

# UNITED STATES DISTRICT COURT

Eastern  
Capital One Bank (USA) N.A., Capital  
One, N.A., Capital One Auto Finance,  
Inc.

District of Virginia

## SUMMONS IN A CIVIL CASE

V.  
Hess Kennedy Chartered, LLC, Hess  
Kennedy Holdings, Ltd., Consumer  
Credit Counseling of America, Inc.,  
The Campos Chartered Law Firm, The  
Consumer Law Center, LLC

CASE NUMBER:

3:08CV147

3-12-08  
0930 AM  
SNE477

TO: (Name and address of Defendant)

Edward Cherry  
The Consumer Law Center, LLC  
210 North University Drive  
Coral Springs, FL 33071

**YOU ARE HEREBY SUMMONED** and required to serve on PLAINTIFF'S ATTORNEY (name and address)

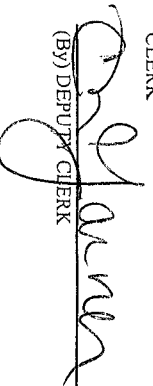
Cameron S. Matheson  
LeClairRyan  
Riverfront Plaza, East Tower  
951 East Byrd Street, 8th Floor  
Richmond, VA 23219

an answer to the complaint which is served on you with this summons, within 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

**Fernando Galindo, Clerk**

CLERK

DATE

  
(By) DEPUTY CLERK



2. Plaintiffs are in the business of extending credit to consumers in Virginia and other states through credit card accounts. Each account is issued pursuant to and governed by a Customer Agreement between a consumer and one of the Plaintiffs. The Customer Agreement requires the consumer to pay Plaintiff the amounts of any charges to the credit card account, as well as other fees, charges and interest accruing to the account.

3. Through Defendants' fraudulent conspiracy, as of the filing of this action, consumers have "disputed" and/or refused or failed to pay legitimate amounts owing to Plaintiffs on more than seven thousand three hundred (7,300) accounts with Plaintiffs, in violation of the applicable Customer Agreement. In an intentional, illegal effort to disrupt Plaintiffs' businesses and to interfere with Plaintiffs' contractual relations with Plaintiffs' consumers, Defendants have literally sent thousands of letters to Plaintiffs fraudulently disputing valid debts with the intent of forcing Plaintiffs to forego lawful attempts to collect account balances and forcing Plaintiffs to agree to waive valid account balances.

4. This fraudulent scheme is initiated by Defendant CCCA who solicits consumers through web sites and other advertising to sign up for "debt reduction services." Once a consumer signs up with CCCA, Defendant Hess Kennedy and or Campos agrees to "represent" the consumer and sends letters on behalf of the consumers to Plaintiffs and other creditors fraudulently disputing valid, legitimate account balances.

5. In this action, Plaintiffs seek, among other things, to enjoin Defendants from soliciting Plaintiffs' consumers, representing Plaintiffs' consumers, attempting to disrupt Plaintiffs' businesses with fraudulent correspondence, and interfering with Plaintiffs' contractual

relations with its consumers. Plaintiffs also seek an award of damages based on Defendants' intentional and unlawful conduct.

## II. JURISDICTION AND VENUE

6. This court has jurisdiction pursuant to 28 U.S.C. § 1331, in that, this controversy involves an action under the Credit Repair Organization Act, 15 U.S.C. § 1679. This Court also has jurisdiction of this matter pursuant to 28 U.S.C. § 1332, in that, this is a controversy between citizens of different states, and the amount in controversy exceeds the sum or value of \$75,000 exclusive of interest and costs.

7. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(2) and 28 U.S.C. § 1391(c), because, among other things, the actions complained of occurred in Richmond, Virginia, and the Defendants contacts with this forum are substantial.

8. Defendants have conspired to enter into contracts with, represent, and send letters on behalf of consumers who reside within the Eastern District of Virginia. Further, Defendants have conspired to send thousands of letters on behalf of Plaintiffs' consumers to Plaintiffs in this District.

## III. PARTIES

9. Plaintiff Capital One Bank (USA), N.A. is a national banking association organized under federal law, with its principal place of business in Virginia.

10. Plaintiff Capital One, N.A. is a federal savings bank with its principal place of business in Virginia.

11. Plaintiff Capital One Auto Finance, Inc. is a wholly owned subsidiary of Capital One, N.A. with its principal place of business in Virginia.

12. Defendant Hess Kennedy Chartered, LLC is a limited liability company organized under the laws of Florida, with its principal place of business in Florida.

13. Defendant Hess Kennedy Holdings, Ltd. is a limited liability company organized under the laws of Florida, with its principal place of business in Florida.

14. Defendant Consumer Credit Counseling of America, Inc. is a corporation organized under the laws of Massachusetts, with its principal place of business in Massachusetts.

15. Defendant The Campos Chartered Law firm is a corporation organized under the laws of Florida, with its principal place of business in Florida.

16. Defendant The Consumer Law Center, LLC is a limited liability company organized under the laws of Florida, with its principal place of business in Florida.

#### IV. FACTS

17. Upon information and belief, Defendants, as a part of an ongoing nationwide conspiracy, have created and are engaged in a scheme whereby consumers of the Plaintiffs are led to believe that Defendants will erase their credit card debt through the legal services of Hess Kennedy or its affiliates. Specifically, Hess Kennedy states on its website:

We work with approved debt consolidation organizations that negotiate with over 50,000 creditors and we are confident that we will be able to help you to develop a debt consolidation repayment plan or credit card management plan that will fit your budget and help you to reach your goal of becoming DEBT FREE! Remember THERE IS LIFE AFTER DEBT and we will help you get back on track.

