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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

In re: Chase Bank USA, N.A. "Check
Loan" Contract Litigation

MDL No. 2032

Case No. M:09-cv-02032-MMC
Case No. 3:09-cv-00348-MMC

MASTER CLASS ACTION COMPLAINT

Hon. Maxine M. Chesney

THIS DOCUMENT APPLIES TO ALL
ACTIONS

Plaintiffs on behalf of themselves and all others similarly situated, hereby submit the following class action complaint¹ and upon personal knowledge as to their own acts and status, and upon information and belief as to all other matters, allege as follows:

NATURE OF THE ACTION

1. Plaintiffs and hundreds of thousands of other consumers accepted Chase Bank's ("Chase") offer to transfer the balances on loans held by other lenders to their Chase credit card

¹ While this complaint applies to all actions, it is intended as an amendment of the operative complaint in the low-numbered case filed in this district, *Michael E. Moore, et al. v. Chase Bank USA, N.A.*, Case No. 3:09-cv-00348-MMC.

1 accounts. In return, Chase consolidated the debt into a fixed, long term loan, the material terms
2 of which would apply until the balance is paid off or the customer defaulted.

3 2. Having obtained cardholders' business with the offer of a long term loan, and
4 having retained the consideration provided in exchange for that loan, Chase is now coercing
5 Plaintiffs and Class members out of those loans by increasing the minimum monthly payment
6 from 2% of the loan balance to 5% of the loan balance. (By way of example, someone carrying a
7 \$20,000 balance on a long term fixed rate loan will see her required minimum monthly payment
8 increase from \$400 to \$1000.) Borrowers now faced with a payment that is 2.5 times the original
9 minimum monthly payment are forced to attempt to honor the new terms Chase unilaterally
10 imposed on them; agree to new, more onerous terms with Chase or another lender; or default and
11 thus trigger onerous default APRs and late fees. Chase also unilaterally imposed a \$10 monthly
12 charge on , which it has apparently refunded in response to this litigation. In short, Chase is using
13 its superior position to breach its contracts and unlawfully deprive Plaintiffs and Class members
14 of their long term loans, the terms of which are more favorable to Plaintiffs than to Chase.

15 3. Plaintiffs bring this lawsuit against Chase on behalf of themselves and all other
16 similarly situated consumers, alleging claims for breach the loan agreements, breach of the
17 implied covenant of good faith and fair dealing, unconscionability, unjust enrichment, violations
18 of the various states' consumer protection laws, and violations of the Truth In Lending Act,
19 15 U.S.C. § 1601 *et. seq.* ("TILA").

20 **JURISDICTION AND VENUE**

21 4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and
22 1640(e), and pursuant to 28 U.S.C. 1332(d), since there are at least 100 class members in the
23 proposed class, the combined claims of proposed class members exceed \$5,000,000 exclusive of
24 interest and costs, and there are numerous class members who are citizens of states other than
25 Chases's state of citizenship, which is Delaware.

26 5. This Court has personal jurisdiction over Chase because a substantial portion of
27 the wrongdoing alleged in this Complaint took place in California, Chase is authorized to do
28 business in California, Chase has sufficient minimum contacts with California, and/or Chase

1 intentionally avails itself of markets in California through the promotion, marketing and sale of
2 credit products and services in California, to render the exercise of jurisdiction by this Court
3 permissible under traditional notions of fair play and substantial justice.

4 6. Venue is proper in this District pursuant to the June 26, 2009 Transfer Order
5 entered by the United States Judicial Panel on Multidistrict Litigation ordering transfer to and
6 coordination in this District. In addition, venue is proper pursuant to 28 U.S.C. § 1391(a) because
7 at least one plaintiff resides here, because Chase has hundreds, if not thousands, of customers in
8 this District, because Chase receives substantial fees from consumers who hold accounts in
9 California and in this District, and because a substantial part of the events or omissions giving rise
10 to the claims occurred in this District.

11 **PARTIES**

12 7. Plaintiff Michael Moore is over the age of 18 and a resident of the State of
13 California.

14 8. Plaintiff Margaret Conley is over the age of 18 and a resident of the State of
15 California.

16 9. Plaintiff Marc Zimit is over the age of 18 and a resident of the State of California.

17 10. Plaintiff Melanie King is over the age of 18 and a resident of the State of
18 California.

19 11. Plaintiff Carole Lazinsky is over the age of 18 and a resident of the State of
20 Illinois.

21 12. Plaintiff Richard Reinertson is over the age of 18 and a resident of the State of
22 Massachusetts.

23 13. Plaintiff JoAnn Candelaria is over the age of 18 and a resident of the State of
24 Montana.

25 14. Plaintiff David Greenberg is over the age of 18 and a resident of the State of New
26 Jersey.
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1 15. Plaintiff Peter Norman is over the age of 18 and a resident of the State of North
2 Carolina.

3 16. Plaintiff Orly Williams is over the age of 18 and a resident of the State of New
4 Mexico.

5 17. Plaintiff Jacob Kuramoto is over the age of 18 and a resident of the State of
6 Oregon.

7 18. Plaintiff Susan Francovig is over the age of 18 and a resident of the State of
8 Oregon.

9 19. Plaintiff Melissa Neumann is over the age of 18 and a resident of the State of
10 Washington.

11 20. Plaintiff Regina Smolensky is over the age of 18 and a resident of the State of
12 Wisconsin.

13 21. Plaintiff Brian Wilkinson is over the age of 18 and a resident of the State of New
14 York. Plaintiff Wilkinson is a Lieutenant in the United States military presently stationed in
15 Iraq.

16 22. Defendant Chase Bank USA, N.A. is a national banking association,
17 headquartered in the State of Delaware. Chase is a wholly-owned subsidiary of JP Morgan Chase
18 & Co. (“JPM”), a leading global financial services firm with assets of approximately \$2.3 trillion.
19 Chase is the legal entity for JPM's credit card business. Chase is one of the largest credit card
20 companies in the United States, with millions of credit card customers throughout the United
21 States.

22 23. Chase Issuance Trust is a Delaware statutory trust established on April 24, 2002
23 under the direction of Chase, as sponsor and depositor. *See* SEC Form 424B3, Prospectus dated
24 February 2, 2009, Chase Issuance Trust (“Chase Issuance Trust Prospectus”), p. 25. The Trust
25 was previously known as Bank One Issuance Trust. *See id.*

1 24. Chase owns the credit card accounts relevant to this case and the Trust owns the
2 credit card receivables for those accounts. *See id.*, pp. 25, 26, 30, 31. The credit card receivables
3 owned by the Trust are security for notes issued by the Trust to “CHASEseries” investors. *See*
4 *id.* at title page and pp. 25, 26. Chase is also the administrator of and depositor to the Trust, as
5 well as the servicer of the Trust credit card receivables. *See Id.*, pp. 28, 60. Chase is the sole
6 beneficiary of the Trust and generally directs the actions of the Trust. *See id.*, p. 27. The Trust
7 freely admits it “may be liable for certain violations of consumer protection laws that apply to the
8 related credit card receivables. A cardholder may be entitled to assert those violations by way of
9 set-off against his or her obligation to pay the amount of credit card receivables owing.” *See id.*,
10 p. 142. Accordingly, both Chase and the Trust are necessary parties for Plaintiff and the Class to
11 obtain refunds, reversals, damages and or set-offs associated with the credit card accounts and
12 receivables owned by the Defendants.

13 **GENERAL ALLEGATIONS**

14 **I. OVERVIEW OF CHASE’S DEBT CONSOLIDATION PROGRAM**

15 25. For years, Chase offered hundreds of thousands of customers the opportunity to
16 transfer the balances on loans held by other lenders, such as home equity loans, auto loans or
17 other credit card balances, to their Chase credit card accounts, where Chase would consolidate the
18 debt into a “fixed” loan with terms that would apply “until the balance is paid off,” unless the
19 customer breached the agreement by, among other things, making a late payment. In addition to
20 balance transfers, Chase offered to consolidate new debt through so-called credit card checks,
21 whereby a consumer could purchase large ticket items, such as home furnishings or a family
22 vacation, under the same basic terms, namely, a long term loan with terms fixed until the balance
23 is paid off.

