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RICHARD W. WIEKING  
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1 JAMES C. STURDEVANT (SBN 94551)  
(jsturdevant@sturdevantlaw.com)  
2 MONIQUE OLIVIER (SBN 190385)  
(molivier@sturdevantlaw.com)  
3 WHITNEY HUSTON (SBN 234863)  
(whuston@sturdevantlaw.com)  
4 THE STURDEVANT LAW FIRM  
A Professional Corporation  
5 354 Pine Street, Fourth Floor  
San Francisco, CA 94104  
6 Telephone: (415) 477-2410  
Facsimile: (415) 477-2420  
7

8 MICHAEL D. DONOVAN (Pa. Bar No. 51895)  
(mdonovan@donovansearles.com)  
9 (*Pro Hac Vice* Admission Pending)  
DONOVAN SEARLES, LLC  
10 1845 Walnut Street, Suite 1100  
Philadelphia, PA 19103  
11 Telephone: (215) 732-6067  
Facsimile: (215) 732-8060  
12

Attorneys for Plaintiff  
13 TIMOTHY A. SAUER

E-filing

14 UNITED STATES DISTRICT COURT  
15 NORTHERN DISTRICT OF CALIFORNIA  
16 SAN FRANCISCO DIVISION

BZ

17 TIMOTHY A. SAUER, individually and on  
behalf of all others similarly situated,

Case No.:  
**CV 09**  
CLASS ACTION

**0809**

18 Plaintiffs,

19 vs.

20 CHASE BANK USA, N.A., and DOES 1-20,

21 Defendants.

**COMPLAINT FOR VIOLATIONS OF  
THE CONSUMER LEGAL REMEDIES  
ACT, THE TRUTH IN LENDING ACT,  
BREACH OF CONTRACT, BREACH OF  
THE COVENANT OF GOOD FAITH  
AND FAIR DEALING, FRAUDULENT  
CONCEALMENT, NEGLIGENT  
MISREPRESENTATION, THE UNFAIR  
COMPETITION LAW, THE FALSE  
ADVERTISING ACT, AND UNJUST  
ENRICHMENT**

**DEMAND FOR JURY TRIAL**

**INTRODUCTION**

1  
2 1. Plaintiff Timothy A. Sauer (“Plaintiff”) brings this case as a class action to  
3 challenge the unlawful, unfair, and fraudulent practices of Defendant Chase Bank USA, N.A.  
4 (“Chase”), that force customers to pay higher interest rates and amounts than they bargain for in  
5 connection with their agreements with Chase. In effect, Chase is unilaterally changing the rules  
6 of its credit card users with no notice and no bargained for agreement.

7 2. Plaintiff is among tens of thousands of Chase credit card customers to whom  
8 Chase offered separate credit cards with low interest rates, between 2.99% and 4.99% without  
9 expiration, for balance transfers.

10 3. Plaintiff, along with thousands of others, accepted the offer to transfer his balance  
11 to a Chase credit card. Once consumers, like Plaintiff, were induced to agree to this offer and  
12 had performed the conditions of the agreement, Chase unilaterally modified the terms of the  
13 agreement.

14 4. In or about November 2008, Chase sent certain of its credit card customers  
15 “notices,” stating that their credit cards would be subject to an additional monthly account  
16 service charge, and that their minimum monthly repayment on these accounts would be raised  
17 from two percent (2%) to five percent (5%) of the ending balance on their monthly statement.

18 5. According to the “notice” the account service charge is billed to consumers’  
19 accounts, each month, “whether or not you use your account.”

20 6. Further, if a consumer fails to pay the minimum monthly payment, their APR  
21 skyrockets to over 20%, as they lose the benefit of the promotional rate. By unilaterally  
22 changing the terms of the agreement, Chase is effectively forcing customers into higher APRs.

23 7. These new terms were not previously disclosed in any form to Chase’s customers.

24 8. On information and belief, these changes were only imposed on Chase customers  
25 with low interest and revolving balances on their account.

26 9. Although the “notice” states that the customer’s APRs (i.e., annual percentage  
27 rate) “will not be impacted by these changes,” the new monthly charge is effectively an increase  
28 in the customer’s credit card interest rate, and itself accrues interest at the customer’s

1 significantly higher interest rate for credit card purchases, and not the low rate of 2.99% to  
2 4.99% APR.

3 10. Chase's conduct is without legal justification. Chase unilaterally, unfairly, and  
4 illegally changed the terms of credit card agreements, increasing their effective interest rates.  
5 Chase increased the interest rates and minimum monthly payments on the credit cards with  
6 balance transfers at promotional rates in an attempt to unfairly accelerate repayment of  
7 outstanding balances and to increase immediate revenues.