If you carry a balance, a credit card debt can be like a very expensive loan made by banks, gasoline companies or department stores. These credit card debts yield high profits to their issuers for several reasons. The most important is the high rate of interest (as high as 33% each year). Interest from a credit card alone can account for the bulk of the profits earned by the bank that issued you the credit card. Also, many credit card companies charge an annual fee for issuing you the credit card, and most of these companies charge late fees, over-the-limit fees and other miscellaneous charges. Finally, the banks and loan companies profit by charging the merchants and service providers a fee each time a customer uses the loan company's credit card in the merchant's establishment. Our debt consolidation and credit card management program can help you put an end to these high interest credit card debts. A Certified Debt Counselor will contact you within the next 24 hours with your free consultation. Please have your most recent Credit Card Statements available and we will show you how to consolidate them to save you from 20% to as much as 60% in monthly payments!

(Hess Kennedy Chartered Company web site, [http://www.hesskennedycompany.com/credit\\_counseling.html](http://www.hesskennedycompany.com/credit_counseling.html), a copy of which is attached hereto as Exhibit "1".) Hess Kennedy's website also explains: "We will help you make the best choices possible despite difficult financial circumstances. We will help you decide whether there are debts you can ignore and what your options are when you cannot ignore a particular debt." (Hess Kennedy Chartered Company web site, [http://www.hesskennedycompany.com/debt\\_settlement.html](http://www.hesskennedycompany.com/debt_settlement.html), a copy of which is attached hereto as Exhibit "2".) Campos identically states on its website as follows:

We work with approved debt consolidation organizations that negotiate with over 50,000 creditors and we are confident that we will be able to help you to develop a debt consolidation repayment plan or credit card management plan that will fit your budget and help you to reach your goal of becoming DEBT FREE!

(The Campos Chartered Law Firm website, <http://www.camposlegalservices.com/creditcounseling.html>, a copy of which is attached hereto as Exhibit "3".)

18. This scheme is one of countless examples of debt elimination schemes directed at making Defendants easy money by swindling consumers into believing their debts can be eliminated simply by the mailing of a "dispute" letter by one of the Defendants to Plaintiffs.

19. Through a telemarketing and internet ploy, CCCA signs up consumers under the guise that it will hire the consumer a lawyer who will help the consumer eliminate his credit card debt. CCCA collects an over-the-phone payment from the consumer for its initial "services" by directly debiting the consumer's bank account. Upon information and belief, CCCA takes initial information regarding the consumer, his debts, account numbers, and address. CCCA then sends the consumer's information to one of the law firm defendants for "validation."

20. Upon information and belief, Hess Kennedy, Campos and/or the Consumer Law Center, without ever meeting or conferring with their "client," inserts the consumers' name and credit card information into a form letter. The letter is sent to Plaintiffs and other credit card companies alleging that the entire balance of the credit card is in "dispute."

21. A virtually identical letter is sent for every consumer without regard for the age of the consumer's account, the consumer's debt load, the type of the account, or any other factor. That letter reads in part as follows:

The undersigned represents the above named consumer. The purpose of this letter is to determine the nature of the relationship between your company and my client, as well as the nature, validity and scope of the alleged debt. This is a request for strict proof of your claim under commercial and general contract law principals. Please be advised than any communications that you make in this matter will become part of an administrative record, and may be used in litigation of claims related to the above listed account.

....

My client is disputing the accuracy and validity of the balance as reflected on your most recent statement, as well as disputing the accuracy and validity of all charges shown on all statements that my client may have ever received, as well as all statements my client may receive until this dispute is resolved. To be clear, at this point in my investigation, and based upon conversations that I have had with legal and accounting advisors, my client is disputing the entire balance and every charge reflected on the disputed account. As such, any claim based upon an account stated is without foundation and is hereby disputed.

Unless and until the above listed information is provided, there can be no "default" on this account. Further, this account is not stated, and I hereby specifically rebut any presumption that this account has been stated. Absent your providing the above-listed documentation, validation and verification, the remedy I seek is the complete elimination and / or discharge of the entire balance of the account referenced above, and the complete removal of my client's name from your records. I also request, a zero balance due statement showing that no further monies are owed and no balance is due.

Your failure to satisfy this dispute and request within the requirements of federal and state commercial and collections law will be construed as your absolute waiver of any and all claims against my client, and your tacit agreement to compensate my client for costs and attorneys' fees.

(Exemplar Letter from Hess Kennedy Company Chartered to Capital One, Billing Dispute Representative (Mar. 23, 2007) attached as Exhibit "4".)

22. The letters also claim that any communication with the borrower will constitute a violation of the Fair Credit Billing Act, and communications with the borrower about the debt will be a violation of the Fair Debt Collection Practices Act. (*Id.*) The letters specifically ask for information relating to the validity and legal sufficiency of the claim for the valid debt. (*Id.*)

23. Defendants have no legitimate legal basis for the positions advocated in said letters to Plaintiffs. Hess Kennedy's illegitimate letters lack factual or legal support.

24. In an effort to squeeze within the terms of the Fair Credit Billing Act, 15 U.S.C. § 1666, *et seq.* ("FCBA"), the letters claim that the entire credit card balance is in dispute. The Hess Kennedy letters are not "billing error notices" pursuant to the FCBA. The letters are not related to an actual disputed bill or charge. Upon information and belief, many consumers are not even aware when the letter is sent by Hess Kennedy.

25. The letters are intended not only to disrupt Plaintiffs' businesses, but also to interfere with Plaintiffs' contractual relationships with its consumers.

26. To date, through this conspiracy, Hess Kennedy, Campos, and its affiliates have sent more than eight thousand (8,000) letters to Plaintiffs allegedly disputing the balances of over 7,300 accounts.

27. Upon information and belief, Defendants instruct consumers to stop making payments on their debts. To date, the aggregate balance of the accounts Defendants have challenged through this unlawful conspiracy is more than sixteen million dollars (\$16,000,000).

