

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS**

MARGARET A. FOSHE, individually and  
on behalf of all others similarly situated,

Plaintiff,

v.

CHASE BANK USA, N.A.

Defendant.

Civil. Action No.

**CLASS ACTION COMPLAINT**

**JURY TRIAL DEMANDED**

Plaintiff Margaret A. Foshe, on behalf of herself and all others similarly situated, upon personal knowledge as to her own acts and status, and upon information and belief as to all other matters, alleges as follows:

**NATURE OF THE ACTION**

1. This class action seeks to remedy a carefully-calculated effort by Defendant Chase Bank USA, N.A. (“Chase”) to force customers to pay higher interest rates and other charges in connection with their loan agreements with Chase. In effect, Chase is “calling the loans,” *i.e.*, requiring customers to suddenly pay all outstanding balances in full or otherwise be subjected to significantly higher interest rates under new and unfair terms.

2. Plaintiff and the members of the Class she seeks to represent are Chase credit card customers whom Chase offered separate loans under terms that were in material respects distinct from the credit card terms.

3. Chase initiated these loans from time to time by sending its credit card customers “blank checks.” Customers may opt to use these checks, typically in amounts not to exceed the credit limit of their credit cards, and in so doing accept the terms of the loan offered by Chase.

4. Although these check loans are governed by the cardholder agreement in some respects, the terms for repayment of the loans are different from the terms for repayment of the credit card debt. Chase represents to customers that the check loans will be subject to drastically lower interest rates, ranging from 2.99% to 4.99% APR, than credit card debt. Chase promises that the low interest rates on the check loans will remain fixed “for the life of the loan,” *i.e.*, “until the balance is paid off.”

5. Beginning in November 2008, Chase sent customers with outstanding check loan balances notices stating that their check loans would be subject to an additional monthly “Service Charge-Finance Charge,” and that their minimum monthly repayment on the check loans would be raised from two-percent (2%) to five-percent (5%) (hereinafter the “Notice”).

6. On information and belief, these changes were only imposed on Chase customers with low interest, “life of the loan” check loans.

7. Although the Notice states that the customer’s interest rates “will not be impacted by these changes,” the new monthly charge is effectively an increase in the customer’s check loan interest rate, and itself accrues interest at the customer’s significantly higher interest rate for credit card purchases, and not the low check loan rate of 2.99% to 4.99% APR.

8. The Notice further states that customers must pay off their entire loan balances in full immediately or be subject to the new and unfair terms.

9. In response to specific customer complaints, Chase has further attempted to coerce customers to pay their loan balances in full immediately to avoid imposition of the higher interest rates and new terms, or, alternatively, to transfer their loan balances to accounts with higher and variable interest rates.

10. Chase's conduct is without legal justification. Chase unilaterally, unfairly and illegally changed the terms of the loans, increasing their effective interest rates. Chase increased the interest rates and minimum monthly payments on the check loans in an attempt to unfairly accelerate repayment of outstanding balances and to increase immediate revenues.

11. As a result, Plaintiff and similarly-situated Chase customers have been damaged by, *inter alia*, having to pay interest accrued at higher rates than Chase promised would govern for the life of the loan.

12. Chase has failed to fulfill the promises made to its customers and has contravened its representations, including the very representations that induced customers to incur debt, thereby breaching its loan agreements with customers and violating Illinois common and statutory law prohibiting false advertising, deceptive trade practices, unlawful trade practices and providing for the protection of consumers.

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

### **JURISDICTION AND VENUE**

14. This Court has subject matter jurisdiction pursuant to 15 U.S.C. § 1640(e) over claims for violations of the Truth in Lending Act. This Court has supplemental jurisdiction pursuant to 28 U.S.C. § 1367 over Plaintiff's related state law claims.

15. This Court has personal jurisdiction over Chase because (a) a substantial portion of the wrongdoing alleged in this Complaint took place in this state; (b) Chase has sufficient minimum contacts with this state, and/or Chase otherwise intentionally avails itself of markets in this state through the promotion, marketing and sale of its products and services in this state, to

render the exercise of jurisdiction by this Court permissible under traditional notions of fair play and substantial justice.

16. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because (a) Chase has hundreds, if not thousands, of customers in this District; (b) Chase has received substantial fees from Illinois consumers who hold accounts here; and (c) a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in this District.