8 11. As a result, Plaintiff and similarly-situated Chase customers have been damaged  
9 by, inter alia, having to pay interest accrued at higher rates than Chase promised would govern  
10 the balance transfers, without limit, being forced to pay additional monetary fees, and more than  
11 doubling the minimum payment requirement.

12 12. Chase has failed to fulfill the promises made to its customers and has contravened  
13 its representations, including the very representations that induced customers to incur debt,  
14 thereby breaching its agreements with customers and violating common and statutory law  
15 prohibiting misrepresentation, concealment, and unfair and fraudulent business practices.

16 13. Plaintiff, individually and on behalf of all others similarly situated, seek damages,  
17 restitution, disgorgement of profits, costs of suit, declaratory relief, and injunctive relief to stop  
18 Chase from overcharging its customers.

19 **JURISDICTION AND VENUE**

20 14. Jurisdiction is conferred upon this Court pursuant to 28 U.S.C. §§ 1331 and  
21 1332(d) in that the claims alleged herein arise under the laws of the United States, the amount in  
22 controversy exceeds \$5,000,000 and the Plaintiff is a citizen of a state other than Defendant's  
23 state of citizenship. This Court has supplemental jurisdiction pursuant to 28 U.S.C. § 1367 to  
24 hear and determine Plaintiff's state law claims because those claims are related to Plaintiff's  
25 federal claims and arise out of a common nucleus of operative facts and form part of the same  
26 case or controversy under Article III of the United States Constitution.

27 15. This Court has personal jurisdiction over Chase because the unlawful conduct that  
28 gave rise to these claims occurred in California and because Chase is authorized to and regularly

1 conducts business in California.

2 16. Venue is proper in the Northern District of California pursuant to 28 U.S.C.  
3 § 1391(b)(2) in that the unlawful conduct that gave rise to these claims occurred within the  
4 Northern District of California.

5 **INTRA-DISTRICT ASSIGNMENT**

6 17. Intra-district assignment in San Francisco, California is proper because the  
7 unlawful conduct that gives rise to the alleged claims occurred in Contra Costa County.

8 **PARTIES**

9 18. Plaintiff Timothy A. Sauer is a natural person and a resident of El Cerrito,  
10 California.

11 19. Defendant Chase is a national banking association organized in Delaware. Chase  
12 is a wholly owned subsidiary of JP Morgan Chase & Co. ("JP Morgan"), which is headquartered  
13 in New York City, New York. Chase is the legal entity for JP Morgan's credit card business.

14 20. Chase is one of the largest credit card companies in the United States, with tens of  
15 thousands of credit card customers throughout the country and with billions in credit card debt  
16 expended to these customers.

17 **FACTUAL ALLEGATIONS**

18 21. Over the past decade, in order to induce customers to switch their outstanding  
19 debt to a Chase credit card, Chase has offered numerous credit card promotions with low APRs  
20 and no monthly fees, which allows customers to borrow funds from Chase to pay off their  
21 outstanding credit card balances owed to another bank.

22 22. Historically, Chase offers promotional rate APRs with no monthly fees to induce  
23 customers to transfer their balances from a different credit card to a Chase credit card, but with a  
24 limited duration on the promotional deal.

25 23. Several years ago, Chase began to offer its customers credit card balance transfer  
26 promotions with low interest rates, and no monthly fee, with no ending time limit. Chase has  
27 offered such credit cards with interest rates ranging from 2.99% to 4.99% APR for the lifetime of  
28 the debt transferred.

1 24. Nowhere in the promotional materials presenting this credit card offer has Chase  
2 ever indicated in any way that a monthly service would or could be applied, or that the low  
3 interest rate, or minimum monthly payment could be increased for borrowers who are not in  
4 default.

5 25. Upon information and belief, many thousands of Chase credit card customers, in  
6 California and throughout the United States, accepted these promotional offers.

7 26. In exchange for agreeing to credit card balance transfer promotions with low  
8 interest rates, and no monthly fee, with no ending time limit, Chase charged a transaction fee of  
9 up to 3% of the amount of the loan.

10 27. In or about November 2008, however, Chase decided to unilaterally change the  
11 terms of the credit card agreement. Chase sent certain of its credit card customers notices that  
12 including the following changes to the terms of their agreements: (1) a new "Account Service  
13 Charge" of \$10 per month will be added to each customer's account, whether or not they use that  
14 account, and (2) their minimum monthly payment due increased from two percent (2%) to five  
15 percent (5%) of the ending balance on the monthly statement.

16 28. The monthly \$10 "Account Service Charge," which Chase refers to alternatively  
17 as a "finance charge – service charge" is effectively an increase to the low interest rates that  
18 Chase falsely promised had no expiration.

19 29. This notice of change in terms further states, "Important: Your APRs will not be  
20 impacted by these changes." This assertion is inaccurate.