24 26. A typical offer presented the customer with two options. On the one hand, the
25 customer could accept a 0% fixed rate for a specified period of time, such as one year. After that
26 time, the APR on the loan would increase. On the other hand, the customer could accept a loan
27 with a higher APR, such as 3.99%, that is a “fixed APR until the balance is paid in full.” *See*
28 Exhibit A (examples of Chase’s offers).

1 27. In other words, Chase proposed two methods of debt management, one for the
2 short term, and one for the long term. Plaintiffs and the Class are the people who selected
3 Chase's long term debt management offer.

4 28. The fixed APRs usually ranged from 1.99% to 5.99%, and the offers often
5 encouraged consumers to take advantage of the "super-low credit" to "save by transferring
6 balances from higher-APR accounts," "make home improvements," "take a vacation," "cover
7 educational expenses," or simply to "write a check to yourself." *See id.* Chase often urged
8 consumers that "these checks are ready to go," and not to "miss out—great rates like this don't
9 come around every day." *Id.*

10 29. As consideration for the long term, fixed rate loans, Chase typically charged a
11 transaction fee up to 3% of the balance transfer or check loan amount, or a specific dollar amount.

12 30. In marketing the loans to consumers, Chase positioned the long term, fixed rate
13 loans as competitive with other loans it considered similar to the long term, fixed rate loan it was
14 offering, such as unsecured personal loans, home equity loans, and new auto loans. To illustrate
15 the advantage of Chase's loan program, Chase used marketing materials that incorporated charts,
16 such as the one reproduced below:

	Chase Visa [®]	Unsecured Personal Loan	Home Equity Loan	New Auto Loan
APR	1.99% or 5.99%	14.46% APR	7.71% APR	6.91% APR
Collateral Required	NO	No	No	Yes
Instant Access	YES	No	No	No

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25 *See id.* As part of the comparison, Chase informed consumers that the unsecured personal loan
26 APR was based on a 24-month payment term, the home equity loan APR a 60-month payment
27 term, and the auto loan a 48-month APR payment term. *See id.* Chase did not disclose that under
28 its interpretation of its offer, Chase had the option of reducing the time period of its loans by

1 increasing the minimum monthly payment from 2% of the balance per month to 5% per month or
2 more, or make any other unilateral changes it sees fit.

3 31. At the time Plaintiffs and others accepted Chase's offer of "fixed" loans with terms
4 that would apply "until the balance is paid off," its underlying loan agreements required that its
5 customers make minimum payments of 2% of the ending balance on the monthly statement.
6 Given their prior course of dealing with Chase and consistent with the industry standard,
7 Plaintiffs and Class members had a reasonable expectation as to the cost of the Chase loan over
8 the life of that loan, which included a minimum monthly payment of 2% of the ending balance of
9 the monthly statement, versus the cost of the other loans Chase used as a comparison.

10 32. If a consumer failed to make the minimum payment on time, or the payment was
11 not honored by the consumer's bank, Chase had the right to adjust the consumer's fixed APR and
12 apply a higher rate to the remaining loan balance. Nowhere in the solicitations presenting this
13 long term fixed rate loans did Chase indicate in any way that it would or could unilaterally
14 impose a monthly or annual fee service fee, or that the low interest rate or minimum monthly
15 payment could be increased for borrowers who are not in default. And, while the solicitations
16 also refer cardholders to the "Cardmember Agreement" for further details, they do not disclose,
17 clearly, conspicuously, or otherwise, that the long term fixed rate offer may be added to, changed,
18 or terminated at any time by Chase for any reason, including increasing or decreasing periodic
19 finance charges, other charges, fees, credit limits or minimum payment terms apart from instances
20 of default.

21 33. Chase marketed these loans to consumers based on the low, fixed APRs that would
22 remain in place until the balance was paid in full. Consumers, such as Plaintiffs and Class
23 members, attempting to organize and manage their debt obligations over the long term, accepted
24 Chase's offer to consolidate their other higher APR debt, make large purchases, and reduce their
25 overall cost of credit.

26 Inasmuch as the pre-existing Cardmember Agreements did not address the specific subject matter
27 of the long term fixed rate loans set forth in the solicitations, when accepted the solicitations
28 naturally and reasonably amended the material terms of the underlying Cardmember Agreement,

1 at least with respect to the balance transfers and cash advances cardholders accepted in response
2 to the solicitations.

3 34. To Chase's Trust investors, Chase marketed the total expected yield of the
4 portfolio which was based on a very sophisticated model that included all of the pertinent data of
5 these consumers. From this data, the model predicted the amount of funds that would flow
6 through as interest, the number of accounts that would pay off early, the amount generated by the
7 interchange rate for further transactions on the accounts, the cost of funds, the capital
8 expenditures and, most importantly, the number of accounts that would make a late payment.
9 Consumers who make a late payment are charged as much as \$39 each time they are late and,
10 more importantly, they lose their fixed APR, which increases to a default rate – generally 29.99%.

11 35. As the credit market tightened, Chase, and ultimately the Trust, responded by
12 coercing Plaintiffs and Class members into foregoing the benefit of the long term loans that Chase
13 used to solicit their business in the first place. Chase did this by imposing a \$10 monthly charge
14 (which it has apparently reversed in response to this litigation), and by increasing the minimum
15 monthly payment by 150%, an amount so large that it materially modified the terms of the fixed,
16 long term loan agreements.

17 36. As implemented by Chase, these loans were nothing like the “unsecured personal
18 loans,” “home equity loans,” or “new auto loans” that Chase used as examples in its solicitations.
19 None of those fixed term loans are subject to such undisclosed, unilateral increases in the monthly
20 payment amounts; nothing in Chase's marketing materials suggested that Chase could or would
21 increase the minimum monthly payments by 150%; and nothing reflected in Chase's course of
22 dealing with Plaintiffs and Class members before November 2008 suggested a minimum monthly
23 payment of anything other than the industry standard, that is, 2% of the ending balance of a
24 monthly billing statement.

25 37. To the extent Chase did not intend such a transaction specific amendment to the
26 Cardmember Agreements with regard to the solicitations, it has engaged in an unfair and
27 deceptive act or practice.
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1 38. To the extent Chase retained the right to change material terms of the long term
2 fixed rate loans at any time for any reason, as it has represented to investors in CHASEseries
3 notes (Prospectus, Feb. 2, 2009, p. 34), it has also engaged in an unfair and deceptive act or
4 practice, as the promotional offer made by Chase did not, in fact, fully, clearly, conspicuously and
5 in readily understood language reflect the actual commitment Chase was undertaking in the offer.

6 **II. THE NOVEMBER 2008 AND JUNE 2009 CHANGE IN TERMS NOTICES**

7 39. In November 2008, Chase sent “notices” to hundreds of thousands of account
8 holders notifying them of the following changes, effective January 2009, to the terms of their
9 fixed loan agreements:

- 10 • A 150% increase of each account holder’s minimum payment (i.e. the amount they
11 need to pay each month to not be in default)—from 2% to 5% of the ending
12 balance on their monthly statement.
- 13 • A new \$10 monthly “Account Service Charge” applicable to each account holder’s
14 account.

15 40. In June 2009, Chase sent notices to additional account holders notifying them of
16 the following change to the terms of their fixed loan agreements:

- 17 • A 150% increase of each account holder’s minimum payment (i.e. the amount they
18 need to pay each month to not be in default)—from 2% to 5% of the ending
19 balance on their monthly statement.

20 41. The new terms from the November and June notices were not previously disclosed
21 to account holders.