28. Plaintiffs have attempted by correspondence to contact its consumers to advise of the receipt of the correspondence from Defendants. In its correspondence to the consumers, Plaintiffs explain the consumers must give the Plaintiffs authorization to allow communication with the law firms regarding the consumer's account. (As an example, see Letter from Capital One Bank to Margaret Ellard (January 17, 2007) attached as Exhibit "5".)

29. Plaintiffs have notified Hess Kennedy that their actions are interfering with the contractual relations between the Plaintiffs and their consumers. Plaintiffs wrote Hess Kennedy and stated:

Capital One Financial Services, Inc. and its affiliates ("Capital One") are in receipt of hundreds of letters from your firm making identical unsubstantiated allegations that lack factual or legal merit. The letters appear to be part of a concerted effort by you and your firm to delay, and impede, without any legal basis, Capital One's ability to collect outstanding credit card debt. Capital One has no duty to respond to the letters.

Further these activities by you and your firm constitute, among other things, tortious interference with business relations. This letter serves as notice that

Capital One will pursue all available legal remedies should these activities continue.

Capital One demands that you cease and desist all communications of this nature. This letter serves as notice to your firm and its clients that Capital One hereby reserves all rights against you, your firm, and all associated individuals and entities.

(See Letter from Capital One to Hess Kennedy & Company (July 24, 2007) attached as Exhibit “6”.) Nevertheless, Defendants have continued to engage in this scheme and conspiracy even after Plaintiffs’ notice.

30. Upon information and belief, individual Defendants and affiliates are using the limited liability companies and corporations as a shell and are disregarding the corporate form in order to shield themselves from liability. Hess Kennedy, Campos, and The Consumer Law Firm, LLC are all located on North University Drive in Coral Springs, Florida.

## V. CAUSES OF ACTION

### COUNT ONE CREDIT REPAIR ORGANIZATION ACT

31. Plaintiffs adopt and reallege the allegations contained in all preceding paragraphs the same as is set forth fully herein.

32. The purpose of the Credit Repair Organization Act (“CROA”) is “to protect the public from unfair or deceptive advertising and business practices by credit repair organizations.” 15 U.S.C. § 1679(b).

33. A credit repair organization is defined as, among other things “any person who uses any instrumentality of interstate commerce or the mails to . . . provide . . . any service, in return for the payment of money or other valuable consideration, for the express or implied

purpose of -- (i) improving any consumer's credit record, credit history, or credit rating; or (ii) providing advice or assistance to any consumer with regard to any activity or service described in clause (i).” 15 U.S.C. § 1679a(3). None of the Defendants are exempted from the act as each is clearly a credit repair organization as defined by CROA.

34. The Credit Repair Organization Act prohibits the Defendants from, among other things, making misleading or untrue representations of the services of the credit repair organization. 15 U.S.C. § 1679b(3).

35. In violation of 15 U.S.C. § 1679b, upon information and belief, Defendants, among other things, violate CROA in numerous ways, including but not limited to, making promises to consumers regarding their credit, and request payment from consumers in order to eliminate debt that Defendants feel can be ignored.

36. In performing these actions, Defendants are credit repair organizations, as defined by the Credit Repair Act.

37. Additionally, these actions are interfering with the contractual relationship between Plaintiffs and their consumers, and these actions are unfair business practices.

38. Defendants have sent well over 8,000 letters relating to more than 7,300 of Plaintiffs accounts. Although Plaintiffs have requested that these letters cease, Defendants continue to intentionally interfere with the business relationship of Plaintiffs and their consumers.

39. Defendants instruct consumers to stop making payments on their debts. To date, the aggregate balance of the accounts Defendants have challenged through this unlawful conspiracy is more than sixteen million dollars (\$16,000,000).

40. CROA provides liability to any person who is damaged by the failure of another to abide by the terms of the act which includes the Defendants actions making false statements to individuals and participating in this scheme. 15 U.S.C. § 1679g.

41. As a direct and proximate result of the intentional misleading statements and information provided by Defendants to Plaintiffs' consumers in violation of the CROA, Plaintiffs have incurred significant financial loss, including but not limited to, delayed payment from over 7,300 accounts, loss of interest payments and the costs and fees associated with pursuing payment of debt from consumers. The Act provides for actual damages for the amount of damage sustained as a result of the Defendants' liability under the act, punitive damages, and attorney's fees. 15 U.S.C. § 1679g.

WHEREFORE, Plaintiffs pray that this Court award Plaintiffs the following:

- A. compensatory damages;
- B. punitive damages;
- C. pre-judgment interest;
- D. costs;
- E. attorneys' fees;
- F. equitable relief; and
- G. any other relief to which Plaintiffs may be entitled.

**COUNT TWO**  
**TORTIOUS INTERFERENCE WITH**  
**CONTRACTUAL OR BUSINESS RELATION**

42. The Plaintiffs adopt and reallege the allegations contained in all preceding paragraphs the same as if set forth fully herein.

43. Defendants, individually, collectively, and by means of their conspiracy, have purposefully, knowingly and without justification interfered with the contractual and business relations between Plaintiffs and their consumers.

44. Defendants knew and know of the existence of the contractual or business relationships between Plaintiffs and their consumers that, among other things, require consumers to pay Plaintiffs the amount of any charges to the credit card account as well as other fees, charges and interest.

45. Defendants intentionally seek to interfere and have interfered with those contractual and business relationships by seeking to prevent and have prevented consumers from paying legitimate amounts owing to Plaintiffs and by seeking to preclude Plaintiffs from collecting legitimate amounts consumers owe Plaintiffs.

46. Defendants intentionally seek to interfere and have interfered with those contractual and business relationships by attempting to create an unbearable burden on Plaintiffs to respond to unauthorized and improper requests for the production of documents related to the credit card accounts of Plaintiffs' consumers.