21 30. For financing purposes, Chase carries the \$10 finance charge as a credit card  
22 purchase and thus customers are subjected to paying the higher credit card interest rate, not the  
23 lower balance transfer promotional rate. By applying a higher interest rate to the monthly  
24 finance charge than the promotional rate which customers agreed to, Chase increases the rate  
25 customers are paying on their balance transfers.

26 31. Further, if a consumer fails to pay the minimum monthly payment, their APR  
27 jumps to over 20%. Thus, Chase is effectively forcing customers into higher APRs.

28 32. On information and belief, these new terms were only imposed on Chase

1 customers who maintained large debt balances for over two years who had the promotional  
2 balance transfer APR with no ending time limit.

3 33. As a result of Chase's conduct, Plaintiff and other members of the Class have  
4 suffered harm in that they were subjected to interest rates that were higher than promised by  
5 Chase, and were forced to pay Chase more than they bargained for. Chase has been substantially  
6 and unjustly enriched as a result of this conduct.

7 34. Chase's unilateral changes to the terms of Borrowers' credit cards, described  
8 herein, are not consistent with sound banking judgment or safe and sound banking principles.

9 **Plaintiff Timothy A. Sauer**

10 35. Plaintiff Sauer has been a Chase Credit Card customer for at least 10 years.

11 36. In or about June 2006, based on Chase's representations, Plaintiff Sauer accepted  
12 an offer from Chase to transfer his credit balance for a credit card with an APR of 3.99%.  
13 Plaintiff accepted nearly identical offers to transfer balances to his Chase credit cards again on  
14 several different occasions on two different credit cards. The APR on those balance transfers  
15 were either 3.99% or 4.99% at all times.

16 37. Since he accepted that first offer, Plaintiff Sauer has made regular monthly  
17 payments at or above the minimum payment required and has never been in default.

18 38. On one of his credit cards ("Card One") he made one balance transfer in the  
19 amount of \$10,000 on August 16, 2006 on which he paid a \$75.00 transaction fee and which had  
20 a 3.99% APR. On his other credit card ("Card Two"), he made three balance transfers: (1)  
21 \$17,100 on May 15, 2006 on which he paid a \$75.00 transaction fee and which had a 3.99%  
22 APR; (2) \$1,950 on August 16, 2006 on which he paid a \$58.50 transaction fee and which had a  
23 4.99% APR; and (3) \$7,200 on November 2, 2006 on which he paid a \$75.00 transaction fee and  
24 which had a 3.99% APR.

25 39. His balance on Card One at an APR of 3.99% is approximately \$4,525.15 as of  
26 January 25, 2009. His balance on Card Two at APRs of 3.99% and 4.99% is approximately  
27 \$15,182.58 as of January 25, 2009 (approximately \$1,956 at 4.99% and the remainder at 3.99%).

28 40. In or around December 2008, Plaintiff received his monthly billing statements

1 that indicated: (1) Chase was imposing a \$10 monthly charge in connection with his accounts;  
2 and (2) his minimum monthly payments were being increased from 2% to 5% of his outstanding  
3 balance.

4 41. Plaintiff's billing statement was his first indication of receiving these changes in  
5 terms. He has no recollection of receiving a separate notice, either as a "stuffer" in one of his  
6 previous statements, or as a separately marked notice from Chase.

7 42. As a result of this unilateral change in terms, Plaintiff's monthly minimum  
8 payment jumped from approximately \$90 per month to \$226 per month for Card One and  
9 approximately \$300 per month to \$759 per month for Card Two.

10 43. Additionally, the \$10 finance charge was included as a credit card purchase and,  
11 thus, Plaintiff was subjected to a higher interest rate on the \$10 finance charge.

12 44. Shortly after receiving this statement Plaintiff contacted Chase to ask about the  
13 changes to his bill. He was told that he had received "notice" changes in terms and was sent a  
14 copy of this "notice."

15 45. Subsequent to Chase's unilateral change in terms, Plaintiff has paid the new  
16 monthly service charge and made his new minimum monthly payment for at least two months.

17 **CLASS ACTION ALLEGATIONS**

18 46. Pursuant to California Civil Code section 1781 and Rule 23 of the Federal Rules  
19 of Civil Procedure Plaintiff brings this action as a national class action on behalf of himself and  
20 all others similarly situated as members of a proposed national class. This putative class  
21 (hereinafter the "Plaintiff Class") is defined as follows:

22 All individuals residing nationwide who entered into agreement with Chase  
23 whereby Chase promised an applicable APR between 2.99% and 4.99% on a  
24 balance transfer, with no expiration time limit, but who have been charged a \$10  
25 monthly service charge in connection with their account and are required to make  
26 monthly minimum payment higher than 2% of their outstanding balance.

