being over your Total Credit Line.

**Interest Charge Calculation**

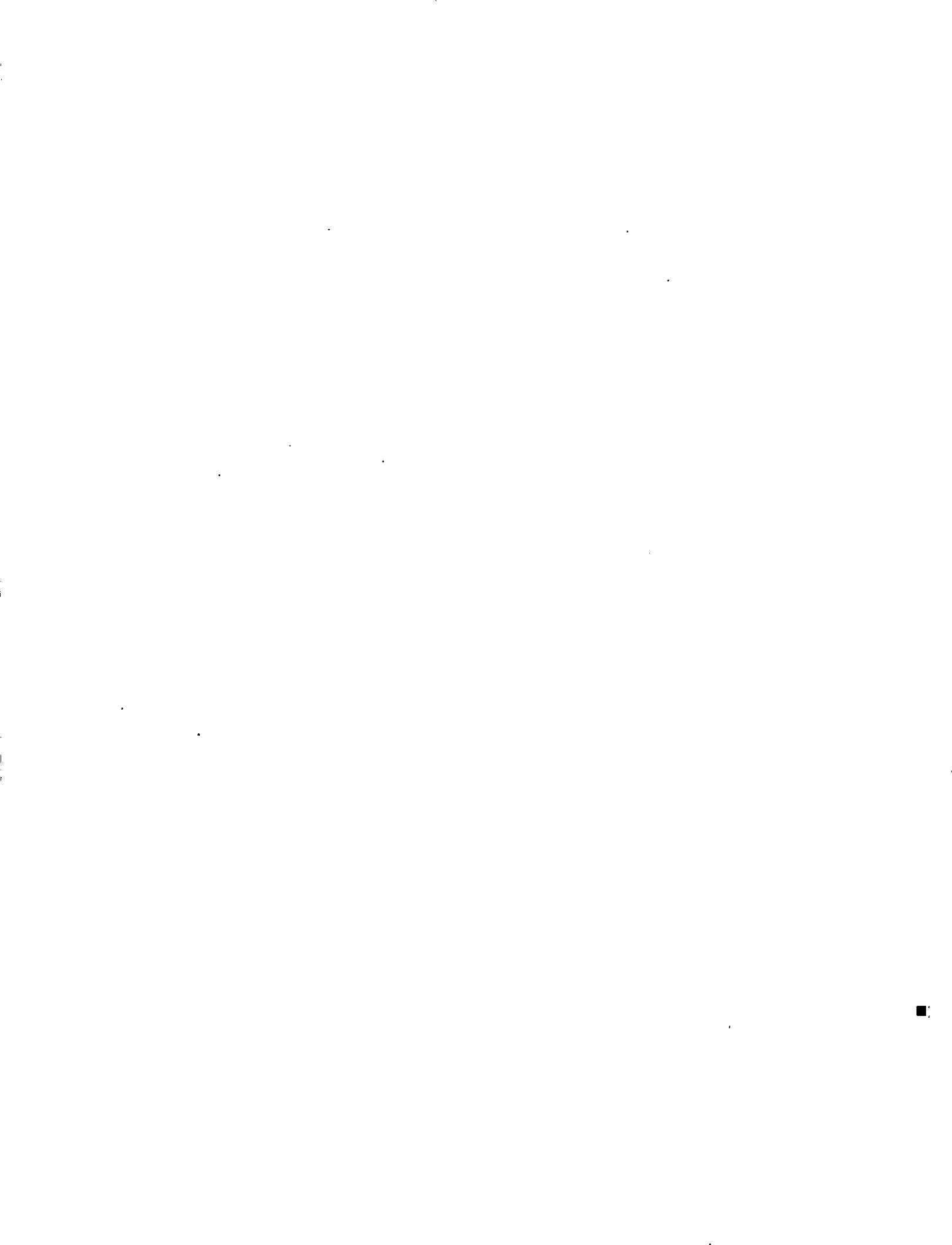
Your Annual Percentage Rate (APR) is the annual interest rate on your account.