47. The Defendants knowingly and intentionally interfered with and caused the disruption of the contractual relationships between Plaintiffs and their consumers by sending

more than eight thousand (8,000) letters to Plaintiffs fraudulently “disputing” the valid debt of over 7,300 accounts. This intentional interference has caused a breach of the relationship between Plaintiffs and their consumers.

48. Defendants have no justification for their interference with Plaintiffs contractual and business relationships with its consumers.

49. But for the Defendants’ wrongful and intentional interference, Plaintiffs would not have received and responded to thousands of baseless, fraudulent letters from the Defendants.

50. As a direct and proximate result of the foregoing intentional interference by Defendants, Plaintiffs have sustained an undetermined amount of monetary damages due to:

- b) the receipt of and the response to the thousands of letters sent by Defendants;
- c) the disruption of Plaintiffs’ communications with its consumers;
- d) the disruption of Plaintiffs’ receipt of payments from its consumers; and
- e) the disruption of Plaintiff’s rights to attempt to collect the balances due on the credit card accounts of its consumers.

WHEREFORE, Plaintiffs pray that this Court award Plaintiffs the following:

- A. compensatory damages in excess of \$75,000;
- B. punitive damages;
- C. pre-judgment interest;
- D. costs;

- E. attorneys' fees;
- F. equitable relief; and
- G. any other relief to which Plaintiffs may be entitled.

**COUNT THREE**  
**CONSPIRACY**

51. Plaintiffs adopt and reallege the allegations contained in all preceding paragraphs the same as is set forth fully herein.

52. Defendants conspired to defraud Plaintiffs of money owed on consumers' credit card accounts and to intentionally interfere with contractual or business relations between Plaintiffs and their consumers.

53. Upon information and belief, Defendants conspired to solicit consumers via the internet and falsely promised to have all debt decreased and/or eliminated. The consumers tendered payment to CCCA for their application services. CCCA then transfers the consumers to one of the defendant law firms, where the law firm sends out an identical form letter to Plaintiffs for each individual the law firms claim to represent.

54. As a proximate result of this conspiracy and the fraudulent and deceitful conduct of Defendants, Plaintiffs have incurred significant financial loss, including but not limited to, delayed payment from over 7,300 accounts, loss of interest payments and the costs and fees associated with pursuing payment of debt from consumers.

WHEREFORE, Plaintiffs pray that this Court award Plaintiffs the following:

- H. compensatory damages in excess of \$75,000;
- I. punitive damages;

- J. pre-judgment interest;
- K. costs;
- L. attorneys' fees;
- M. equitable relief; and
- N. any other relief to which Plaintiffs may be entitled.

**COUNT FOUR**  
**PERMANENT INJUNCTION**

55. Plaintiffs adopt and reallege the allegations contained in all preceding paragraphs the same as is set forth fully herein.

56. As a direct and proximate result of the foregoing intentional interference by the Defendants, Plaintiffs have suffered immediate and irreparable injury, loss, harm and damage and will continue to suffer this irreparable harm in the future if Defendants are not enjoined from continuing to solicit Plaintiffs' consumers, represent Plaintiffs' consumers, attempting to disrupt Plaintiffs' businesses with fraudulent correspondence, and interfere with Plaintiffs' contractual relations with its consumers.

57. Plaintiffs have no adequate remedy at law for said injuries, in that, among other things, Plaintiffs will continue to receive correspondence from Defendants attempting to stop payment from consumers on valid debts unless the Defendants' wrongful conduct is enjoined.

58. Further, upon information and belief, other credit card issuers are facing similar influxes of correspondence from the Defendants seeking to cease all communication with consumers. The public interest will be served by enjoining these Defendants from soliciting consumers.

WHEREFORE, Plaintiffs pray that this Court award Plaintiffs the following:

- A. monetary damages in excess of \$75,000;
- B. a temporary restraining order
- C. preliminary and permanent injunctive relief on Counts I, II, and III of the Complaint; and
- D. any other relief to which Plaintiffs may be entitled.

Dated: March 6, 2008

Respectfully submitted,

CAPITAL ONE BANK (USA) N.A.,  
CAPITAL ONE, N.A.,  
CAPITAL ONE AUTO FINANCE, INC.

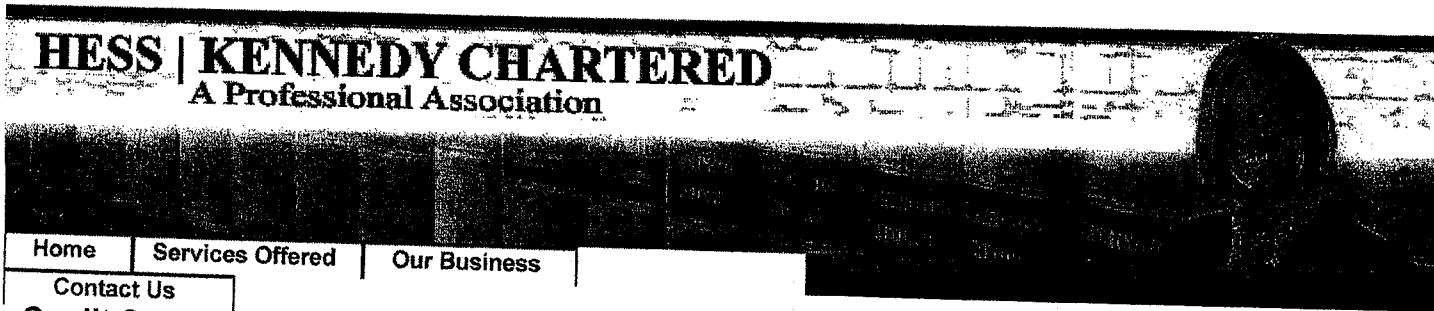


James A. Murphy (VSB No. 35380)  
Cameron S. Matheson (VSB No. 47145)  
LeClairRyan, A Professional Corporation  
Riverfront Plaza, East Tower  
951 East Byrd Street  
Post Office Box 2499  
Richmond, Virginia 23218-2499  
Tel: (804) 916-7126  
Fax: (804) 783-7645  
james.murphy@leclairryan.com  
cameron.matheson@leclairryan.com