27 47. Pursuant to California Civil Code section 1781 and Rule 23 of the Federal Rules  
28 of Civil Procedure, Plaintiff brings this action as a class action on behalf of himself and all others  
similarly situated as members of a proposed California subclass. This putative class (hereinafter

1 the “California Subclass”) is defined as follows:

2 All individuals residing in the State of California who entered into agreement with  
3 Chase whereby Chase promised an applicable APR between 2.99% and 4.99% on  
4 a balance transfer, with no expiration time limit, but who have been charged a \$10  
5 monthly service charge in connection with their account and are required to make  
6 monthly minimum payment higher than 2% of their outstanding balance.

7 48. This action may properly be maintained as a class action pursuant to California  
8 Civil Code section 1781 and Rule 23.

9 49. The agreement and disclosure forms used by Chase for Plaintiff and the members  
10 of the Plaintiff Class and the California Subclass were standard form agreements which  
11 contained the same information and representations.

12 50. Plaintiff is informed and believes and on that basis alleges that the Plaintiff Class  
13 and the California Subclass are so numerous that joinder of the individual claims is  
14 impracticable. The precise number of the Plaintiff Class and the California Subclass, and the  
15 identities of the members, are ascertainable from the business records of Chase.

16 51. Questions of law and fact common to the Plaintiff Class and the California  
17 Subclass exist and predominate over questions affecting only individual class members. These  
18 common legal and factual questions include, but are not limited to:

19 (a) Whether Chase’s misrepresentations and omissions have violated the  
20 Consumer Legal Remedies Act, Civil Code section 1750 *et seq.* (“CLRA”);

21 (b) Whether Chase’s misrepresentations and omissions have violated the  
22 Truth In Lending Act, 15 U.S.C. § 1601 *et seq.* (“TILA”);

23 (c) Whether Chase was permitted, under the terms of its agreements with  
24 members of the Plaintiff Class and the California Subclass, to impose the monthly service charge  
25 and change the required monthly minimum payment;

26 (d) Whether Chase violated its duty of good faith and fair dealing by inducing  
27 customers into the promotional balance transfer APR and then unilaterally changing the terms of  
28 the agreement ;

(e) Whether Chase has been unjustly enriched as result of the conduct

1 complained herein;

2 (f) Whether Chase's imposition of a monthly service charge and increase in  
3 the minimum amount due is effectively an increase in the interest rate members of the Plaintiff  
4 Class and the California Subclass are required to pay in connection with their agreements and  
5 whether these unilateral changes in terms were unlawful, unfair, and deceptive business practices  
6 in violation of the Unfair Competition Law, California Business and Professions Code section  
7 17200 *et seq.* ("UCL");

8 (g) Whether Chase's misrepresentations and omissions have violated the False  
9 Advertising Act, California Business and Professions Code section 17500 *et seq.* ("FAA"); and

10 (h) The nature and extent of relief to Plaintiff, the Plaintiff Class, and the  
11 California Subclass, including declaratory judgment, accounting, injunctive relief, restitution,  
12 and other remedies to which Plaintiff and the other members of the Plaintiff Class and California  
13 Subclass are entitled.

14 52. Plaintiff's claims are typical of the claims of the Plaintiff, the Plaintiff Class, and  
15 the California Subclass. Each of the members of the Plaintiff Class and the California Subclass  
16 entered into an agreement with Chase and was issued a credit card based on an agreement that  
17 are the same or substantially similar to the agreement issued to Plaintiff. Each of the members of  
18 the Plaintiff Class and the California Subclass was subject to the same or substantially similar  
19 uniform lending practices followed by Chase. Each of the members of the Plaintiff Class and the  
20 California Subclass has the same or substantially similar claims to Plaintiff for relief against  
21 these practices under the CLRA and the UCL. As described above and below, the claims arise  
22 from the same course of conduct by Chase, and the relief sought is common.

23 53. Plaintiff is an adequate representatives of the Plaintiff Class and the California  
24 Subclass because: (a) his interests do not conflict with the interests of the individual members of  
25 the Plaintiff Class and the California Subclass he seeks to represent; (b) he has retained counsel  
26 who are competent and experienced in complex class action litigation; and (c) they intend to  
27 prosecute this action vigorously. The interests of the members of the Plaintiff Class and the  
28 California Subclass will be fairly and adequately protected by Plaintiff and his counsel.



1 of a monthly service fee. Without discussion or negotiation, relying on standardized form  
2 contracts, drafted solely by Chase, which are contracts of adhesion because they are offered on a  
3 take-it-or-leave-it basis, Chase attempted to change the credit agreement to include  
4 unconscionable terms. The agreements are substantially one-sided in favor of Chase. They are,  
5 therefore, unlawful, unfair, fraudulent, and unconscionable.