	Annual Percentage Rate	Promotional Transaction Type	Promotional Offer ID	Promotional Rate End Date	Balance Subject to Interest Rate	Interest Charges by Transaction Type
Purchases	23.24%	V			\$15,829.55	\$322.52
Balance Transfers	23.24%	V			\$ 0.00	\$ 0.00
Direct Deposit and Check Cash Advances	24.99%	V			\$ 0.00	\$ 0.00
Bank Cash Advances	25.24%	V			\$ 0.00	\$ 0.00

APR Type Definitions: Daily Interest Rate Type: V= Variable Rate (rate may vary)



11-11-11



NANCY E. RISTER, COUNTY CLERK  
WILLIAMSON COUNTY, TEXAS  
405 MARTIN LUTHER KING STREET, BOX 14  
GEORGETOWN, TEXAS 78626  
512-943-1140

3/31/2017

THE STATE OF TEXAS

COUNTY OF WILLIAMSON

15-1820-CC4

TO: JAMES T FLANNIGAN  
12505 SHASTA LN  
AUSTIN TX 78729

**DISMISSAL DOCKET NOTICE**

**CAUSE NO.: 15-1820-CC4**

**CACH, LLC**

**vs**

**James T. Flannigan  
AKA Jimmy**

In accordance with Rule 165A, Texas Rules of Civil Procedures, the case as described above has been placed on the dismissal docket. The dismissal docket will be called at **1:30 p.m. on the 4<sup>th</sup> day of May, 2017** in the **County Court at Law #4**, Williamson County Justice Center, 405 Martin Luther King Street, Georgetown, Texas 78626.

The Court shall dismiss this case for want of prosecution at the dismissal hearing unless there is good cause to maintain the case on the docket. **If you want your case to remain on the docket you must appear at the Dismissal Docket at the date and time shown above with a file-marked copy of sworn Motion to Retain, along with an Order to Retain.**

This is the only notice you will receive regarding this setting.

**NANCY E. RISTER**  
COUNTY CLERK, WILLIAMSON COUNTY

NANCY E. RISTER, COUNTY CLERK  
WILLIAMSON COUNTY, TEXAS  
405 MARTIN LUTHER KING STREET, BOX 14  
GEORGETOWN, TEXAS 78626  
512-943-1140

3/31/2017

THE STATE OF TEXAS

COUNTY OF WILLIAMSON

15-1820-CC4

TO: SHAUN G BROWN  
3030 S GESSNER DR SUITE 200  
HOUSTON TX 77063

DISMISSAL DOCKET NOTICE

CAUSE NO.: 15-1820-CC4

CACH, LLC

vs

James T. Flannigan  
AKA Jimmy

In accordance with Rule 165A, Texas Rules of Civil Procedures, the case as described above has been placed on the dismissal docket. The dismissal docket will be called at **1:30 p.m. on the 4<sup>th</sup> day of May, 2017** in the **County Court at Law #4**, Williamson County Justice Center, 405 Martin Luther King Street, Georgetown, Texas 78626.

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This is the only notice you will receive regarding this setting.

NANCY E. RISTER  
COUNTY CLERK, WILLIAMSON COUNTY

**CAUSE NO. 15-1820-CC4**

<b>CACH, LLC</b>	§	<b>IN THE COUNTY COURT</b>
	§	
<b>Plaintiff,</b>	§	
	§	<b>AT LAW NO. 4</b>
<b>v.</b>	§	
	§	
<b>JAMES T FLANNIGAN</b>	§	
	§	
<b>Defendant.</b>	§	<b>WILLIAMSON COUNTY, TEXAS</b>

**PLAINTIFF'S MOTION TO RETAIN**

Plaintiff, CACH, LLC, asks the Court to retain its suit on the Court's docket.

**INTRODUCTION**

1. Plaintiff, CACH, LLC, sued Defendant, James T. Flannigan, for breach of contract.
2. Defendant has not filed an answer in this case.
3. Plaintiff has filed and submitted a Motion for Entry of Default Judgment on June 14, 2016.