22 42. Neither the November nor June notice provided any provision to reject or opt-out
23 of the changed account terms.

24 43. In March 2009 and after these lawsuits had been filed, Chase sent a second notice
25 to cardholders advising that “[b]eginning April 1, 2009, we will no longer assess a \$10 monthly
26 account service charge.” Chase also stated that it intended to “credit your account for any \$10
27 monthly service charge(s) billed since January 1, 2009 along with any finance charges related” to
28 the \$10 charges.

1 III. THE IMPACT OF CHASE'S CHANGE IN TERMS

2 44. The impact of the minimum payment increase is not trivial. Because of the nature
3 of the check loans and balance transfers, when Chase mailed the change in terms notices, many
4 class members had large account balances, some exceeding \$60,000.

5 45. Taking an example of a class member with a \$20,000 account balance, her
6 minimum monthly payment would increase from \$400 to \$1000 in the span of a month. Over the
7 first 12 months, taking into account principal reduction, her total payments would be \$9,352.77
8 instead of \$4,383.71—an increase of nearly \$5,000.

9 46. According to the 2007 U.S. Census Bureau, the average household income in the
10 United States was \$55,000. The National Bureau of Economic Research has concluded that the
11 combined federal, state and local government average marginal tax rate for most workers is
12 approximately 40% of income. Under those averages, a family making \$55,000 has a net “take
13 home” of \$33,000, or a monthly net “take home” of \$2,750. If that person had a \$20,000 loan
14 with Chase, prior to the change in terms, the loan would have occupied 14% of their monthly
15 budget. At the new minimum payment requirement it would occupy 36% of their monthly
16 budget.

17 47. When account holders under the November notice complained about the changes
18 to their accounts, Chase typically presented them with certain options to avoid the changes,
19 including: (1) pay the account balances in full immediately; or (2) agree to a new, higher, variable
20 APR of 7.99% while maintaining the 2% minimum monthly payment.

21 48. When account holders under the June notice complained about the changes to the
22 accounts, Chase typically presented them with certain options to avoid the changes, including:
23 (1) pay the account balances in full immediately, or (2) enter Chase's “Balance Liquidation
24 Program” (“BLP”). Under the BLP, account holders maintain the 2% minimum payment, but
25 abandon the other terms of their loan and agree to a 60 month repayment term and a higher APR.

26 49. Both options demonstrate Defendants' intent to deprive account holders of the
27 benefit of the loan agreement by coercing them into a loan with a higher interest rate that is more
28 profitable to Chase.

1 50. Plaintiffs and other members of the Class suffered and/or continue to suffer harm
2 in the form of arbitrary and/or unreasonable increases in minimum monthly payment
3 requirements, made in bad faith with the intent and effect of preventing Plaintiffs and account
4 holders from receiving the benefit of their bargains (i.e., a fixed rate loan that allows them to
5 predict and manage their debt over the long term); unconscionable contract terms; and, in many if
6 not most cases, they are forced to pay Chase more than they bargained for. Chase and the Trust
7 have been substantially and unjustly enriched at the expense of Plaintiffs and Class members.

8 51. Moreover, the November Notice that added a \$10 monthly “account service
9 charge” stated: “Important: Your APRs will not be impacted by these changes.” That assertion
10 was false and was made in violation of the Truth In Lending Act, 15 U.S.C. 1601 *et seq.*

11 52. None of the claims for relief asserted in this controversy are subject to arbitration
12 or any valid arbitration agreement or class action waiver. To the extent that Chase asserts such
13 claims are subject to an arbitration agreement or a class action waiver, Plaintiffs, on behalf of
14 themselves and the Class, seek declaratory relief in the form of a finding that such a purported
15 agreement is void and unenforceable as, among other things, against public policy and/or
16 unconscionable.

17 **IV. THE PLAINTIFFS’ EXPERIENCES**

18 53. Plaintiff Moore is, and at all relevant times was, a customer of Chase. In or
19 around August of 2008, Chase offered, and Mr. Moore accepted, a long term fixed rate loan, with
20 a fixed annual rate of 2.99% until the balance is repaid in full. The total principal amount of the
21 long term fixed rate loan was approximately \$22,500, for which Mr. Moore paid a transaction fee
22 of approximately \$199.

23 54. Plaintiff Moore accepted Chase’s offer because it provided long-term certainty and
24 thus allowed him to budget his monthly expenses for years to come.

25 55. Mr. Moore has fully complied with his obligations under the long term fixed rate
26 loan, including making timely minimum monthly payments.

27 56. In or around November 2008, Chase informed Mr. Moore that the minimum
28 payment on his loans had jumped from approximately \$450 to approximately \$1,040 (from 2% of

1 the balance to 5%) and that Chase had assessed a \$10 monthly finance fee. When Mr. Moore
2 explained to Chase that he could not afford the increased minimum payment, Chase told him that
3 his minimum payments could be put back to 2% and the monthly service fee could be waived if
4 he (1) paid off his loan balance in full; or (2) agreed to transfer his entire loan balance to a new
5 account with a limited duration interest rate of 7.99%, with Chase having the right to increase that
6 interest rate at the end of the limited duration. Finding the 7.99% interest rate unreasonable, Mr.
7 Moore paid the higher minimum monthly payments rather than accept a higher interest rate.

8 57. Plaintiff Conley is, and at all relevant times was, a customer of Chase. In the last
9 several years, Chase offered, and Ms. Conley accepted, two long term fixed rate loans, with fixed
10 annual rates of 3.99% and 4.99% until the balance is repaid in full. The total principal amount of
11 these long term fixed rate loans was approximately \$20,000, for which Ms. Conley paid
12 transaction fees.

13 58. Plaintiff Conley accepted Chase's offer because it provided long-term certainty
14 and thus allowed her to budget her monthly expenses for years to come.

15 59. Ms. Conley has fully complied with her obligations under the long term fixed rate
16 loan, including making timely minimum monthly payments.

17 60. In or around January 2009, Ms. Conley discovered that the minimum payment on
18 her loans had jumped from approximately \$353 to approximately \$867 (from 2% of the balance
19 to 5%) and that Chase had assessed a \$10 monthly finance fee. When Ms. Conley contacted
20 Chase and explained to Chase that she could not afford the increased minimum payment, Chase
21 told her that her minimum payments could be put back to 2% and the monthly service fee could
22 be waived if she accepted a higher interest rate of 7.99%. Finding the 7.99% interest rate
23 unreasonable, Ms. Conley decided to pay the higher minimum monthly payment. The higher
24 minimum payment has caused, and continues to cause, Ms. Conley great hardship. Among other
25 things, her savings have been eroded, she has been forced to defer maintenance on her home, and
26 she was not able to refinance her home as a result of the higher monthly payment.

27 61. Plaintiff Zimet is, and at all relevant times was, a customer of Chase. In or around
28 2008, Chase offered, and Mr. Zimet accepted, a long term fixed rate loan, with a fixed annual rate

1 of 3.99% until the balance is repaid in full. The total principal amount of the long term fixed rate
2 loan was approximately \$60,000, for which Mr. Zimet paid a transaction fee.

3 62. Plaintiff Zimet accepted Chase's offer because it provided long-term certainty and
4 thus allowed him to budget his monthly expenses for years to come.

5 63. Mr. Zimet has fully complied with his obligations under the long term fixed rate
6 loan, including making timely minimum monthly payments.

7 64. In June 2009, Chase informed Mr. Zimet that the minimum payment on his loan
8 had jumped from approximately \$1,200 to approximately \$3,000 (from 2% of the balance to
9 5%). When Mr. Zimet explained to Chase that he could not afford the increased minimum
10 payment, Chase told him that his minimum payments could be put back to 2% if he accepted a
11 higher interest rate of 6% as part of the Balance Liquidation Program, which Mr. Zimit had little
12 choice but to accept.

