

FILED ON DOCS
AUG - 7 2008

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:	:	
	:	CASE NO. 08-61039-JB
ANDREA MAUREEN DINGLEY,	:	
	:	CHAPTER 7
Debtor.	:	
_____	:	
	:	
ANDREA MAUREEN DINGLEY,	:	
	:	
Plaintiff,	:	
	:	
v.	:	ADVERSARY PROCEEDING
	:	NO. 08-9034-JB
CREDIT ONE BANK,	:	
	:	
Defendant.	:	

ORDER

Debtor Andrea Maureen Dingley filed and served a complaint, through her attorney Rodney F. Tew, seeking actual and punitive damages against Defendant Credit One Bank for alleged violations of the Bankruptcy Code, the Fair Debt Collection Practices Act, and the Georgia Fair Business Practices Act. In the certificate of service, Mr. Tew states that he served a copy of the complaint upon Credit One Bank by depositing the same in the U.S. Mail with sufficient postage to ensure delivery. Plaintiff's service on Defendant is insufficient. First, a summons must be served with the complaint. Fed. R. Civ. P. 4(c)(1) made applicable in adversary proceedings by Fed. R. Bankr. P. 7004(a). Plaintiff's certificate of service states that the complaint was served upon Defendant, but does not mention that the summons was served as well. Secondly, it appears that Defendant Credit One Bank is an insured depository institution. Perfection of service on an insured depository institution requires that

service be made by "certified mail addressed to an officer of the institution[.]" Fed. R. Bankr. P. 7004(h). Plaintiff's certificate of service does not show service on an officer as required and does not show service by certified mail. Plaintiff should properly serve Defendant Credit One bank with a copy of the complaint and a reissued summons and file a certificate of service that has been properly effectuated by **October 18, 2008**, or this adversary proceeding will be dismissed. Fed. R. Civ. P. 4(m) made applicable in adversary proceedings by Fed. R. Bankr. P. 7004(a).

IT IS SO ORDERED, this 4th day of August, 2008.


JOYCE BIHARY
UNITED STATES BANKRUPTCY JUDGE

CERTIFICATE OF MAILING

A copy of the foregoing Order was mailed to the following:

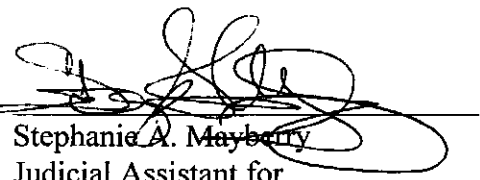
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Stephanie A. Mayberry
Judicial Assistant for
Chief Judge Bihary

Mailed: 08/26/08