**BACKGROUND**

4. On March 31, 2017 the Court sent a notice that it intended to dismiss the suit if plaintiff did not file a Motion to Retain and appear at the Dismissal Hearing on May 4, 2017.
5. Plaintiff desires to have the case retained and a hearing set on Plaintiff's Motion for Entry of Default Judgment.

**ARGUMENT & AUTHORITIES**

6. A court should not dismiss a case if the plaintiff shows that it has diligently prosecuted its suit. *See Villarreal v. San Antonio Truck & Equip.*, 994 S.W.2d 628, 630 (Tex. 1999); *Tex. Mut. Ins. Co. v. Olivas*, 323 S.W.3d 266, 274 (Tex. App.- El Paso 2010, no pet.).

7. The Court should retain the case because plaintiff has diligently prosecuted the case. Plaintiff timely filed a Motion for Entry of Default Judgment after the deadline for the answer had passed, and therefore, there should be a hearing set on that motion.

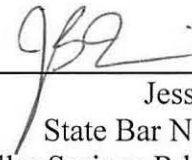
**PRAYER**

8. For the reasons stated herein this Motion, plaintiff asks the Court to retain its suit on the docket.

Dated: April 27, 2017

Respectfully submitted,

**P. SCOTT LOWERY, P.C.**



---

Jessica B. Davis  
State Bar No. 24043624  
2840 Keller Springs Rd., Suite 1202  
Carrollton, TX 75006  
Tel. (866) 444-0102  
Dir. (972) 416-8289  
Fax (972) 476-0847  
Email: [jdavis@lowerylawgroup.com](mailto:jdavis@lowerylawgroup.com)

ATTORNEY FOR PLAINTIFF

**CERTIFICATE OF SERVICE**

I hereby certify that on this 27<sup>th</sup> day of April, 2017 the above and foregoing instrument has been forwarded to James T. Flannigan, Defendant as described below in accordance with Rule 21(a) of the Texas Rules of Civil Procedure, as follows:

**VIA CMRRR 7016 0340 0000 5366 6418**

JAMES T FLANNIGAN  
8601 ANDERSON MILL RD APT 1023  
AUSTIN, TX 78729



---

Jessica B. Davis

Cause No. 15-1820-CC4

CACH, LLC

§ IN THE COUNTY COURT

§

vs.

§ AT LAW NUMBER 4

§

JAMES T FLANNIGAN

§ WILLIAMSON COUNTY, TEXAS

**DEFAULT JUDGMENT**

On the date indicated below, came on to be heard the above-entitled and numbered cause wherein CACH, LLC is Plaintiff and JAMES T FLANNIGAN is Defendant. Defendant, JAMES T FLANNIGAN, although having been duly and legally cited to appear and answer, failed to appear and answer, and wholly made default.

Citation was served according to law and returned to the clerk where it remained on file for the time required by law. The Court has read the pleadings and the papers on file and is of the opinion that the allegations of Plaintiff's Original Petition have been admitted and that the cause of action is liquidated. Upon good and sufficient evidence presented by Plaintiff, the Court finds that Plaintiff, CACH, LLC, although having requested payment from the Defendant, and the Defendant, although requested to do so, failed and refused to pay Plaintiff for monies owed as a result of Defendant's use of the account and Plaintiff has been damaged in the sum of \$16025.97.

IT IS, THEREFORE, ORDERED, ADJUDGED and DECREED by the Court that the Plaintiff, CACH, LLC, have and recover of and from Defendant, JAMES T FLANNIGAN, the sum of \$16,025.97, said sum representing Plaintiff's actual damages.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that the Judgment hereby rendered shall bear interest at the rate of 5% per annum as provided by law from the date of this Judgment until paid.



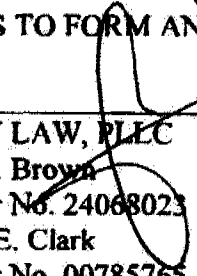
All costs of Court expended or incurred in this cause are hereby adjudged against Defendant, JAMES T FLANNIGAN. All writs and processes for the enforcement and collection of this Judgment or for the costs of Court may issue as necessary.