13 65. Plaintiff King is, and at all relevant times was, a customer of Chase. In or around
14 October 2005, Chase offered, and Ms. King accepted, multiple long term fixed rate loans, with
15 fixed annual rates of 2.99%, 3.99 % and 4.99% until the balance is repaid in full. The total
16 principal amount of the long term fixed rate loans was approximately \$29,000, for which Ms.
17 King paid a transaction fee of approximately \$75 per transaction.

18 66. Plaintiff King accepted Chase's offer because it provided long-term certainty and
19 thus allowed her to budget her monthly expenses for years to come.

20 67. Ms. King has fully complied with her obligations under the long term fixed rate
21 loan, including making timely minimum monthly payments.

22 68. In June 2009, Chase informed Ms. King that the minimum payment on her loan
23 had jumped from approximately \$589 to approximately \$1442 (from 2% of the balance to 5%).
24 When Ms. King explained to Chase that she could not afford the increased minimum payment,
25 Chase told her that she would have to find a way to meet the new minimum payments, or
26 alternatively, she could seek outside credit counseling. Finding the recommendation to use credit
27 counseling unreasonable, Ms. King is attempting to meet the increased monthly minimum
28 payment.

1 69. Plaintiff Lazinsky is, and at all relevant times was, a customer of Chase. In or
2 around 2006, Chase offered, and Ms. Lazinsky accepted, multiple long term fixed rate loans, with
3 fixed annual rates of 2.99 and 3.99% until the balance is repaid in full. The total principal amount
4 of the long term fixed rate loans was approximately \$15,000, for which Ms. Lazinsky paid a
5 transaction fee.

6 70. Plaintiff Lazinsky accepted Chase's offer because it provided long-term certainty
7 and thus allowed her to budget her monthly expenses for years to come.

8 71. Ms. Lazinsky has fully complied with her obligations under the long term fixed
9 rate loan, including making timely minimum monthly payments.

10 72. In June 2009, Chase informed Ms. Lazinsky that the total minimum payment on
11 her loans had jumped from approximately \$225 to approximately \$562 (from 2% of the balance
12 to 5%). When Ms. Lazinsky explained to Chase that she could not afford the \$562 minimum
13 payment, Chase told her that there were no options available to her other than to pay the increased
14 minimum payment.

15 73. Plaintiff Reinertson is, and at all relevant times was, a customer of Chase. In or
16 around 2008, Chase offered, and Mr. Reinertson accepted, a long term fixed rate loan, with a
17 fixed annual rate of 3.99% until the balance is repaid in full. The total principal amount of the
18 long term fixed rate loans was approximately \$31,000, for which Mr. Reinertson paid a
19 transaction fee.

20 74. Plaintiff Reinertson accepted Chase's offer because it provided long-term certainty
21 and thus allowed him to budget his monthly expenses for years to come.

22 75. Mr. Reinertson has fully complied with his obligations under the long term fixed
23 rate loan, including making timely minimum monthly payments.

24 76. In June 2009, Chase informed Mr. Reinertson that the minimum payment on his
25 loan had jumped from approximately \$500 to approximately \$1250 (from 2% of the balance to
26 5%). When Mr. Reinertson explained to Chase that he could not afford the increased minimum
27 payment, Chase told him that he could attempt to transfer the balance to another lender, or
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1 alternatively, he could meet Chase's new 5% minimum monthly payment. Mr. Reinertson is
2 attempting to make the increased monthly minimum payment.

3 77. Plaintiff Candelaria is, and at all relevant times was, a customer of Chase. In or
4 around 2006, Chase offered, and Ms. Candelaria accepted, multiple long term fixed rate loans,
5 with fixed annual rates averaging at 3.99% until the balance is repaid in full. The total principal
6 amount of the long term fixed rate loans was approximately \$22,000, for which Ms. Candelaria
7 paid transaction fees.

8 78. Plaintiff Candelaria accepted Chase's offer because it provided long-term certainty
9 and thus allowed her to budget her monthly expenses for years to come.

10 79. Ms. Candelaria has fully complied with her obligations under the long term fixed
11 rate loan, including making timely minimum monthly payments.

12 80. In June 2009, Chase informed Ms. Candelaria that the minimum payment on her
13 loan had jumped from approximately \$455 to approximately \$1139 (from 2% of the balance to
14 5%). When Ms. Candelaria explained to Chase that she could not afford the increased minimum
15 payment, Chase told her that her minimum payments could be put back to 2% if she accepted a
16 higher interest rate of 6% as part of the Balance Liquidation Program. Given that she could not
17 afford the increased minimum monthly payment, Ms. Candelaria agreed to Chase's Balance
18 Liquidation Program at a higher interest rate.

19 81. Plaintiff Greenberg is, and at all relevant times was, a customer of Chase. In or
20 around 2006, Chase offered, and Mr. Greenberg accepted, multiple long term fixed rate loans,
21 with fixed annual rates of 3.99%, 4.99% and 5.99% until the balance is repaid in full. The total
22 principal amount of the long term fixed rate loans was approximately \$80,000, for which Mr.
23 Greenberg paid a transaction fee of approximately \$199 per transaction.

24 82. Plaintiff Greenberg accepted Chase's offer because it provided long-term certainty
25 and thus allowed him to budget his monthly expenses for years to come.

26 83. Mr. Greenberg has fully complied with his obligations under the long term fixed
27 rate loan, including making timely minimum monthly payments.

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1 84. In June 2009, Chase informed Mr. Greenberg that the minimum payment on his
2 loan had jumped in total from approximately \$1380 to approximately \$3300 (from 2% of the
3 balance to 5%). When Mr. Greenberg explained to Chase that he could not afford the increased
4 minimum payment, Chase told him that his minimum payments could be put back to 2% if he
5 immediately paid off his balance and closed his account. Finding the recommendation to close
6 his account unreasonable, Mr. Greenberg used money from his retirement savings and 401(k)
7 account to pay the balance down to zero.

8 85. Plaintiff Williams is, and at all relevant times was, a customer of Chase. In or
9 around July 2005, Chase offered, and Ms. Williams accepted, a long term fixed rate loan, with a
10 fixed annual rate of 2.99% until the balance is repaid in full. The total principal amount of the
11 long term fixed rate loan was approximately \$37,500, for which Ms. Williams paid a transaction
12 fee of approximately \$50.

13 86. Plaintiff accepted Chase's offer because it provided long-term certainty and thus
14 allowed her to budget her monthly expenses for years to come.

15 87. Ms. Williams has fully complied with her obligations under the long term fixed
16 rate loan, including making timely minimum monthly payments.

17 88. In or around January 2009, Ms. Williams discovered that the minimum payment
18 on her loan had jumped from approximately \$372 to approximately \$915 (from 2% of the balance
19 to 5%) and that Chase had assessed a \$10 monthly finance fee. When Ms. Williams contacted
20 Chase and attempted to opt out of the new terms, Chase told her that she could not unless she
21 accepted a higher interest rate of 7.99%, or alternatively, paid the loan balance in full. Ms.
22 Williams decided to pay the higher minimum monthly payments rather than accept a higher
23 interest rate.

24 89. Plaintiff Norman is, and at all relevant times was, a customer of Chase. Since at
25 least August 2004, Chase offered, and Mr. Norman accepted, three long term fixed rate loans,
26 with fixed annual rates of 3.99 % and 4.99% until the balance is repaid in full. The total principal
27 amount of the long term fixed rate loans was approximately \$19,500, for which Mr. Norman paid
28 transaction fees of approximately \$75 and \$35 for two of the transactions.

1 90. Plaintiff Norman accepted Chase's offer because it provided long-term certainty
2 and thus allowed him to budget his monthly expenses for years to come.

3 91. Mr. Norman has fully complied with his obligations under the long term fixed rate
4 loan, including making timely minimum monthly payments.