### **PARTIES**

17. Plaintiff Margaret Foshe is an individual over the age of 18 and a resident of Lee, Illinois.

18. Chase is a national banking association, headquartered in New York, New York and incorporated in Wilmington, Delaware. Chase is a wholly-owned subsidiary of JP Morgan Chase & Co. ("JPM"), a leading global financial services firm with assets of approximately \$2.3 trillion. Chase is the legal entity for JPM's credit card business.

19. Chase is one of the largest credit card companies in the United States, with at least hundreds of thousands of credit card customers throughout the United States and at least tens of thousands of credit card customers throughout the State of Illinois.

### **GENERAL ALLEGATIONS**

20. Like many other credit card companies over the past decade, Chase has offered its credit card customers a variety of promotional loan offers, whereby customers can borrow funds to pay off their credit card balances (by transferring balances to accounts with lower interest rates) or to use for other purposes.

21. Most of Chase's promotional loan offers have promised loans at low APRs or even 0% APR, but have had a limited duration -- usually between six months and a year -- with the applicable interest rate increasing thereafter.

22. Approximately four years ago, Chase began to offer its customers loans with low interest rates that it represented would last “until the balance is paid off.” These loan offers were initiated through “blank checks” that Chase sent from time-to-time to its customers. Customers were able to use these blank checks to transfer balances from other higher interest rate cards or to write checks to themselves to deposit into a checking account.

23. During the relevant time period, Chase offered such loans at interest rates ranging from 2.99% to 4.99% APR for the life of the loan.

24. In some respects, these loan offers are subject to Chase’s “Cardmember Agreement,” which gives Chase the right to revoke the “life of the loan” offer in the event of default, but does not give Chase the right to change the applicable interest rate for these “life of the loan” loans absent a default.

25. Chase makes the following material representations in connection with offering customers these check loans:

Wouldn’t it be nice if you could write a check now and pay it off later just like a credit card. Because of the good credit on your Chase MasterCard account ending in XXXX, now you can. We’ve attached checks you can write out for any amount up to the unused portion of your available credit.

Or use check numbers 3181 and 3182 to get a low promotional 2.99% fixed APR *until the balance is paid off*. It’s like giving yourself a fixed-rate loan with no application and no waiting around for approvals.

26. Nowhere in the letters presenting these “life of the loan” offers (including in the fine print) has Chase ever indicated in any way that a monthly service or finance charge would or could be applied, or that the low interest rate would or could be increased, for borrowers who are not in default.

27. On information and belief, thousands of Chase credit card customers in Illinois have entered into these “life of the loan” check loan agreements with Chase during the relevant time period (hereinafter “Borrower(s)”).

28. Not satisfied with its return on these low interest loans, and in an effort to squeeze additional funds from its customers, Chase decided to unilaterally, illegally and unfairly change the terms of Borrowers’ loans. These changes were intended to, and had the effect of, forcing Borrowers to immediately pay their loan balances in full, increasing the applicable interest rates for Borrowers, and/or forcing Borrowers to transfer their existing loan balances to accounts with higher and variable interest rates.

29. Beginning in November 2008, Chase sent the Notice to each Borrower with an outstanding loan balance, which informed them of the following changes to the terms of their loan agreements:

- A new “Account Service Charge” of \$10 per month will be applied to each Borrower’s account.
- Each Borrower’s minimum payment (*i.e.*, the amount they need to pay each month to not be in default) was increased by 150%-from 2% to 5% of the ending balance on their monthly statement.

30. On information and belief, these changes were only imposed on Chase customers with low interest, “life of the loan” check loans.

31. The Notice further states that these new and unfair changes will apply “unless you notify us that you wish to close your account within 30 days ... *and at the same time, you pay your outstanding balance in full* (emphasis added).” Chase did not otherwise give Borrowers the option to opt out of the changes set forth in the Notice.

32. The Notice further states: “Important: Your APRs will not be impacted by these changes.” That assertion is false.

33. The monthly \$10 “Account Service Charge,” which Chase refers to as a “finance charge” in its monthly billing statements and elsewhere in the Notice as a “Service Charge-Finance Charge,” is effectively an increase to the low interest rates that Chase falsely promised would apply “for the life of the loan.”

34. For financing purposes, Chase carries the monthly \$10 finance charge as a credit card purchase, *i.e.*, though it was imposed as a charge incurred in connection with Borrowers’ check loans, Chase subjects it to the higher credit card interest rate, and not the lower check loan rate of 2.99% to 4.99%.