OF COUNSEL:

Rik Stanford Tozzi  
Alfred Huey Perkins, Jr.  
Starnes & Atchison LLP  
PO Box 598512  
Birmingham, AL 35259-8512  
Tel: (205) 868-6024  
Fax: (205) 868-6099  
rtozzi@starneslaw.com  
aperkins@starneslaw.com

# **EXHIBIT 1**

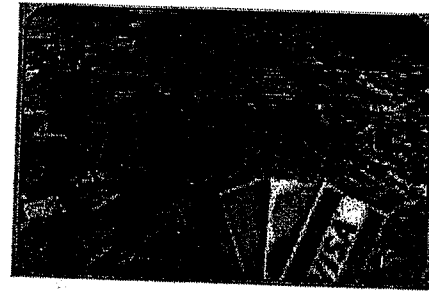


## Credit Counseling

We work with approved debt consolidation organizations that negotiate with over 50,000 creditors and we are confident that we will be able to help you to develop a debt consolidation repayment plan or credit card management plan that will fit your budget and help you to reach your goal of becoming DEBT FREE! Remember THERE IS LIFE AFTER DEBT and we will help you get back on track.

## Credit Card Management

If you carry a balance, a credit card debt can be like a very expensive loan made by banks, gasoline companies or department stores. These credit card debts yield high profits to their issuers for several reasons. The most important is the high rate of interest (as high as 33% each year). Interest from a credit card alone can account for the bulk of the profits earned by the bank that issued you the credit card. Also, many credit card companies charge an annual fee for issuing you the credit card, and most of these companies charge late fees, over-the-limit fees and other miscellaneous charges. Finally, the banks and loan companies profit by charging the merchants and service providers a fee each time a customer uses the loan company's credit card in the merchant's establishment. Our debt consolidation and credit card management program can help you put an end to these high interest credit card debts. A Certified Debt Counselor will contact you within the next 24 hours with your free consultation. Please have your most recent Credit Card Statements available and we will show you how to consolidate them to save you from 20% to as much as 60% in monthly payments!

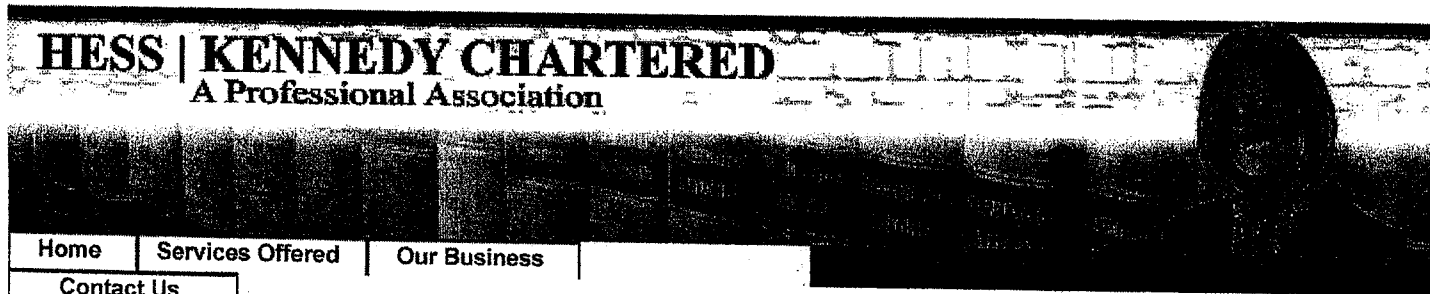


Hess | Kennedy Chartered is a professional association. Managing Partner of Hess | Kennedy Chartered is Laura Hess. She is admitted for practice in Florida only. For cases outside of Florida Hess | Kennedy Chartered lawyers will request assistance from and associate with one of our hand-picked affiliate attorneys located throughout the country. An associated attorney will be compensated through Hess | Kennedy Chartered according to the work performed, in full compliance with the Florida Rules of Professional Conduct.

The hiring of a lawyer is an important decision that should not be based solely on advertisements. Before you decide ask us to send you written information about our Attorney / Lawyer qualifications and experience.

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# **EXHIBIT 2**



**Debt Settlement**

**NOTICE TO CONSUMERS  
IMPORTANT PLEASE READ**



If you are having debt problems, you may feel overwhelmed and powerless. During periods of financial hardship, you may not have the resources to pay pressing debts, to meet family needs, and to get legal help. You may feel helpless to fight debt collectors pressing you for payment or threatening to seize your home, car, or other possessions.

We will help you make the best choices possible despite difficult financial circumstances. We will help you decide whether there are debts you can ignore and what your options are when you cannot ignore a particular debt. Most important, we will make sure that your rights as a consumer are protected. Many state and federal laws are designed to help people facing financial problems.

Most people in financial distress will first want to deal with the worst symptoms of a deteriorating financial situation. However, you should never make a decision based upon what a debt collector tells you. If you have an issue, have the debt collector call your attorney three-way to confirm what they have just said. Or, tell the debt collector that you need to call your attorney first, or better yet, ask the debt collector to contact us directly.

When your financial condition is such that you cannot meet your monthly payment requirements, we are here to develop a long-term strategy to deal with your debt problems. This strategy involves figuring out those debts that you need to repay, and understanding the likely consequences if you cannot pay

certain debts.

The first discipline that you need to learn is keeping a log of your income and expenses for a few months. You should have already submitted an income statement worksheet to the lawyer referral firm that referred you to our law firm. We will make sure that we have this.

The second discipline is determining the priority of your debt. Debts with collateral are top priority. These include mortgages, rent, car loans, and loans secured by household goods. Debts without collateral are low priority debts. These include credit cards, charge cards, medical bills, gasoline cards, payday loans, and loans from family or friends.