5 92. In January 2009, Mr. Norman discovered that the minimum payment on his loan
6 had jumped from approximately \$178 to approximately \$438 (from 2% of the balance to 5%) and
7 that Chase had assessed a \$10 monthly finance fee. When Mr. Norman explained to Chase that he
8 could not afford the increased minimum payment, Chase told him that his minimum payments
9 could be put back to 2% and the monthly service fee could be waived if he accepted a higher
10 interest rate of 7.99% until 2011, with an interest rate of Chase's choosing after that period.
11 Finding the 7.99% interest rate unreasonable, Mr. Norman paid the higher minimum monthly
12 payments rather than accept a higher interest rate.

13 93. Plaintiff Kuramoto is, and at all relevant times was, a customer of Chase. In or
14 around 2007, Chase offered, and Mr. Kuramoto accepted, multiple long term fixed rate loans,
15 with fixed annual rates of 2.99%, 3.99%, 4.99% and 5.99% until the balance is repaid in full. The
16 total principal amount of the long term fixed rate loans was approximately \$44,654 for which Mr.
17 Kuramoto paid a transaction fee of approximately \$199 per transaction.

18 94. Plaintiff Kuramoto accepted Chase's offer because it provided long-term certainty
19 and thus allowed him to budget his monthly expenses for years to come.

20 95. Mr. Kuramoto has fully complied with his obligations under the long term fixed
21 rate loan, including making timely minimum monthly payments.

22 96. In June 2009, Chase informed Mr. Kuramoto that the minimum payment on his
23 loan had jumped in total from approximately \$894 to approximately \$2235 (from 2% of the
24 balance to 5%). When Mr. Kuramoto explained to Chase that he could not afford the increased
25 minimum payment, Chase told him that he had three options: (1) pay off the balance entirely by
26 transferring the loan to another lender and closing the account; (2) close his current account and
27 participate in a "willingness and ability" program where his account's interest rate increases to
28 12% and the balance is paid off within five years; or (3) seek outside credit counseling. Finding

1 these options unreasonable and unaffordable, Mr. Kuramoto is attempting to pay the higher
2 monthly minimum payment.

3 97. Plaintiff Francovig is, and at all relevant times was, a customer of Chase. In or
4 around 2008, Chase offered, and Ms. Francovig accepted, two long term fixed rate loans, with
5 fixed annual rates of 2.99% and 3.99% until the balance is repaid in full. The total principal
6 amount of the long term fixed rate loans was approximately \$8,400 for which Ms. Francovig paid
7 two transaction fees of approximately \$141 and \$137.

8 98. Plaintiff Francovig accepted Chase's offer because it provided long-term certainty
9 and thus allowed her to budget her monthly expenses for years to come.

10 99. Ms. Francovig has fully complied with her obligations under the long term fixed
11 rate loan, including making timely minimum monthly payments.

12 100. In or around June 2009, Chase informed Ms. Francovig that the minimum payment
13 on her loans had jumped in total from approximately \$140 to approximately \$329 (from 2% of
14 the balance to 5%). When Ms. Francovig explained to Chase that she could not afford the
15 increased minimum payment, Chase told her that she had no options other than to pay the
16 increased minimum payment. With no other options provided by Chase, Ms. Francovig is
17 attempting to pay the higher monthly minimum payment.

18 101. Plaintiff Neumann is, and at all relevant times was, a customer of Chase. In or
19 around March 2006, Chase offered, and Ms. Neumann accepted, a long term fixed rate loan, with
20 a fixed annual rate of 3.99% until the balance is repaid in full. The total principal amount of the
21 long term fixed rate loan was approximately \$13,000, for which Ms. Neumann paid a transaction
22 fee.

23 102. Plaintiff Neumann accepted Chase's offer because it provided long-term certainty
24 and thus allowed her to budget her monthly expenses for years to come.

25 103. Ms. Neumann has fully complied with her obligations under the long term fixed
26 rate loan, including making timely minimum monthly payments.

27 104. In or around 2009, Ms. Neumann discovered that the minimum payment on her
28 loan had jumped from 2% of the balance to 5% and that Chase had assessed a \$10 monthly

1 finance fee. Her minimum payment jumped from approximately \$174 (2%) to \$428 (5%) per
2 month. When Ms. Neumann explained to Chase that she could not afford the increased minimum
3 payment, Chase told her that her minimum payments could be put back to 2% and the monthly
4 service fee could be waived if she accepted a higher interest rate of 7.99%. Finding the 7.99%
5 interest rate unreasonable, Ms. Neumann paid the higher minimum monthly payments rather than
6 accept a higher interest rate.

7 105. Plaintiff Smolensky is, and at all relevant times was, a customer of Chase. In or
8 around May 2005, Chase offered, and Ms. Smolensky accepted, two long term fixed rate loans,
9 with fixed annual rates of 3.99% until the balance is repaid in full. The total principal amount of
10 the long term fixed rate loans was approximately \$19,800, for which Ms. Smolensky paid a
11 transaction fee of approximately \$65 per transaction.

12 106. Plaintiff Smolensky accepted Chase's offer because it provided long-term certainty
13 and thus allowed her to budget her monthly expenses for years to come.

14 107. Ms. Smolensky has fully complied with her obligations under the long term fixed
15 rate loan, including making timely minimum monthly payments.

16 108. Upon receiving her March 2009 Statement, Chase informed Ms. Smolensky that
17 the minimum payment on her loan had jumped from approximately \$89 to approximately \$220
18 (from 2% of the balance to 5%) and that Chase had assessed a \$10 monthly finance fee. When
19 Ms. Smolensky explained to Chase that she could not afford the increased minimum payment,
20 Chase told her that her minimum payments could be put back to 2% and the monthly service fee
21 could be waived if she accepted a higher interest rate of 7.99% until 2011 with an interest rate of
22 Chase's choosing after that period. Finding the 7.99% interest rate unreasonable, Ms. Smolensky
23 ultimately paid her balance in full by transferring her loan to another lender for a fee rather than
24 accept a higher interest rate.

25 109. Plaintiff Wilkinson is, and at all relevant times was, a customer of Chase. In or
26 around 2005, Chase offered, and Lt. Wilkinson accepted, two long term fixed rate loans, with
27 fixed annual rates of 4.99% and 5.99% until the balance is repaid in full. The total principal
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1 amount of the long term fixed rate loans was approximately \$34,900. Lt. Wilkinson paid a
2 transaction fee of approximately \$75.

3 110. Plaintiff Wilkinson accepted Chase's offer because it provided long-term certainty
4 and thus allowed him to budget his monthly expenses for years to come.

5 111. Lt. Wilkinson has fully complied with his obligations under the long term fixed
6 rate loan, including making timely minimum monthly payments.

7 112. In or around June 2009, Chase informed Lt. Wilkinson that the minimum payment
8 on his loan had jumped from approximately \$448 to approximately \$1120 (2% of the balance to
9 5%). When Lt. Wilkinson explained to Chase that he could not afford the increased minimum
10 payment, Chase suggested that he should attempt to renegotiate his loan or cancel the card.
11 Finding these options unreasonable, Lt. Wilkinson is attempting to pay the higher monthly
12 minimum payment.

13 **CLASS ALLEGATIONS**

14 113. Plaintiffs bring this action pursuant to Federal Rule of Civil Procedure 23, on
15 behalf of themselves and others similarly situated (the "Class"), initially defined as:

16 All persons or entities in the United States who entered into a loan agreement with
17 Chase, whereby Chase promised a fixed APR until the loan balance was paid in
18 full, but who have been charged, or notified by Chase that they will be required to
make monthly minimum payments of 5% of their outstanding loan balance.

19 Additionally, solely for the purpose of TILA and certain state consumer protection
20 statutes, the Class does not include business entities.

21 114. The following persons shall be excluded from the Class: (1) Defendants and their
22 subsidiaries and affiliates; (2) all persons who make a timely election to be excluded from the
23 proposed Class; (3) governmental entities; and (4) the judge(s) to whom this case is assigned and
24 any immediate family members thereof.