6 60. As a result of the unfair and deceptive acts and practices of Chase herein above  
7 described, Plaintiff and members of the California Subclass have been harmed.

8 61. On February 24, 2009, Sauer, through his counsel, sent notice and a demand letter  
9 by certified mail, return receipt, to Chase Bank USA, N.A., pursuant to California Civil Code  
10 § 1782. To date, Chase Bank USA, N.A. has not responded to Plaintiff's notice and demand  
11 letter, pursuant to California Civil Code § 1782.

12 62. Pursuant to California Civil Code sections 1780 and 1781, Plaintiff and the  
13 California Subclass hereby request certification of the California Subclass, injunctive relief, and  
14 attorney's fees, costs and expenses pursuant to California Civil Code section 1780(d) and  
15 California Code of Civil Procedure section 1021.5.

16 **SECOND CAUSE OF ACTION**  
17 **(Violation of the Truth in Lending Act, 15 U.S.C. § 1601 *et seq.***  
18 **by Plaintiff individually and on behalf of the Plaintiff Class)**

19 63. Plaintiff individually, and on behalf of the Plaintiff Class, realleges each and  
20 every allegation above as if fully set forth in this Claim.

21 64. Under the Truth In Lending Act, 15 U.S.C. section 1601 *et seq.* ("TILA"), Chase  
22 was required to make timely, clear, and conspicuous disclosures of the annual percentage rate,  
23 the finance charge, and the terms of repayment, in connection with its agreement to provide  
24 promotional rates on balance transfers.

25 65. Chase specified certain material limitations regarding the terms or applicability of  
26 the APR on the balance transfer, such as the failure to make a timely payments would result in an  
27 increase in the APR, when other material limitations applied, such as its purported right to  
28 unilaterally change the terms of the agreements, which were not clearly or conspicuously  
disclosed.

1 66. The purpose of TILA and Federal Reserve Regulation Z, 12 C.F.R. § 226 *et seq.*  
2 (“Regulation Z”), is “to assure a meaningful disclosure of credit terms so that the consumer will  
3 be able to compare more readily the various credit terms available to him and avoid the  
4 uninformed use of credit, and to protect the consumer against inaccurate and unfair credit billing  
5 and credit card practices.” 15 U.S.C. § 1601(a); *see also* 12 C.F.R. § 226.1(b).

6 67. TILA defines “finance charge” as all fees paid either directly or indirectly by the  
7 person to whom the credit is extended, incident to the extension of the credit.

8 68. The accurate disclosure of the finance charge in the TILA initial disclosure  
9 statement is critical to the consumers’ ability to comparison-shop for credit. Indeed, it is the  
10 finance charge, together with the annual percentage rate, that reveals the actual cost of the credit  
11 to the consumer.

12 69. TILA requires creditors to disclosure all finance charges in the TILA initial  
13 disclosure statement in a single, integrated document. 12 C.F.R. § 226.6.

14 70. Chase failed to disclose the \$10 monthly service charge in the offer to transfer  
15 Plaintiff’s balance to a Chase credit card.

16 71. 12 C.F.R. § 226.6(a)(4) mandates that in addition to disclosing the finance charge,  
17 the creditor must provide the consumer “[a]n explanation of how the amount of any finance  
18 charge will be determined, including a description of how any finance charge other than the  
19 periodic rate will be determined.” 12 C.F.R. § 226.6(a)(4) (footnote omitted). Chase has failed to  
20 explain how the amount of the \$10 monthly service charge has been determined.

21 72. As a result of the Chase’s failure to comply with mandated TILA disclosures,  
22 Plaintiff and members of the Plaintiff Class suffered damages in an amount to be proven at trial.

23 **THIRD CAUSE OF ACTION**  
24 **(Breach of Contract by Plaintiff individually and on behalf of**  
25 **the Plaintiff Class and the California Subclass)**

26 73. Plaintiff individually, and on behalf of the Plaintiff Class and the California  
27 Subclass, realleges each and every allegation above as if fully set forth in this Claim.

28 74. The material terms of Chase’s agreements on promotional balance transfers with  
Plaintiff and the members of the Plaintiff Class and the California Subclass included Chase’s

1 promise that interest rates of between 2.99% and 4.99% APR, which were not time limited.  
2 These terms detailed the offer, acceptance, and consideration necessary for the balance transfers.

3 75. Plaintiff and all members of the Plaintiff Class and the California Subclass gave  
4 consideration that was fair and reasonable, and have performed all conditions, covenants, and  
5 promises required to be performed under their respective agreements with Chase.