The third discipline involves identifying those debts that should be paid first. **Always pay family necessities.** This means food and unavoidable medical expenses.

**Next pay your housing related bills.** Pay your mortgage or rent if at all possible. If you own a home, pay your non-deferrable real estate taxes and your insurance unless they are included in the monthly payment. Failure to pay these bills can result in the loss of your home or apartment. If you are having a serious problem that require you to move, you might stop paying the mortgage or rent. When you do so, do not spend this money. Save this money as a fund to use when you move, and to put down any required down payment.

**Pay the minimum required to keep your essential utility service.** You should pay the minimum payment necessary to avoid disconnection. It would not make sense to work hard to keep your house or apartment only to not be able to live there because of no utility service.

**Pay car loans or car leases if you need to keep your car.** If you need your car to get to work or for other essential transportation you should make your car payment your next priority after food, housing costs, and utilities. You may want to pay for the car first if the car is necessary to keep your job.

**You must pay your child support debts.** A child support debt will not go away. If you need to modify a final order of child support obligation, then do it. You will have to prove that your financial condition has dramatically changed, and some states have minimum thresholds. However, if you do not make these payments, you can lose your license and go to jail.

**Income tax debts are a high priority.** You must pay income taxes you owe that are not automatically deducted from your wages. You must pay file your federal income tax returns, even if you do not have

the money to pay the tax liability. The government has powerful collection rights that other creditors do not have, particularly if you do not file your returns. If your income has been reduced due to a change in circumstances, you can have your tax liability reduced.

**Loans without collateral are low priority.** Most credit card debts, doctor and hospital bills, and other debts, such as open accounts with merchants, and similar debts are low priority. You have not secured any property with these debts, and in the short term, creditors cannot hurt you.

**Do not move a debt up in priority because a creditor or debt collector threatens to sue you.** Many threats to sue are not carried out. Even if the creditor does sue, it will take a while before the collector can seize any property, and much of your property may be exempt from seizure.

**Court judgments against you move a debt up in priority, but less than you think.** After a collector obtains a court judgment, that debt is often higher priority because the creditor can now ask a court to seize certain pieces of property, wages, and bank accounts. However, as to whether or not it is a serious threat will depend upon your state's law, the value of the property, and your income.

**Debt collection efforts should never move up a debt's priority.** Be polite to the debt collector, but make your own choices. Debt collectors are unlikely to give you good advice. Debt collectors may be most aggressive when trying to get you to pay debts that should be paid last, if at all. You should never listen to what a debt collector says until you have had time to contact your lawyer or paralegal.

**Threats to ruin your credit record should never move up a debt's priority.** Many collectors that threaten to report your delinquency to a credit bureau have already done so. If the creditor has not yet reported the status of your account to a credit bureau, it is unlikely that a collector hired by that creditor will do so.

**Refinancing is rarely the answer.** You should always be careful about refinancing. It can be very expensive and it can give creditors more opportunities to seize your important assets.

You have retained this firm because you can no longer afford the required payments to your creditors each month. The objective is to achieve a settlement on the balances owed to your creditors. Although in our experience, creditors accept settlement offers, we must disclose that there are inherent risks with not making payments to your creditors. Some of these risks include: late fees, penalties, and interest will continue to accrue on the consumers debt until the creditors accept and receive a settlement; (2) a creditor(s) may still sue to collect on the debts and garnish your wages; (3) interest rates applicable to

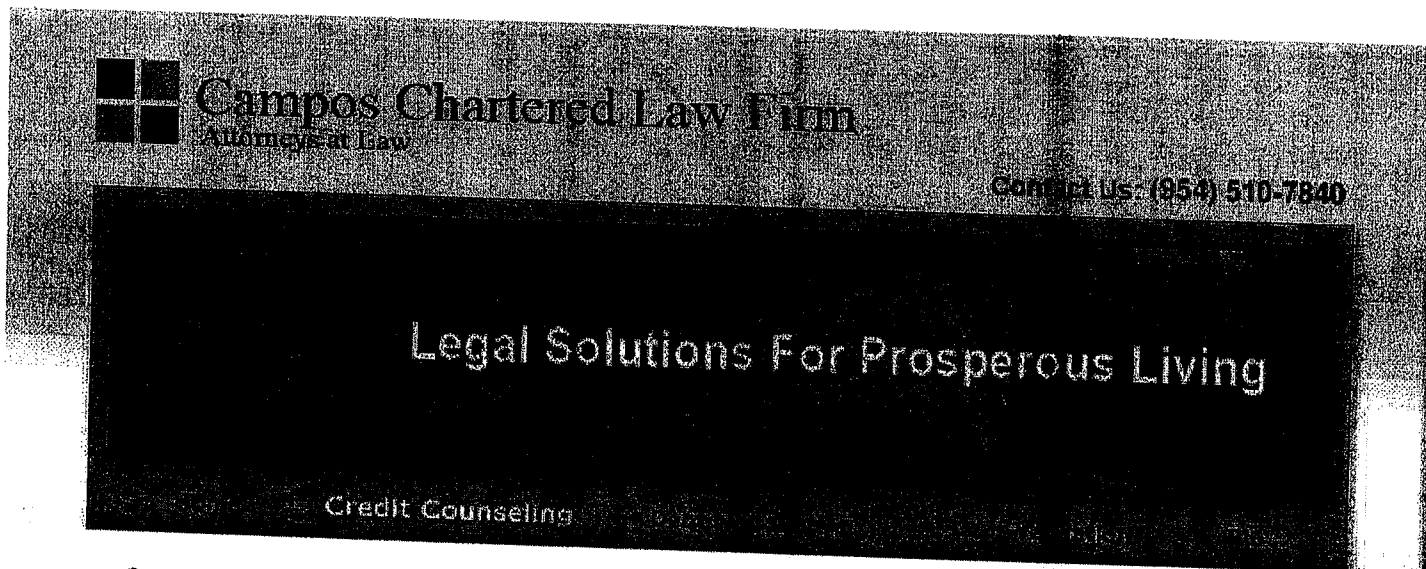
the debt may increase; (4) any money saved in negotiating a settlement with a creditor must be treated as income for tax purposes; and (5) a debt settled for less than the full amount owed may result in a negative notation on your credit report