25 115. Plaintiffs reserve the right to modify or amend the Class definition(s), as
26 appropriate.

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1 116. Certification of Plaintiffs' claims for class-wide treatment is appropriate because
2 Plaintiffs can prove the elements of their claims on a class-wide basis using the same evidence as
3 would be used to prove those elements in individual actions alleging the same claims.

4 117. **Numerosity Under Rule 23(a)(1)**. The members of the Class are so numerous that
5 individual joinder of all the members is impracticable. Plaintiffs are informed and believe that
6 there are, at least, thousands of Chase cardholders who have been damaged by Chase's conduct,
7 as alleged herein. The precise number of class members and their addresses are unknown to
8 Plaintiffs; however, they are readily available from Chase's records. Class members may be
9 notified of the pendency of this action by mail, supplemented (if deemed necessary or appropriate
10 by the Court) by published notice.

11 118. **Commonality and Predominance Under Rule 23(a)(2) and (b)(3)**. This action
12 involves common questions of law and fact, which predominate over any questions affecting
13 individual class members, including, but not limited to, the following:

- 14 a. Whether Plaintiffs and Class members accepted Chase's offer for, and paid
15 consideration for, long term fixed rate loans;
- 16 b. Whether Chase may unilaterally modify the terms of the long term fixed rate
17 loans;
- 18 c. Whether Chase breached its contract with Plaintiffs and members of the Class;
- 19 d. Whether Chase breached the covenant of good faith and fair dealing with
20 respect to Plaintiffs and members of the Class;
- 21 e. Whether Chase violated the consumer protection statutes of the various states
22 by, among other things, engaging in unfair, deceptive, fraudulent or
23 unconscionable practices;
- 24 f. Whether Chase's mandatory arbitration provision, class action ban and choice
25 of law provisions are enforceable;
- 26 g. Whether Chase has been unjustly enriched as a result of the conduct
27 complained of herein;
- 28 h. Whether, as alleged herein, Chase violated the Truth-in-Lending Act, 15
 U.S.C. § 1601 *et seq.*;

- 1 i. Whether Class members are entitled to actual, statutory, or other forms of
2 damages, and other monetary relief and, if so, in what amount; and
3 j. Whether Class members are entitled to equitable relief, including but not
4 limited to injunctive relief and restitution.

5 119. **Typicality Under Rule 23(a)(3)**. The named Plaintiffs' claims are typical of the
6 claims of the Class because, among other things, Plaintiffs accepted Chase's offer for, and paid
7 consideration for, long term fixed rate loans; and, notwithstanding that Plaintiffs at all times
8 honored the conditions of the long term fixed rate loans, Chase increased the minimum monthly
9 payments.

10 120. **Adequacy of Representation Under Rule 23(a)(4)**. Plaintiffs are adequate
11 representatives of the Class because their interests do not conflict with the interests of the Class
12 that they seek to represent; they have retained counsel competent and experienced in complex
13 class action litigation; and Plaintiffs intend to prosecute this action vigorously. The interests of
14 the Class will be fairly and adequately protected by Plaintiffs and their counsel.

15 121. **Superiority Under Rule 23(b)(3)**. A class action is superior to all other available
16 means for the fair and efficient adjudication of this controversy, and no unusual difficulties are
17 likely to be encountered in the management of this class action. The damages or other financial
18 detriment suffered by individual Class members are relatively small compared to the burden and
19 expense that would be required to individually litigate their claims against Chase, so it would be
20 impracticable for the members of the Class to individually seek redress for Chase's wrongful
21 conduct. Even if the members of the Class could afford individual litigation, the court system
22 could not. Individualized litigation creates a potential for inconsistent or contradictory
23 judgments, and increases the delay and expense to all parties and the court system. By contrast,
24 the class action device presents far fewer management difficulties, and provides the benefits of
25 single adjudication, economy of scale, and comprehensive supervision by a single court.

26 122. **Risk of Inconsistent Adjudication Under Rule 23(b)(1)(A)**. The prosecution of
27 separate actions by the individual members of the Class would create a risk of inconsistent or
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1 varying adjudication with respect to individual Class members, which would establish
2 incompatible standards of conduct for Chase.

3 123. **Incompatible Standards of Conduct Under Rule 23(b)(1)(B)**. The prosecution
4 of separate actions by individual Class members would create a risk of adjudications that would,
5 as a practical matter, be dispositive of the interests of other Class members not parties to the
6 adjudications, or would substantially impair or impede their ability to protect their interests.

7 124. **Declaratory and Injunctive Relief Under Rule 23(b)(2)**. Chase has acted or
8 refused to act on grounds generally applicable to the Class, thereby making appropriate final
9 injunctive relief with respect to the members of the Class as a whole.

10 125. **Issue Certification Under Rule 23(c)(4)**. The claims of Class members are
11 comprised of common issues that are appropriate for certification under Rule 23(c)(4).

12 **CLAIMS FOR RELIEF**

13 **FIRST CLAIM FOR RELIEF**

14 **(Breach of Implied Covenant of Good Faith and Fair Dealing)**

15 126. Plaintiffs, on behalf of themselves and the Class, re-allege and incorporate by
16 reference each and every allegation set forth in the preceding paragraphs as though alleged in full
17 herein.

18 127. Under common law, a covenant of good faith and fair dealing is implied into every
19 contract.

20 128. Chase offered Plaintiffs and the Class fixed, long term loans “until [the] balance is
21 paid in full.” At the time the agreements were entered, the terms of the loans required that the
22 consumer make timely monthly minimum payments of 2% of the ending balance on their
23 monthly statement, and 2% was the industry standard.

24 129. If the consumer failed to make minimum monthly payments on time, Chase
25 retained the right to terminate the terms of the loan and apply a higher APR to the remaining loan
26 balance.

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1 130. In November 2008 and June 2009, Chase mailed notices to customers carrying
2 balances on such loans stating, in part, that Chase was unilaterally increasing the required
3 minimum monthly payment by 150%,—i.e., from 2% to 5%.

4 131. Chase’s actions are intended to force Plaintiffs and Class members to (a) accept
5 higher APR loans to maintain the 2% minimum payment requirement, (b) make a late payment
6 and trigger a penalty APR—generally 29.99%—and late fees, and/or (c) pay off or transfer the
7 loans to other available credit sources, thus shortening the life of what Chase views is an
8 underperforming investment.

9 132. Chase’s actions to unilaterally reset the terms of what it perceived as
10 underperforming loans violates the spirit of the agreements between Chase and Plaintiffs and the
11 Class. The increased minimum monthly payment benefits Chase and the investors of the
12 securitized loans to the detriment of class members. The amount of the increase was arbitrary
13 and/or unreasonable and is intended to prevent, and has had the effect of preventing, Plaintiffs
14 and the Class from receiving the benefits of the loan agreements.

15 133. As such, Chase’s conduct, including offering long term fixed rate loans while
16 simultaneously retaining the right to unilaterally modify the material terms of those loans,
17 violated the covenant of good faith and fair dealing implied in the loan agreements.

18 134. Plaintiffs and members of the Class performed all of the significant duties required
19 by their loan agreements with Chase prior to Chase’s unilateral imposition of a change in terms.

20 135. The conditions required for Chase’s performance under the loan agreements had
21 occurred.

22 136. As a result of Defendants’ breach of the implied covenant of good faith and fair
23 dealing, Plaintiffs and the Class sustained damages in an amount to be determined by this Court,
24 including interest on all liquidated sums and reasonable attorneys’ fees. Plaintiffs also seek
25 restitution and disgorgement of profits relating to the increased minimum payment and/or
26 declaratory relief as may be appropriate.

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SECOND CLAIM FOR RELIEF

(Unconscionability)

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3 137. Plaintiffs, on behalf of themselves and the Class, re-allege and incorporate by
4 reference each and every allegation set forth in the preceding paragraphs as though alleged in full
5 herein.