6 76. As alleged herein, Chase breached its contractual promise to provide interest rates  
7 between 2.99% and 4.99% APR on balance transfers by:

8 (a) imposing monthly finance charges, which effectively increased the interest  
9 rates that Chase had promised would apply, without expiration;

10 (b) subjecting the monthly finance charges to interest rates significantly  
11 higher than the rates promotional rates to which customers had transferred their balances and to  
12 which Chase promised would apply without expiration; and

13 (c) by more than doubling the consumer's minimum monthly payment, with  
14 little or no notice, Chase forces consumer's into significantly higher APRs of over 20%.

15 77. By reason of Chase's breaches, Plaintiff and all members of the Plaintiff Class  
16 and the California Subclass were subjected to higher interest rates, and were forced to pay more  
17 to Chase, in connection with their credit cards, than they bargained for and have suffered  
18 damages in an amount to be proven at trial.

19 78. Chase directly benefit from, and was unjustly enriched by, its contractual  
20 breaches alleged herein.

21 **FOURTH CAUSE OF ACTION**  
22 **(Breach of Implied Covenant of Good Faith and Fair Dealing by**  
23 **Plaintiff individually and on behalf of the Plaintiff Class and California Subclass)**

24 79. Plaintiff individually, and on behalf of the Plaintiff Class and the California  
25 Subclass, realleges each and every allegation above as if fully set forth in this Claim.

26 80. Under common law, a covenant of good faith and fair dealing is implied into  
27 every contract.

28 81. Chase violated this covenant of good faith and fair dealing in its credit card  
agreements with Plaintiff and members of the Plaintiff Class and the California Subclass by

1 unilaterally imposing unlawful, unfair, and unconscionable changes to the interest rates, adding  
2 charges, and changing other account terms.

3 82. Plaintiff and members of the Plaintiff Class and the California Subclass  
4 performed all, or substantially all, of the significant duties required by their account agreements  
5 with Chase.

6 83. The conditions required for Chase's performance under the credit card agreements  
7 had occurred.

8 84. Chase unfairly interfered with the rights of Plaintiff, and Plaintiff Class, and  
9 California Subclass members to receive the benefits under their account agreements with Chase.

10 85. Plaintiff, the Plaintiff Class, and the California Subclass have been damaged by  
11 Chase's breach of the implied covenant of good faith and fair dealing in an amount to be proven  
12 at trial.

13 **FIFTH CAUSE OF ACTION**  
14 **(Fraud by Plaintiff individually and on behalf of the**  
15 **Plaintiff Class and California Subclass)**

16 86. Plaintiff individually, and on behalf of the Plaintiff Class and the California  
17 Subclass, realleges each and every allegation above as if fully set forth in this Claim.

18 87. As alleged herein, in the course of conducting its business of providing credit  
19 products and services, Chase has intentionally and falsely concealed from Plaintiff and members  
20 of the Plaintiff Class and the California Subclass that:

21 (a) APRs between 2.99% to 4.99% would not apply to balance transfers,  
22 without expiration;

23 (b) there would be monthly fees applied to balance transfers; and

24 (c) the monthly minimum payment required would be more than 2% of the  
25 outstanding debt.

26 88. The misrepresentations alleged herein were objectively material to the reasonable  
27 consumer, and therefore reliance upon such representations may be presumed as a matter of law.

28 89. Chase knew that the misrepresentations alleged herein were false at the time it  
made them and/or acted recklessly in making such misrepresentations.

1 90. Chase made the representations herein alleged with the intention of depriving  
2 Plaintiff and members of the Plaintiff Class and the California Subclass of property or legal  
3 rights, to wit: the right to guaranteed low interest rate for the life of the loan, no monthly  
4 services fees on balance transfers, and a minimum monthly payment of 2% of the account  
5 balance, causing injury. This conduct of Chase was fraudulent.

6 91. The wrongful conduct of Chase, as herein alleged, was intentional and was done  
7 with malicious, oppressive or fraudulent intent. Plaintiff and members of the Plaintiff Class and  
8 the California Subclass are therefore entitled to recover punitive damages.

9 92. As a proximate result of Chase's fraudulent concealment of material information,  
10 Plaintiff and members of the Plaintiff Class and the California Subclass suffered damages in an  
11 amount to be proven at trial.

12 **SIXTH CAUSE OF ACTION**  
13 **(Negligent Misrepresentation by Plaintiff individually and on**  
14 **behalf of the Plaintiff Class and California Subclass)**

15 93. Plaintiff individually, and on behalf of the Plaintiff Class and the California  
16 Subclass, realleges each and every allegation above as if fully set forth in this Claim.

17 94. As alleged herein, in the course of conducting its business of providing credit  
18 products and service, Chase falsely represented to Plaintiff and members of the Plaintiff Class  
19 and the California Subclass that:

20 (a) APRs of between 2.99% to 4.99% would not apply to balance transfers,  
21 without expiration;

22 (b) there would be monthly fees applied to balance transfers; and

23 (c) the monthly minimum payment required would be more than 2% of the  
24 outstanding debt.