35. On information and belief, when Borrowers have complained about the changes to their loans set forth in the Notice, Chase has presented them with two options to avoid such changes: (1) paying their loan balance in full immediately (which was the only option presented in the Notice); or (2) transferring their loan balance to a new account with a higher, limited duration interest rate (typically, 7.99%), with Chase having broad discretion to significantly increase that interest rate after the limited duration period expires.

36. Thus, by threatening to effectively raise Borrowers’ interest rates through the imposition of the monthly \$10 finance charge and dramatically increasing their minimum monthly payments, Chase sought to coerce Borrowers to pay their entire loan balances in full immediately or transfer their loan balances to accounts with significantly higher and variable interest rates.

37. As a result of the conduct described above, Plaintiff and other members of the Class have suffered harm in that they were subjected to interest rates that were higher than was promised by Chase, and were forced to pay Chase more than they bargained for. Chase has been substantially and unjustly enriched as a result of the conduct describe above.

**PLAINTIFF FOSHE**

38. Plaintiff Foshe has been a Chase credit card customer for at least three years. During that time, she has received numerous promotional loan offers from Chase.

39. During 2006, based on Chase's representations, Plaintiff Foshe accepted an offer that allowed her to utilize a check loan to transfer a balance from an existing higher interest rate credit card to a Chase account at an interest rate of 3.99% APR "for the life of the loan."

40. The loan offer did not indicate in any way that a service or finance charge would or could be applied, or that Plaintiff Foshe's interest rate would or could be increased if Plaintiff Foshe was not in default.

41. Since she accepted this loan offer, Plaintiff Foshe has made regular monthly payments and has never been in default.

42. In or around November 2008, Plaintiff Foshe received the Notice from Chase, along with her monthly billing statement, that indicated that: (1) Chase was imposing a \$10 monthly "Account Service Charge" in connection with her check loan; and (2) her minimum monthly payment was being increased from 2% to 5% of her outstanding balance. The Notice further stated: "Important: Your APRs will not be impacted by these changes," and that the changes would apply "unless you notify us that you wish to close your account within 30 days ... and at the same time, you pay your outstanding balance in full."

43. Plaintiff Foshe called Chase to ask about the changes to her bill. Plaintiff Foshe spoke with a Chase customer service representative, who stated that Plaintiff Foshe's account would be subject to these changes going forward unless she either: (1) paid off her loan balance in full; or (2) agreed to transfer her entire loan balance to a new account with a limited duration interest rate of 7.99% APR, with Chase having the right to increase that interest rate at the end of the limited duration period.



44. In February 2009, Plaintiff Foshe received a monthly billing statement from Chase which: (1) included for the first time a \$10 “finance charge” in connection with her check loans (treated as a credit card purchase, and subject to her 7.24% interest rate for credit card purchases); and (2) required a minimum monthly payment of about 4.9% of her outstanding balance. Plaintiff Foshe’s minimum payment increased from \$89.00 the previous month, to \$220.00. Moreover, according to her billing statement, her “effective APR” increased from 3.99% the previous month, to 6.75% as a direct result of the imposition of the new \$10 finance charge.

45. In February 2009, Plaintiff Foshe paid Chase \$220.00, the inflated minimum monthly payment indicated on her billing statements.

#### **CLASS ALLEGATIONS**

46. Plaintiff brings this action pursuant to Federal Rule of Civil Procedure 23, on behalf of herself and others similarly situated. The Class is defined as follows:

All persons or entities who are citizens of the State of Illinois who entered into a check loan agreement with Chase, whereby Chase promised an applicable interest rate of between 2.99% to 4.99% APR until the loan balance was paid in full, but who have been charged a \$10 monthly “Account Service Charge” in connection with their loans and/or are required to make monthly minimum payments higher than 2% of their outstanding loan balance.

47. Plaintiff reserves the right to modify or amend the Class definition before the Court determines whether certification is appropriate.

48. Certification of Plaintiff’s claims for class-wide treatment is appropriate under Illinois law because Plaintiff can prove the elements of her claims on a class-wide basis using the same evidence that would be used to prove those elements in individual actions alleging the same claims.