6 138. Chase's conduct, including offering long term fixed rate loans while
7 simultaneously retaining the right to unilaterally modify the material terms of those loans, as
8 reflected in the provisions in the November and June notices that increase account holders'
9 required minimum monthly payments by 150%, are unfair and unconscionable.

10 139. Plaintiffs and the Class have no meaningful choice with respect to Chase's election
11 to change the minimum monthly payment term, and indeed Chase's notices did not provide
12 account holders an opportunity to opt-out of the change in terms. The change in terms is worse
13 than one presented on a "take it or leave it basis" because the Plaintiff and the Class "took" the
14 loans before Chase imposed the oppressive change in terms, and now Plaintiffs and Class
15 members are confronted with lesser options, including avoiding the change by agreeing to pay
16 Chase a higher APR on their loan balance or immediately paying down the account in full.

17 140. The increased minimum payment requirement is unreasonably favorable to Chase
18 and unduly harsh with respect to Plaintiffs and the Class, and therefore substantively
19 unconscionable. For example, an account holder with a \$20,000 balance will see her required
20 monthly payment increase from \$400 to \$1,000. The increase is designed to result in penalty
21 fees, default APRs, higher alternate offer APRs, and/or to force those account holders who are
22 able to pay the entire amount to do so instead of maintaining the favorable APR.

23 141. To the extent Chase has enforced these unconscionable provisions in the
24 Cardmember Agreements, Plaintiffs and the Class sustained damages in an amount to be
25 determined by this Court, including interest on all liquidated sums and reasonable attorneys' fees.
26 Plaintiffs also seek restitution and disgorgement of profits relating to the increased minimum
27 payment and/or declaratory relief as may be appropriate.
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THIRD CLAIM FOR RELIEF

(Declaratory Relief)

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3 142. Plaintiffs, on behalf of themselves and the Class, re-allege and incorporate by
4 reference each and every allegation set forth in the preceding paragraphs as though alleged in full
5 herein.

6 143. A dispute exists between Plaintiffs and the Class and Chase over Chase's increase
7 of the minimum monthly payment term from 2% to 5%, its implementation of a \$10 monthly
8 finance charge, and the corresponding impact on Class members' APRs.

9 144. Plaintiffs contend that Chase was not entitled to increase the APRs on Plaintiffs'
10 and Class members' loans absent a default, or increase the minimum monthly payment terms on
11 those loans from 2% to 5%, which Chase promised would remain fixed until the balance of the
12 loan was paid in full. To the extent Chase asserts the right to increase class member APRs absent
13 a default, or increase their minimum monthly payments, Plaintiffs seek declaratory relief in the
14 form of a finding that Chase has no such rights.

15 145. Plaintiffs contend that Chase was not entitled to increase their required minimum
16 monthly payment by 150% in the manner described above. To the extent Chase asserts that it has
17 discretion under the Cardmember Agreement or otherwise to increase the required minimum
18 monthly payment, Plaintiffs seek declaratory relief in the form of a finding that Chase violated
19 the covenant of good faith and fair dealing implied in the agreements, and imposed an
20 unconscionable term in the loan agreements that is void and cannot be enforced.

21 146. Plaintiffs contend that they did not agree to arbitration or to waive their rights to
22 bring claims on behalf of a class. To the extent Chase asserts that the claims of Plaintiffs and the
23 Class *are* subject to an arbitration agreement or a class action waiver, Plaintiffs seek declaratory
24 relief in the form of a finding that such a purported agreement is void and unenforceable as
25 against public policy and/or unconscionable in at least the following respects:

- 26 a. To the extent Chase asserts that an arbitration agreement waives Plaintiffs'
27 right to bring claims on behalf of the Class, such an arbitration agreement
28 is unconscionable and unenforceable.

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- b. To the extent any such waiver of class claims exists in an arbitration agreement, it removes the only practicable way for consumers to deter and redress the wrongs alleged in this Complaint, thus making such an arbitration agreement unconscionable and unenforceable.
- c. To the extent Chase asserts an arbitration agreement that is a consumer contract of adhesion presented to Plaintiffs and the Class in a take-it-or-leave-it manner, and Chase maintains superior bargaining over Plaintiffs and the Class, such an arbitration agreement is unconscionable and unenforceable.
- d. To the extent Chase asserts that its unilaterally imposed contractual terms can invalidate Rule 23 of the Federal Rules of Civil Procedure, such an agreement is unenforceable.

147. Plaintiffs seek declaratory relief from this court in the form of an order addressing the conduct alleged herein.

FOURTH CLAIM FOR RELIEF
(Unjust Enrichment/Restitution)

148. Plaintiffs, on behalf of themselves and the Class, re-allege and incorporate by reference each and every allegation set forth in the preceding paragraphs as though alleged in full herein.

149. By its deceptive, misleading, bad faith and unlawful conduct alleged herein, Chase unjustly received a benefit at the expense of Plaintiffs and Class members.

150. It is unjust to allow Chase to retain the profits from its deceptive, misleading, bad faith and unlawful conduct alleged herein without providing compensation to Plaintiffs and the Class.

151. Chase acted with conscious disregard for the rights of Plaintiffs and the Class.

152. Plaintiffs and members of the Class are entitled to restitution of, disgorgement of, and/or the imposition of a constructive trust upon, all profits, benefits, and other compensation obtained by Chase from its deceptive, misleading, bad faith and unlawful conduct.

FIFTH CLAIM FOR RELIEF

(Breach of Contract)

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153. Plaintiffs, on behalf of themselves and the Class, re-allege and incorporate by reference each and every allegation set forth in the preceding paragraphs as though alleged in full herein.

154. Chase offered hundreds of thousands of customers the opportunity to originally incur debt, or transfer the balances on loans held by other lenders, and Chase would consolidate the debt into a loan with a fixed APR that would apply “until the balance is paid off,” unless the customer breached the agreement by, among other things, making a late payment.

155. At the time Plaintiffs and Class members accepted Chase’s offer its underlying loan agreements required that its customers make minimum payments of 2% of the ending balance on the monthly statement.

156. Given their prior course of dealing with Chase and the established industry standard of a 2% minimum payment, Plaintiffs and Class members had a reasonable expectation that the minimum payment would be 2% for the life of the loan, and a reasonable expectation as to the cost of the Chase loan over the life of that loan, which included a minimum monthly payment of 2% of the ending balance of the monthly statement. Chase was aware of these reasonable expectations.

157. Plaintiffs and Class members had no reason to know that Chase was offering long term fixed rate loans while simultaneously retaining the right to unilaterally modify the material terms of those loans.

158. Plaintiffs and Class members gave consideration that was fair and reasonable, and performed all conditions, covenants and promises required under their respective balance transfer loan agreements with Chase.

159. As alleged herein, Chase breached its contractual promises by imposing monthly finance charges that effectively increased the APR, and by increasing the minimum monthly payments from 2% to 5%.

1 160. By reason of Chase's breaches, Plaintiffs and Class members were or are subjected
2 to higher APRs, forced to pay more to Chase in connection with their loans than they bargained
3 for, and suffered damages in an amount to be proven at trial.

4 161. Chase directly benefited from, and is being unjustly enriched by, the contractual
5 breaches alleged herein.

6 162. As a result, Plaintiffs and the Class sustained damages in an amount to be
7 determined by this Court, including interest on all liquidated sums and reasonable attorneys' fees.

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9 **SIXTH CLAIM FOR RELIEF**

10 **(State Consumer Protection Statutes)**

11 163. Plaintiffs, on behalf of themselves and the Class, re-allege and incorporate by
12 reference each and every allegation set forth in the preceding paragraphs as though alleged in full
13 herein.