SIGNED this the 4 day of MAY, 20 17.

  
PRESIDING JUDGE

APPROVED AS TO FORM AND CONTENT:

By: \_\_\_\_\_

  
BROWN LAW, PLLC  
Shaun G. Brown  
State Bar No. 24068023  
Richard E. Clark  
State Bar No. 00785765  
Robert L. Rodriguez  
State Bar No. 24088918  
3030 S. Gessner Dr. Suite 200  
Houston, Texas 77063  
Tel: 713-782-2700  
Fax: 713-782-9664  
[SBrown@brownlaw-llc.com](mailto:SBrown@brownlaw-llc.com)  
[RClark@brownlaw-llc.com](mailto:RClark@brownlaw-llc.com)  
[RRodriguez@brownlaw-llc.com](mailto:RRodriguez@brownlaw-llc.com)  
**ATTORNEYS FOR PLAINTIFF,**

**CACH, LLC**

FILED  
at 2:30 o'clock P M

MAY 4 2017

  
County Clerk, Williamson Co., TX

Case No. 15-1820-CC4

CACH, LLC

Plaintiff

§  
§  
§  
§  
§  
§  
§  
§  
§

In the County Court at Law No. 4

of

v.

James T Flannigan

Defendant(s)

WILLIAMSON County Texas

**RELEASE OF JUDGMENT**

Pursuant to Texas Civil Practices and Remedies Code Section 132.001, My name is Jasmina Necola Cooks, my date of birth is 01/11/1990, and the office address of Rausch Sturm is 15660 N. Dallas Parkway, Suite 350, Dallas, TX 75248, County of Dallas. I declare under penalty of perjury that the foregoing is true and correct:

On May 4, 2017, in Cause Number 15-1820-CC4 in WILLIAMSON County, Texas, Plaintiff CACH, LLC recovered judgment against Defendant(s) JAMES T FLANNIGAN.

The above referenced judgment has been satisfied. Accordingly, Plaintiff CACH, LLC hereby releases Defendant(s) James T Flannigan from the existing Judgment in the above-styled lawsuit.

EXECUTED DEC 04 2019

Respectfully Submitted,  
RAUSCH STURM  
ATTORNEYS IN THE PRACTICE OF DEBT COLLECTION

FILED  
at 2:33 o'clock P M

DEC 4 - 2019

*Nancy E. Ruter*  
County Clerk, Williamson Co., TX

*As: Jasmina Necola Cooks*

- STEVE JAVANDOOST, SBN 24055735
  - JESSICA OLSEN-ZHANG, SBN 24099761
  - ROBERTO JARAMILLO, SBN 24098772
  - MEGAN HALE, SBN 24087654
  - BRANDON E. BOWLIN, SBN 24084917
  - JOHN KETTLER, SBN 24089374
  - BRANDI MARIE ADDISON, SBN 24094342
  - JESSE DOW LOCKHART, SBN 24082089
  - COLIN PATRICK BROGAN, SBN 24096499
  - JASMINE NECOLE COOKS, SBN 24089624
  - TALISA KARENE LOWERY, SBN 24093504
  - KYLE KASNER GARZA, SBN 24107195
  - GEORGE COLBY SCHERER, SBN 00784916
  - J. CHASE LINCER, SBN 24109476
  - SABRINA ANNE SKELDON, SBN 18455600
  - CHRISTOPHER RYAN MILLER, SBN 24025536
  - MICAH RICE, SBN 24113091
  - JARED DAVID CHILEK, SBN 24085249
  - ROGER KYLE BALL, SBN 24077895
- 15660 N. Dallas Parkway, Suite 350  
Dallas TX 75248  
Toll Free - (877) 215-2552 Fax - Dallas (877) 492-5185  
E-mail: lawfirm.TX@rsich.com  
ATTORNEY FOR PLAINTIFF  
2853245