**A. Numerosity Under Rule 23(a)**

49. The members of the Class are so numerous that individual joinder of all the members is impracticable. Plaintiff is informed and believes that there are at least thousands of Chase cardholders in Illinois that have been damaged by Chase's unfair, deceptive and illegal conduct alleged herein.

**B. Commonality Under Rule 23(a)**

50. This action involves common questions of law and fact, including, but not limited to, the following:

- (a) Whether Chase's imposition of the monthly "Service Charge-Finance Charge" is effectively an increase in the interest rates that members of the Class are required to pay in connection with their loan agreements;
- (b) Whether Chase was permitted, under the terms of its loan agreements with members of the Class, to impose the monthly "Service Charge-Finance Charge;"
- (c) Whether Chase was permitted, under the terms of its loan agreements with members of the Class, to subject the monthly "Service Charge-Finance Charge" to a significantly higher interest rate;
- (d) Whether Chase provided an adequate "opt out" mechanism for cardholders who did not agree to the monthly "Service Charge-Finance Charge" and/or increase in minimum monthly payments;
- (e) Whether the conduct complained of herein constitutes a violation of the Truth in Lending Act;
- (f) Whether the conduct complained of herein constitutes a violation of Illinois's statutory protection for consumers, including the Illinois

Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/1 *et seq.*; the Illinois Uniform Deceptive Trade Practices Act, 815 ILCS 510, *et seq.*, and the Illinois Deceptive Advertising Act, 720 ILCS 295, *et seq.*;

- (g) Whether Chase breached its contract with Plaintiff and the Class;
- (h) Whether Chase has been unjustly enriched as a result of the conduct complained of herein;
- (i) Whether Chase's conduct complained of herein is reckless;
- (j) Whether Plaintiff and members of the Class are entitled to damages, restitution, disgorgement of profits, declaratory relief, and/or injunctive relief, as a result of Chase's conduct complained of herein; and
- (k) Whether the arbitration and class action waiver provision contained in Chase's Cardmember Agreement are contrary to public policy, unconscionable, and unenforceable.

**C. Typicality Under Rule 21(a)(3)**

51. The named Plaintiff's claims are typical of (and not antagonistic to) the claims of the members of the Class. Plaintiff and the members of the Class she seeks to represent have all been deceived and damaged by Chase's deceptive conduct and breach.

**D. Adequacy of Representation under Rule 23(a)(4)**

52. Plaintiff will fairly and adequately protect the interests of the members of the Class, and the representative Plaintiff's interests are coincident with and not antagonistic to those of the other members of the Class she seeks to represent. Plaintiff has retained competent counsel to represent her and the Class.

**E. The Class Can Be Properly Maintained Under Rules 23(b)(2) and (c)**

53. Chase has acted or refused to act, with respect to some or all issues presented in this Complaint, on grounds generally applicable to the Class, thereby making appropriate final injunctive relief with respect to the Class as a whole.

**F. The Claims Can Be Properly Maintained Under Rules 23(b)(3) and (c)**

54. Questions of law common to the members of the Class predominate over any questions affecting only individual members with respect to some or all issues presented in this Complaint. A class action is superior to other available methods for the fair and efficient adjudication of this controversy. Individual litigation of the claims of all class members is impracticable because the cost of litigation would be prohibitively expensive for each class member and would impose an immense burden upon the courts. Individualized litigation would also present the potential for varying, inconsistent, or contradictory judgments and would magnify the delay and expense to all parties and to the court system resulting from multiple trials of the same complex factual issues. By contrast, the conduct of this action as a class action, with respect to some or all of the issues presented in this Complaint, presents fewer management difficulties, conserves the resources of the parties and of the court system, and is the only means to protect the rights of all class members.

**FIRST CAUSE OF ACTION**

**Violations of the Truth in Lending Act  
15 U.S.C. §§ 1601, *et seq.***

55. The allegations contained in each paragraph set forth in this Complaint are realleged and incorporated by reference as if fully set forth herein.

56. The purpose of the Truth in Lending Act of 1968, as amended, 15 U.S.C. §§ 1601, *et seq.* and Regulation Z, 12 CFR part 226 (“TILA” and “Regulation Z”) is “to assure a

meaningful disclosure of credit terms so that the consumer will be able to compare more readily the various credit terms available to her and avoid the uninformed use of credit, and to protect the consumer against inaccurate and unfair credit billing and credit card practices.” 15 U.S.C. § 1601(a); 12 C.F.R. § 226.1(b).