25 95. Chase's misrepresentations were made for the purpose of inducing Plaintiff and  
26 Plaintiff Class and the California Subclass members to open, use, and maintain credit card  
27 accounts with Chase.

28 96. Chase had no reasonable grounds for believing that its misrepresentations were  
true.

1 97. Chase failed to exercise reasonable care and/or diligence in communicating its  
2 misrepresentations.

3 98. Chase's misrepresentations were objectively material to the reasonable consumer,  
4 and therefore reliance upon such representations may be presumed as a matter of law.

5 99. Chase intended that Plaintiff and members of the Plaintiff Class and the California  
6 Subclass would rely on its misrepresentations.

7 100. Plaintiff and members of the Plaintiff Class and the California Subclass  
8 reasonably and justifiably relied to their detriment on Chase's misrepresentations.

9 101. As a proximate result of Chase's misrepresentations, Plaintiff and members of the  
10 Plaintiff Class and the California Subclass were damaged in an amount to be proven at trial.

11 102. Chase directly benefited from, and was unjustly enriched by, its  
12 misrepresentations.

13 **SEVENTH CAUSE OF ACTION**

14 **(For Unlawful Business Practice in Violation of California Business and**  
15 **Professions Code § 17200 *et seq.* by Plaintiff individually and on behalf of the**  
**Plaintiff Class and California Subclass)**

16 103. Plaintiff individually, and on behalf of the Plaintiff Class and the California  
17 Subclass, realleges each and every allegation above as if fully set forth in this Claim.

18 104. The California Unfair Competition Law, California Business and Profession Code  
19 section 17200 *et seq.* ("UCL"), defines unfair competition to include any "unlawful," "unfair," or  
20 "deceptive" business act or practice. Cal. Bus. & Prof. Code § 17200.

21 105. Plaintiff challenges Chase's unfair practice of making misrepresentations and  
22 unilateral changes to its credit card agreements.

23 106. Chase's practices are unfair, unconscionable and fraudulent business practices  
24 conduct described herein violates Cal. Bus & Prof. Code § 17200 *et seq.* (the "UCL") in the  
25 following respects:

26 (a) Chase's imposition of monthly finance charges – which effectively  
27 increased the interest rates of card holders – breached its agreements with Plaintiff and members  
28 of the Plaintiff Class and the California Subclass, and constitutes an unfair and unlawful business

1 act or practice within the meaning of the UCL.

2 (b) Chase's allocation of the monthly finance charges to an interest rate  
3 significantly higher than the rates Chase promised breached its agreements with Plaintiff, the  
4 Plaintiff Class, and the California Subclass, and constitutes an unfair and unlawful business act  
5 or practice within the meaning of the UCL.

6 (c) Chase's false representations that APRs of between 2.99% and 4.99%  
7 would apply, without limitation, constitute unfair business acts or practices within the meaning  
8 of the UCL.

9 (d) Chase's false representations that APRs of between 2.99% and 4.99%  
10 would apply, without limitation, are likely to mislead the general public and, consequently,  
11 constitute fraudulent business acts or practices within the meaning of the UCL.

12 (e) Chase's conduct described herein is unconscionable, a violation of  
13 California Civil Code section 1770(a)(19), and thus constitutes an unlawful business act or  
14 practice within the meaning of the UCL.

15 107. Chase has committed acts of untrue, deceptive and misleading advertising, as  
16 defined in Cal. Bus. & Prof. Code § 17500 *et seq.*, by:

17 (a) Falsely representing that APRs of between 2.99% to 4.99% would apply  
18 to Plaintiff's, Plaintiff Class members', and California Subclass members' balance transfers,  
19 without limitation.

20 (b) Chase's misrepresentations deceive or have the tendency to deceive the  
21 recipients of such representations regarding the applicable interest rates.

22 108. Chase's misrepresentations are objectively material to the reasonable consumer,  
23 and therefore reliance upon such representations may be presumed as a matter of law.

24 109. Plaintiff and members of the Plaintiff Class and the California Subclass  
25 reasonably and justifiably relied on such misrepresentations.

26 110. As a result of these violations and unfair business practices, Plaintiff suffered  
27 injury in fact and lost money and property, including but not limited to payments of interest and  
28 other charges collected by Chase.

1 111. Pursuant to California Business and Professions Code section 17200 *et seq.*,  
2 Plaintiff, the Plaintiff Class, and the California Subclass are entitled to enjoin the practice of  
3 engaging the unfair and unconscionable practices of making misrepresentations in their credit  
4 card agreements and in the unilateral changes of the term and conditions of credit card  
5 agreements and to obtain restitution of all funds obtained by Chase by reason of and through the  
6 use of these unlawful, unfair, or fraudulent acts and practices.