Hess | Kennedy Chartered is a professional association. Managing Partner of Hess | Kennedy Chartered is Laura Hess. She is admitted for practice in Florida only. For cases outside of Florida Hess | Kennedy Chartered lawyers will request assistance from and associate with one of our hand-picked affiliate attorneys located throughout the country. An associated attorney will be compensated through Hess | Kennedy Chartered according to the work performed, in full compliance with the Florida Rules of Professional Conduct.

The hiring of a lawyer is an important decision that should not be based solely on advertisements. Before you decide ask us to send you written information about our Attorney / Lawyer qualifications and experience.

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# **EXHIBIT 3**



## Credit Counseling

We work with approved debt consolidation organizations that negotiate with over 50,000 creditors and we are confident that we will be able to help you to develop a debt consolidation repayment plan or credit card management plan that will fit your budget and help you to reach your goal of becoming DEBT FREE!



**Remember THERE IS LIFE AFTER DEBT and we will help you get back on track.**

## Credit Card Management

If you carry a balance, a credit card debt can be like a very expensive loan made by banks, gasoline companies or department stores. These credit card debts yield high profits to their issuers for several reasons. The most important is the high rate of interest (as high as 33% each year). Interest from a credit card alone can account for the bulk of the profits earned by the bank that issued you the credit card. Also, many credit card companies charge an annual fee for issuing you the credit card, and most of these companies charge late fees, over-the-limit fees and other miscellaneous charges. Finally, the banks and loan companies profit by charging the

<http://www.camposlegalservices.com/creditcounseling.html>

merchants and service providers a fee each time a customer uses the loan company's credit card in the merchant's establishment. Our debt consolidation and credit card management program can help you put an end to these high interest credit card debts. A Certified Debt Counselor will contact you within the next 24 hours with your free consultation. Please have your most recent Credit Card Statements available and we will show you how to consolidate them to save you from 20% to as much as 60% in monthly payments!

Florida State Bar Rules require that all attorney advertising include the following: The hiring of a lawyer is an important decision that should not be based solely upon advertisement. Before you decide, ask us to send you free written information about our qualifications and experience. The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 Requires the following notice: We are a Debt Relief Agency. This web site is not an offer to provide bankruptcy assistance services to any assisted person as defined under Section 527(a)(2) of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

# EXHIBIT 4

**HESS KENNEDY COMPANY**  
**CHARTERED**

March 23, 2007

Via First Class Mail

CAPITAL ONE  
PO BOX 26030  
RICHMOND, VA 23260

RE: MARGARET ELLARD  
5178052549409007  
571.00

Dear part Billing Dispute Representative:

The undersigned represents the above named consumer. The purpose of this letter is to determine the nature of the relationship between your company and my client, as well as the nature, validity and scope of the alleged debt. This is a request for strict proof of your claim under commercial and general contract law principles. Please be advised that any communications that you make in this matter will become of an administrative record, and may be used in litigation of claims related to the above listed account.

This letter constitutes a first notice of dispute with you regarding the above-listed account, and is served in response to recent communications that your company has made to my client by telephone and in writing. In the future, please restrict your communications to this office, have them be in writing, and cease and desist from any telephone communications with my client, my client's family members, and client's neighbors or workplace. Your company's continued telephonic communications with anyone other than me with respect to this matter may constitute a violation of the Fair Credit Billing Act should you continue to attempt collections on the amount in dispute, the Fair Debt Collection Practices Act, and may also violate the rules of professional responsibility, should your department employ a supervising attorney. Please be advised that I will aggressively pursue any claims that may arise in this area.

My client is disputing the accuracy and validity of the balance as reflected on your most recent statement, as well as disputing the accuracy and validity of all charges shown on all statements that my client may have ever received, as well as all statements my client may receive until this dispute is resolved. To be clear, at this point in my investigation, and based upon conversations that I have had with legal and accounting advisors, my client is disputing the entire balance and every charge reflected on the disputed account. As such, any claim based upon an account stated is without foundation and is hereby disputed.

In order to determine the nature and character of the alleged debt relationship between you and my client, I will require strict verification, through the presentation of certified documentary evidence

HESS KENNEDY COMPANY • 210 NORTH UNIVERSITY DRIVE • TWO HUNDRED NINE • CORAL SPRINGS • FL • 33071  
PHONE 954.752.1950 TELECOPIER 954.727.8722  
NEW YORK | ILLINOIS | NEW JERSEY | LONDON | CALIFORNIA | CAYMAN ISLANDS | SINGAPORE

**HESS KENNEDY COMPANY**  
**CHARTERED**

showing the factual basis and legal standing for your Company's claim for payment of the alleged debt that is disputed herein. Verification is defined as: Confirmation of correctness, truth or authenticity, by affidavit, oath or deposition. Affidavit of truth of matter stated and object of verification is to assure good faith in averments or statements of party; sworn or equivalent confirmation of truth; and in accounting, the process of substantiating entries in books of account.