57. Under the Truth in Lending Act (“TILA”), 15 U.S.C. §§ 1631(a), 1632(a), and 1638, Chase was required to disclose information to its customers in accordance with regulations of the Federal Reserve Board.

58. TILA requires timely, clear and conspicuous disclosures of the annual percentage rate, the finance charge, and the terms of repayment.

59. By making representations in the promotional materials that created the impression that material limitations regarding the terms or applicability of the fixed APR rates of 2.99% to 4.99% for the life of the loan did not exist, when in fact such material limitations existed, Chase violated TILA and Regulation Z, including but not necessarily limited to 12 C.F.R. 226.17, 226.18, 226.22, and 226.24.

60. By failing to fully and prominently disclose in the promotional materials for the check loans the circumstances under which the credit card agreement might permit the bank to increase the consumer’s annual percentage rate, increase fees, or take other action to increase the cost of credit, Defendant violated TILA and Regulation Z, including but not necessarily limited to 12 C.F.R. 226.17, 226.18, 226.22 and 226.24.

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

62. The accurate disclosure of the finance charge in the TILA Initial Disclosure Statement is critical to the consumer’s ability to comparison-shop for credit. Indeed, it is the

finance charge, together with the annual percentage rate, that reveals the actual cost of the credit to the consumer.

63. TILA requires creditors to disclose all finance charges in the TILA Initial Disclosure Statement in a single, integrated document. 12 C.F.R. § 226.6.

64. Chase failed to disclose the \$10 monthly service charge in the Terms of Offer.

65. Section 226.6(a)(4) mandates that in addition to disclosing the finance charge, the creditor must provide the consumer “an explanation of how the amount of any finance charge will be determined, including a description of how any finance charge other than the periodic rate will be determined.” Chase has failed to explain how the \$10 monthly service charge has been determined.

66. Chase’s failure to disclose the \$10 monthly service charge fee in accordance with TILA was material and demonstrates a clear and consistent pattern of practice, gross negligence, and/or willful violation of TILA.

67. Plaintiff and the Class have been injured as a direct result of Chase’s violations of TILA.

68. Plaintiff and the Class are entitled to actual damages, statutory damages, and attorneys’ fees and costs under 15 U.S.C. § 1607(a).

## **SECOND CAUSE OF ACTION**

### **Violation of Illinois Consumer Fraud and Deceptive Business Practices Act 815 ILCS 505/1 *et seq.***

69. Plaintiff, on behalf of herself and the Class, re-alleges and incorporates by reference each and every allegation set forth in the preceding paragraphs, as though they are alleged in full herein.

70. At all relevant times, 815 ILCS 505/2 provided:

[U]nfair or deceptive acts or practices, including but not limited to the use or employment of any deception fraud, false pretense, false promise, misrepresentation or the concealment, suppression or omission of any material fact, with intent that others rely upon the concealment, suppression or omission of such material fact ... in the conduct of any trade or commerce are hereby declared unlawful...

71. Chase's advertising and/or offering of its credit card and lending services constitute "trade or commerce" under 815 ILCS 505/2, as defined under 815 ILCS 505/1(f).

72. Plaintiff and the Class are "consumers" as defined under 815 ILCS 505/1(e).

73. Chase's conduct constituted a "fraud, false pretense, false promise, misrepresentation or the concealment, suppression or omission" of material facts within the meaning of 815 ILCS 505/2 by:

- (a) imposing a monthly finance charge which effectively increased the interest rates that Chase promised would apply "for the life of the loan" and breached its loan agreements with Plaintiff and members of the Class;
- (b) subjecting the monthly finance charges to an interest rate significantly higher than the rates Chase promised would apply "for the life of the loan," which breached its loan agreements with Plaintiff and members of the Class;
- (c) pressuring Plaintiff and members of the Class to pay their loan balances in full immediately and coercing Plaintiff and members of the Class to transfer their loan balances to accounts with higher, limited duration interest rates;

- (d) falsely representing that Plaintiff's and Class members' interest rates "will not be impacted by" the changes to the loan terms set forth in the Notice; and
- (e) falsely representing that interest rates of between 2.99% and 4.99% APR would apply "for the life of the loan."

74. Chase engaged in the conduct described herein with the "intent that others rely upon the concealment, suppression or omission of such material fact ... in the conduct of any trade or commerce." 815 ILCS 505/2.

