

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):

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ATTORNEY FOR (Name): Plaintiff

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE

STREET ADDRESS: 700 Civic Center Drive West, Room D-110
MAILING ADDRESS:

CITY AND ZIP CODE: **Santa Ana, CA 92702**

BRANCH NAME: Central Justice Center Central

PLAINTIFF: **AMERICAN EXPRESS CENTURION BANK**

DEFENDANT: **JOHN GARCIA, an INDIVIDUAL**

DOES 1 TO 10, inclusive

CONTRACT

COMPLAINT AMENDED COMPLAINT (Number):

CROSS-COMPLAINT AMENDED CROSS-COMPLAINT (Number):

Jurisdiction (check all that apply):

- ACTION IS A LIMITED CIVIL CASE
Amount demanded does not exceed \$10,000
 exceeds \$10,000 but does not exceed \$25,000
- ACTION IS AN UNLIMITED CIVIL CASE (exceeds \$25,000)
- ACTION IS RECLASSIFIED by this amended complaint or cross-complaint
 - from limited to unlimited
 - from unlimited to limited

FOR COURT USE ONLY

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

NOV 05 2009

ALAN CARLSON, Clerk of the Court

Bethney Lee
BY B. LEA, DEPUTY

CASE NUMBER:

30-2009

00317757

**JUDGE RANDELL L. WILKINSON
DEPT. C25**

1. Plaintiff* (name or names): **AMERICAN EXPRESS CENTURION BANK**

alleges causes of action against defendant* (name or names): **JOHN GARCIA, an Individual, and Does 1 to 10, inclusive**

2. This pleading, including attachments and exhibits, consists of the following number of pages: 5

3. a. Each plaintiff named above is a competent adult

except plaintiff (name): **AMERICAN EXPRESS CENTURION BANK**

- (1) a corporation qualified to do business in California
- (2) an unincorporated entity (describe):
- (3) other (specify):

b. Plaintiff (name):

a. has complied with the fictitious business name laws and is doing business under the fictitious name (specify):

b. has complied with all licensing requirements as a licensed (specify):

c. Information about additional plaintiffs who are not competent adults is shown in Attachment 3c.

4. a. Each defendant named above is a natural person

except defendant (name):

- (1) a business organization, form unknown
- (2) a corporation
- (3) an unincorporated entity (describe):

(4) a public entity (describe):

(5) other (specify):

except defendant (name):

- (1) a business organization, form unknown
- (2) a corporation
- (3) an unincorporated entity (describe):

(4) a public entity (describe):

(5) other (specify):

* If this form is used as a cross-complaint, plaintiff means cross-complainant and defendant means cross-defendant.

SHORT TITLE:

AMERICAN EXPRESS CENTURION BANK v. GARCIA, JOHN

CASE NUMBER:

4. (Continued)

b. The true names of defendants sued as Does are unknown to plaintiff.

(1) Doe defendants (specify Doe numbers): 1 through 10, inclusive were the agents or employees of the named defendants and acted within the scope of that agency or employment.

(2) Doe defendants (specify Doe numbers): 1 through 10, inclusive are persons whose capacities are unknown to plaintiff.

c. Information about additional defendants who are not natural persons is contained in Attachment 4c.

d. Defendants who are joined under Code of Civil Procedure section 382 are (names):

5. Plaintiff is required to comply with a claims statute, and

a. has complied with applicable claims statutes, or

b. is excused from complying because (specify):

6. This action is subject to Civil Code section 1812.10 Civil Code section 2984.4.

7. This court is the proper court because

a. a defendant entered into the contract here.

b. a defendant lived here when the contract was entered into.

c. a defendant lives here now.

d. the contract was to be performed here.

e. a defendant is a corporation or unincorporated association and its principal place of business is here.

f. real property that is the subject of this action is located here.

g. other (specify):

8. The following causes of action are attached and the statements above apply to each (each complaint must have one or more causes of action attached):

Breach of Contract

Common Counts

Other (specify):

9. Other allegations:

10. Plaintiff prays for judgment for costs of suit; for such relief as is fair, just, and equitable; and for

a. damages of: \$ 43,901.35

b. interest on the damages

(1) according to proof

(2) at the rate of (specify): percent per year from (date):

c. attorney's fees

(1) of: \$

(2) according to proof.

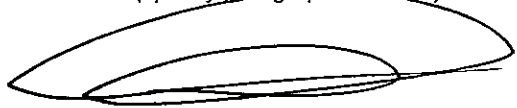
d. other (specify): Court costs according to proof; Pre-judgment interest at the rate of 10% per annum from the filing date of the complaint through the date of judgment.

11. The paragraphs of this pleading alleged on information and belief are as follows (specify paragraph numbers):

Date: August 19, 2009

Raymond J. Lee, Esq.

(TYPE OR PRINT NAME)



(SIGNATURE OF PLAINTIFF OR ATTORNEY)

* If this form is used as a cross-complaint, plaintiff means cross-complainant and defendant means cross-defendant.