Specifically, in order to ascertain the validity and legal sufficiency of your claim, I am demanding the following:

1. Validation of your Company's right to collect the disputed debt set forth above, by furnishing verified copies of any and all agreements governing the assignment, novation, or transfer of rights, and/or the like, and state whether your Company is the current owner, assignee, holder, or holder in due course of the above referenced account, with evidence to support said statements.
2. Validation of the legal sufficiency of your claim regarding the disputed debt by furnishing verified copies of all relevant commercial instruments and/or contracts containing my client's wet ink signature, and the evidence of any exchange of a benefit or detriment; and/or the series of external acts giving the objective semblance of agreement; and/or otherwise between your Company and my client that you rely upon in advancing your Company's claim.
3. Please provide me with bona fide copies of the accounting transaction ledger that demonstrates how the money in the disputed account was originated. The documentation and evidence of the actual "account transaction ledger" are of the utmost importance. Your failure to provide them will be deemed to be substantial noncompliance with this request. This evidence should include any transfer of cash or cash equivalents to any acquiring bank, merchant, or other third party.
4. Certified copies of any insurance policies related to the disputed account, contract, note or other instrument.
5. Any source of any cash or cash equivalent you and/or claimant claim was paid to my client and/or on my client's behalf, including, but not limited to, all accounts from which the cash or cash equivalents originated and/or passed through.
6. Certified Public Accountant audit reports of you and/or claimant for the disputed account for the period during which the claim existed, including any and all reports prepared for compliance with the requirements of the Sarbanes-Oxley Act of 2002.
7. If you claim to be the assignee debt collector for a particular creditor, provide proof of a valid license and bond to engage in this particular collection activity in this state. In the alternative, if you claim to be employees of the corporate creditor, or original creditor, please provide a statement indicating as such.
8. If the claim is asserted through an assignment, provide an authenticated executed copy of that agreement.
9. Certification that the terms of §326 of the U.S.A. Patriot Act have been complied with respect to the verification of the identity of my client as the card holder related to the above listed account.

HESS KENNEDY COMPANY  
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The above records will allow me to effectively understand the nature of the transactions upon which you base your claim. Please do not misinterpret this request with a request for copies of any billing statements or standard cardholder agreements. Those documents will not satisfy my need for verification of your claims by authenticated documentation and affidavit.

I have also been advised that there may be legitimate claims against you for credit defamation, breach of warranty or contract, fraudulent billing, unfair dealing and/or deceptive and misleading advertising or business practices. I may also assert claims on behalf of my client for violations of the Fair Credit Billing Act, The Truth in Lending Act, Fair Debt Collection Practices Act or the state versions of these statutes under the consumer protection provisions.

Unless and until the above listed information is provided, there can be no "default" on this account. Further, this account is not stated, and I hereby specifically rebut any presumption that this account has been stated. Absent your providing the above-listed documentation, validation and verification, the remedy I seek is the complete elimination and/or discharge of the entire balance of the account referenced above, and the complete removal of my client's name from your records. I also request, a zero balance due statement showing that no further monies are owed and no balance is due.

Your failure to satisfy this dispute and request within the requirements of federal and state commercial and collections law will be construed as your absolute waiver of any and all claims against my client, and your tacit agreement to compensate my client for costs and attorneys' fees. I expect your good faith reply to include all of the records and information identified herein, within thirty (30) days. If you need more time, please notify me within thirty (30) days and I will allow you an additional thirty (30) days before considering your failure to answer a default. You should also be aware that sending unsubstantiated demands for payment through the United States Mail System might constitute mail fraud under 18 USC §1341.

The above does not constitute a complete identification of my client's rights, and all are hereby reserved.

Sincerely yours,  
ATTORNEY FOR THE FIRM  
HESS KENNEDY COMPANY

# **EXHIBIT 5**

# Capital One

PO Box 30285  
Salt Lake City, UT 84130-0285

January 17, 2007

Margaret Ellard  
12391 Barna Rock  
Garden Rd  
Vance AL 35490-3210

Re: 5178052549409007  
Creditor: Capital One Bank

Dear Margaret Ellard:

We have recently received a letter from Hess Kennedy Company regarding your Capital One Account. In order to protect your privacy, I am unable to discuss your account with anyone else without your permission. I assure you, this is to protect the security of your account and your security as a Capital One customer. Enclosed is a copy of the letter we received for your review.

We strive to deliver the highest level of quality service to all our customers. We look forward to serving your credit needs and would like the opportunity to discuss any concerns that you may have with your Capital One account.

We have removed their telephone number from our call list and have stopped written communications regarding the collection of this debt. Our Financial Solutions Department must adhere to all applicable rules and regulations when contacting a customer about an account that is delinquent or overlimit. I regret any inconvenience experienced.

If you would like for us to be able to discuss your account in the future with anyone other than yourself, please call our office at 1-800-258-9319, or send a signed release to the address above.

Sincerely,

*Eric M Dugan*

Eric Dugan  
Customer Relations Account Manager  
Capital One Services, Inc.

Enclosure

# **EXHIBIT 6**



July 24, 2007

Capital One Services, Inc.  
15000 Capital One Drive  
Richmond, Virginia 23238

Hess Kennedy & Company  
210 N. University Drive, #209  
Coral Springs, FL 33071

To Whom It May Concern:

Capital One Financial Services, Inc. and its affiliates ("Capital One") are in receipt of hundreds of letters from your firm making identical unsubstantiated allegations that lack factual or legal merit. The letters appear to be part of a concerted effort by you and your firm to delay, and impede, without any legal basis, Capital One's ability to collect outstanding credit card debt. Capital One has no duty to respond to the letters.

Further, these activities by you and your firm constitute, among other things, tortious interference with business relations. This letter serves as notice that Capital One will pursue all available legal remedies should these activities continue.

Capital One demands that you cease and desist all communications of this nature. This letter serves as notice to your firm and its clients that Capital One hereby reserves all rights against you, your firm, and all associated individuals and entities.

To the extent you wish to discuss, please contact our outside counsel, Rik Tozzi, of the law firm Starnes & Atchison assigned to this matter.

Sincerely,

Nicholas G. Sladic  
Vice President, Litigation  
Senior Associate General Counsel  
Capital One

cc: Rik Tozzi