7 **EIGHTH CAUSE OF ACTION**  
8 **(Breach of the False Advertising Act, California Business and**  
9 **Professions Code § 17500 *et seq.* by Plaintiff Individually**  
10 **and on behalf of the California Subclass)**

11 112. Plaintiff individually, and on behalf of the California Subclass, realleges each and  
12 every allegation above as if fully set forth in this Claim.

13 113. Chase has committed acts of untrue and misleading advertising, as defined in  
14 California Business and Professions Code section 17500 *et seq.*, by:

15 (a) falsely representing that interest rates of between 2.99% to 4.99% APR  
16 would apply to Plaintiff's and the California Subclass members' check loans "for the life of the  
17 loan"; and

18 (b) falsely representing that Plaintiff's and California Subclass members'  
19 interest rates "will not be impacted by" the changes to the loan terms set forth in Chase's  
20 "notices."

21 114. Chase's misrepresentations deceive or are likely to deceive the recipients of such  
22 representations regarding the applicable interest rates.

23 115. Chase's misrepresentations are objectively material to the reasonable consumer,  
24 and therefore reliance upon such representations may be presumed as a matter of law.

25 116. Plaintiff and members of the California Subclass reasonably and justifiably relied  
26 on such misrepresentations.

27 117. Unless restrained by this Court, Chase will continue to engage in untrue and  
28 misleading advertising, as alleged above.

118. As a result of Chase's untrue and misleading advertising, Plaintiff and members

1 of the California Subclass have been injured and have lost money or property, and are entitled to  
2 restitution and injunctive relief.

3 **NINTH CAUSE OF ACTION**  
4 **(Unjust Enrichment/Restitution by Plaintiff individually and on behalf of**  
5 **the Plaintiff Class and California Subclass)**

6 119. Plaintiff individually, and on behalf of the Plaintiff Class and the California  
7 Subclass, realleges each and every allegation above as if fully set forth in this Claim.

8 120. By its deceptive, misleading and unlawful conduct alleged herein, Chase unjustly  
9 received a benefit at the expense of Plaintiff and members of the Plaintiff Class and the  
10 California Subclass.

11 121. It is unjust to allow Chase to retain the profits from its deceptive, misleading and  
12 unlawful conduct alleged herein without providing compensation to Plaintiff, the Plaintiff Class,  
13 and the California Subclass.

14 122. Chase acted with conscious disregard for the rights of Plaintiff, and Plaintiff Class  
15 and California Subclass members.

16 123. Plaintiff and members of the Plaintiff Class and the California Subclass are  
17 entitled to restitution of, disgorgement of, and/or the imposition of a constructive trust upon, all  
18 profits, benefits, and other compensation obtained by Chase from its deceptive, misleading, and  
19 unlawful conduct.

20 **RELIEF SOUGHT**

21 Plaintiff requests the following relief for themselves and on behalf of the Plaintiff Class:

22 1. An order certifying the Plaintiff Class and the California Subclass under  
23 California Code of Civil Procedure section 382 and California Civil Code section 1781, and  
24 appointing Plaintiff and their counsel to represent the Plaintiff Class and the California Subclass;

25 2. An order permanently enjoining Chase from its improper conduct and practices  
26 alleged herein;

27 3. A judgment awarding Plaintiff, the Plaintiff class, and the California Subclass  
28 actual damages in an amount according to proof for Chase's breaches of its agreements and for  
all other of Chase's conduct alleged under all causes of action herein entitled Plaintiff and

1 members of the Plaintiff Class to actual damages;

2 4. Punitive damages to Plaintiff and the members of the Plaintiff Class and the  
3 California Subclass according to proof at trial;

4 5. Restitution of all monies wrongfully charged to and/or collected from Plaintiff,  
5 the Plaintiff Class, and the California Subclass in violation of the UCL with prejudgment interest  
6 to date, and injunctive relief against Chase for violation of the UCL, as more particularly set  
7 forth above;

8 6. Restitution of all monies charged to and/or collected from the Plaintiff and the  
9 Plaintiff Class in violation of TILA and Regulation Z with prejudgment interest;

10 7. Pre and post judgment interest;

11 8. Attorneys fees and expenses of litigation to the extent provided by law;

12 9. Costs of suit; and

13 10. Such other and further legal and equitable relief as this Court may deem proper.

14 **DEMAND FOR JURY TRIAL**

15 Plaintiff hereby demand a trial by jury of each and every cause of action so triable.

16  
17  
18 DATED: February 25, 2009

Respectfully submitted,

THE STURDEVANT LAW FIRM  
A Professional Corporation

DONOVAN SEARLES, LLC

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20  
21  
22  
23 By: \_\_\_\_\_

  
JAMES C. STURDEVANT  
Attorneys for Plaintiff Timothy A. Sauer