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FIRST _____ **CAUSE OF ACTION—Common Counts**
(number)

ATTACHMENT TO Complaint Cross - Complaint
(Use a separate cause of action form for each cause of action.)

CC-1. Plaintiff (name): AMERICAN EXPRESS CENTURION BANK

alleges that defendant (name): **JOHN GARCIA**, an individual, and Does 1 to 10, inclusive

became indebted to plaintiff other (name):

- a. within the last four years
 - (1) on an open book account for money due.
 - (2) because an account was stated in writing by and between plaintiff and defendant in which it was agreed that defendant was indebted to plaintiff.

- b. within the last two years four years
 - (1) for money had and received by defendant for the use and benefit of plaintiff.
 - (2) for work, labor, services and materials rendered at the special instance and request of defendant and for which defendant promised to pay plaintiff
 - the sum of \$
 - the reasonable value.
 - (3) for goods, wares, and merchandise sold and delivered to defendant and for which defendant promised to pay plaintiff
 - the sum of \$
 - the reasonable value.
 - (4) for money lent by plaintiff to defendant at defendant's request.
 - (5) for money paid, laid out, and expended to or for defendant at defendant's special instance and request.
 - (6) other (specify):

CC-2. \$ 43,901.35 _____, which is the reasonable value, is due and unpaid despite plaintiff's demand, plus prejudgment interest according to proof at the rate of _____ percent per year from (date):

CC-3. Plaintiff is entitled to attorney fees by an agreement or a statute of \$ according to proof.

CC-4. Other: Court costs according to proof; Pre-judgment interest at the rate of 10% per annum from the filing date of the complaint through the date of judgment.

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SECOND CAUSE OF ACTION—Common Counts

(number)

ATTACHMENT TO Complaint Cross - Complaint

(Use a separate cause of action form for each cause of action.)

CC-1. Plaintiff (name): AMERICAN EXPRESS CENTURION BANK

alleges that defendant (name): **JOHN GARCIA**, an Individual, and Does 1 to 10, inclusive

became indebted to plaintiff other (name):

a. within the last four years

(1) on an open book account for money due.

(2) because an account was stated in writing by and between plaintiff and defendant in which it was agreed that defendant was indebted to plaintiff.

b. within the last two years four years

(1) for money had and received by defendant for the use and benefit of plaintiff.

(2) for work, labor, services and materials rendered at the special instance and request of defendant and for which defendant promised to pay plaintiff

the sum of \$

the reasonable value.

(3) for goods, wares, and merchandise sold and delivered to defendant and for which defendant promised to pay plaintiff

the sum of \$

the reasonable value.

(4) for money lent by plaintiff to defendant at defendant's request.

(5) for money paid, laid out, and expended to or for defendant at defendant's special instance and request.

(6) other (specify):

CC-2. \$ 43,901.35, which is the reasonable value, is due and unpaid despite plaintiff's demand,

plus prejudgment interest according to proof at the rate

of _____ percent per year

from (date):

CC-3. Plaintiff is entitled to attorney fees by an agreement or a statute

of \$

according to proof.

CC-4. Other: Court costs according to proof; Pre-judgment interest at the rate of 10% per annum from the filing date of the complaint through the date of judgment.

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THIRD CAUSE OF ACTION—Breach of Contract

(number)

ATTACHMENT TO Complaint Cross - Complaint

(Use a separate cause of action form for each cause of action.)

BC-1. Plaintiff (name): AMERICAN EXPRESS CENTURION BANK

alleges that on or about (date): June 10, 1981

a written oral other (specify):

agreement was made between (name parties to agreement): **JOHN GARCIA**, an Individual, and Does 1 to 10, inclusive

A copy of the agreement is attached as Exhibit A, or

The essential terms of the agreement are stated in Attachment BC- 1 are as follows (specify):

By using the credit card, Defendant agreed to pay Plaintiff for all charges and cash advances made on the credit card. The agreement further provides that should Plaintiff initiate and prevail on an action to collect any unpaid balance pursuant to the credit card account, Plaintiff would be entitled to collect Court costs and reasonable attorney's fees associated with such action

BC-2. On or about (dates): July 9, 2009

defendant breached the agreement by the acts specified in Attachment BC-2 the following acts (specify):

Failing to pay as agreed pursuant to the Agreement.
 Failing to dispute any charges that were billed as required under the Federal Fair Billing Act.

BC-3. Plaintiff has performed all obligations to defendant except those obligations plaintiff was prevented or excused from performing.

BC-4. Plaintiff suffered damages legally (proximately) caused by defendant's breach of the agreement

as stated in Attachment BC-4 as follows (specify): Defendant has a current outstanding principal balance of \$43,901.35.

BC-5. Plaintiff is entitled to attorney fees by an agreement or a statute of \$

according to proof.

BC-6. Other: Court costs according to proof and prejudgment interest at the legal rate of 10% per annum from the date the complaint is filed through entry of judgment.