14 164. In the event the Court determines that the Delaware choice of law provision in
15 Chase's cardholder agreements is unenforceable against non-residents, Plaintiffs allege that
16 Chase's conduct, as set forth herein, violates the following consumer protection statutes:

- 17 k. Ala. Code § 8-19-1, et seq.;
- 18 l. Alaska Stat. § 45.50.471, et. seq.;
- 19 m. Ariz. Rev. Stat. § 44-1522, et. seq.;
- 20 n. Ark. Code § 4-88-101, et. seq.;
- 21 o. Cal. Bus. & Prof. Code § 17200, et. seq.;
- 22 p. Colo. Rev. Stat. § 6-1-105, et. seq.;
- 23 q. Conn. Gen. Stat. § 42-110a, et. seq.;
- 24 r. 6 Del. Code §§ 2511, et. seq. and 2531, et seq.;
- 25 s. D.C. Code § 28-3901, et. seq.;
- 26 t. Fla. Stat. § 501.201, et. seq.;
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- 1 u. Ga. Stat. §§10-1-372, et. seq., 10-1-392 and 10-1-420;
- 2 v. Haw. Rev. Stat. § 480-1, et. seq.;
- 3 w. Idaho Code § 48-601, et. seq.;
- 4 x. 815 ILCS § 505/1, et. seq.;
- 5 y. Ind. Code Ann. § 24-5-0.5-1, et. seq.;
- 6 z. Iowa Code § 714.16, et. seq.;
- 7 aa. Kan. Stat. § 50-623, et. seq.;
- 8 bb. Ky. Rev. Stat. § 367.170, et. seq.;
- 9 cc. La. Rev. Stat. § 51:1401, et. seq.;
- 10 dd. 5 Me. Rev. Stat. § 205A, et. seq.;
- 11 ee. Md. Com. Law Code § 13-101, et. seq.;
- 12 ff. Mass. Gen. L. Ch. 93A, et. seq.;
- 13 gg. Mich. Comp. Laws Ann. § 445.901, et. seq.;
- 14 hh. Minn. Stat. §§ 325D.43, et seq., 325F.67, et seq.; and 325F.68 et seq.;
- 15 ii. Miss. Code Ann. § 75-24-1, et. seq.;
- 16 jj. Vernon's Ann. Missouri Stat. § 407.010, et. seq.;
- 17 kk. Mont. Code Ann. § 30-14-101, et. seq.;
- 18 ll. Neb. Rev. Stat. § 59-1601, et. seq.;
- 19 mm. Nev. Rev. Stat. Ann. § 598.0903, et. seq.;
- 20 nn. N.H. Rev. Stat. § 358-A:1, et. seq.;
- 21 oo. N.J. Rev. Stat. § 56:8-1, et. seq.;
- 22 pp. N.M. Stat. § 57-12-1, et. seq.;
- 23 qq. N.Y. Gen. Bus. Law §§ 349 et. seq. and 350-e, et seq.;
- 24 rr. N.C. Gen. Stat. § 75-1.1, et. seq.;
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- ss. N.D. Cent. CODE §§ 51-12-01, et. seq., and 51-15-01, et seq.;
- tt. Ohio Rev. Stat. § 1345.01, et. seq.;
- uu. Okla. Stat. 15 § 751, et. seq.;
- vv. Or. Rev. Stat. § 646.605, et. seq.;
- ww. 73 Pa. Stat. § 201-1, et. seq.;
- xx. R.I. Gen. Laws. § 6-13.1-1, et. seq.;
- yy. S.C. Code Laws § 39-5-10, et. seq.;
- zz. S.D. Codified Laws § 37-24-1, et. seq.;
- aaa. Tenn. Code § 47-18-101, et. seq.;
- bbb. Tex. Bus. & Com. Code § 17.41, et. seq.;
- ccc. Utah Code. § 13-11-1, et. seq.;
- ddd. 9 Vt. § 2451, et. seq.;
- eee. Va. Code § 59.1-196, et. seq.;
- fff. Wash. Rev. Code. § 19.86.010, et. seq.;
- ggg. West Virginia Code § 46A-6-101, et. seq.;
- hhh. Wis. Stat. §100.20, et. seq.; and
- iii. Wyo. Stat. § 40-12-101, et. seq.

165. As a result of Chase’s violations of the foregoing state consumer protection statutes, Plaintiffs and Class members are entitled to compensatory damages, double damages, treble damages, statutory damages, punitive or exemplary damages, restitution, and/or injunctive relief.

SEVENTH CLAIM FOR RELIEF

(Truth In Lending Act, 15 U.S.C. § 1601 *et. seq.*)

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3 166. Plaintiffs, on behalf of themselves and the Class, re-allege and incorporate by
4 reference each and every allegation set forth in the preceding paragraphs as though alleged in full
5 herein.

6 167. Pursuant to TILA (15 U.S.C. § 1601 *et seq.*) and the regulations promulgated
7 thereunder, Defendants were required to make certain “Initial Disclosures” in connection with
8 Class member’s check loans(s), setting forth, among other things, “the circumstances under which
9 a finance charge will be imposed and an explanation of how it will be determined.” 12 C.F.R.
10 § 226.6.

11 168. Beginning in approximately November 2008, Chase stated in its notice of change
12 of terms that in January 2009, Defendants would begin assessing a \$10 monthly finance charge in
13 connection with each Class member’s account. This charge constitutes a “finance charge” under
14 TILA, such that Defendants were required to disclose and explain it as part of its “Initial
15 Disclosures” made in connection with the original promotional solicitation. 15 U.S.C. § 1605(a),
16 12 C.F.R. § 226.6.

17 169. Chase failed to disclose the \$10 monthly finance charge, or explain how it would
18 be determined, in its Initial Disclosures, in violation of TILA.

19 170. Chase’s change in terms notice falsely states that, “Your APRs will not be
20 impacted by these changes.” Additionally, Chase’s periodic statements misstate the APR
21 applicable to the purchase amount and to the promotional amount by attributing 100% of the \$10
22 monthly finance charge solely to APR applicable to purchases, without regard to whether there
23 were purchases made on the account or not.

24 171. As a result of Chase’s violations of TILA, Plaintiffs and Class members have been
25 harmed and are entitled to injunctive relief and to recover actual damages, statutory damages and
26 attorneys’ fees, pursuant to 15 U.S.C. § 1640.

PRAYER FOR RELIEF

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2 Plaintiffs, on behalf of themselves and the Class, request that the Court order relief and
3 enter judgment against Chase as follows:

- 4 1. An order certifying the proposed Class and appointing Plaintiffs and counsel
5 comprising Plaintiffs' Executive Committee to represent the Class;
 - 6 2. An order that Chase be permanently enjoined from its improper and unlawful
7 conduct and practices alleged herein;
 - 8 3. A judgment awarding Plaintiffs and members of the Class actual damages in an
9 amount according to proof for Chase's breaches of the loan agreements, and for all other of
10 Chase's conduct alleged under all causes of action herein entitling Plaintiffs and members of the
11 Class to actual damages;
 - 12 4. A judgment awarding Plaintiffs and members of the Class restitution, including,
13 without limitation, disgorgement of all profits and unjust enrichment obtained by Chase as a
14 result of its unlawful, unfair, and fraudulent business practices and conduct alleged herein;
 - 15 5. A judgment awarding Plaintiffs and members of the Class statutory damages under
16 TILA;
 - 17 6. A judgment awarding Plaintiffs and members of the Class exemplary damages for
18 Chase's knowing, willful, and intentional conduct, as alleged herein;
 - 19 7. Declaratory relief that any purported arbitration agreement between the Plaintiff
20 and the Class and Chase is void and unenforceable.
 - 21 8. Prejudgment and post-judgment interest;
 - 22 9. Attorneys' fees, expenses, and the costs of this action; and
 - 23 10. All other and further relief as the Court deems necessary, just and proper.
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JURY DEMAND

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiffs demand a trial by jury for all issues so triable under the law.

Dated: July 24, 2009

By: /s/ Elizabeth J. Cabraser
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