75. Plaintiff and the Class would not have accepted Chase's check loan offers had they been aware of the aforementioned material facts, including, but not limited to, that their (a) check loans would be subject to an additional monthly Service Charge-Finance Charge; (b) minimum monthly repayment on the check loans would be raised from two-percent (2%) to five-percent (5%); and (c) low and fixed APRs would be unilaterally be increased by Chase through the imposition of fees and other charges.

76. Plaintiff and the Class reasonably relied on Chase's material misrepresentations and omissions of fact.

77. Chase's conduct was "willful or intentional and done with evil motive or reckless indifference to the rights of the Plaintiff and the Class" under 815 ILCS 505/10a.

78. Unless restrained by this Court, Chase will continue to engage in the unfair, illegal and fraudulent acts and practices alleged above.

79. Pursuant to 815 ILCS 505/10a, Plaintiff and the Class are therefore entitled to an order enjoining the future commission of the practices alleged herein.



80. As a proximate result of Chase's violations of the Consumer Fraud and Deceptive Business Practices Act, Plaintiff and members of the Class have been injured in that they have been charged excessive interest rates and have paid excessive amounts of money to Chase.

81. Pursuant to 815 ILCS 505/10a, Plaintiff and the Class are entitled to actual and punitive damages together with costs and disbursements, including costs of investigation and reasonable attorneys' fees, and "any other relief which the court deems proper."

82. Plaintiff is entitled to full restitution of all excessive amounts paid to Chase, interest at the highest rate allowable by law.

### **THIRD CAUSE OF ACTION**

#### **Violation of Illinois Uniform Deceptive Trade Practices Act 815 ILCS 510, *et seq.***

83. Plaintiff, on behalf of herself and the Class, re-allege and incorporate by reference each and every allegation set forth in the preceding paragraphs, as though they are alleged in full herein.

84. At all relevant times, 815 ILCS 510/2(a) provided:

A person engages in a deceptive trade practice when, in the course of business, vocation, or occupation, the person:

...(7) represents that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another...(9) advertises goods or services with intent not to sell them as advertised...(11) makes false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions...(13) engages in any other conduct which similarly creates a likelihood of confusion or of misunderstanding...

85. Chase's "bait and switch" scheme, *i.e.*, its practice of representing to consumers that the APR for its check loan offers would be at a fixed rate of 2.99% to 4.99% for the "life of the loan," and then subsequently and unilaterally switching Plaintiff and the Class to a higher

APR through the imposition of fees and other charges constitutes a “deceptive trade practice” under 815 ILCS 510/2(a).

86. Chase willfully engaged in the above deceptive trade practice.

87. Plaintiff and the Class are injured and continue to be injured as a direct result of Chases ongoing practices.

88. Under 815 ILCS 510/3, Plaintiff and the Class are entitled to an injunction of the deceptive practices under the principles of equity and on terms that the Court considers reasonable.

89. Under 815 ILCS 510/3, Plaintiff and the Class are entitled to attorneys’ fees and costs.

90. Chase’s violation of the Illinois Uniform Deceptive Trade Practices Act, 815 ILCS 510, *et seq.*, constitutes a *per se* violation of the Consumer Fraud Act under 815 ILCS 505/2 .

#### **FOURTH CAUSE OF ACTION**

##### **Breach of Contract**

91. Plaintiff, on behalf of herself and the Class, re-alleges and incorporates by reference each and every allegation set forth in the preceding paragraphs, as though they are alleged in full herein.

92. The material terms of Chase’s loan agreements with Plaintiff and the members of the Class included Chase’s promise that interest rates of between 2.99% and 4.99% APR would remain in effect “for the life of the loan.”

93. Plaintiff and all members of the Class gave consideration that was fair and reasonable, and have performed all conditions, covenants, and promises required to be performed under their respective loan agreements with Chase.

94. As alleged herein, Chase breached its contractual promise to provide loans at interest rates between 2.99% and 4.99% APR “for the life of the loan” by:

- (a) imposing monthly finance charges, which effectively increased the interest rates that Chase promised would apply “for the life of the loan;” and
- (b) subjecting the monthly finance charges to interest rates significantly higher than the rates Chase promised would apply “for the life of the loan.”

95. By reason of Chase’s breaches, Plaintiff and all members of the Class were subjected to higher interest rates, and were forced to pay more to Chase in connection with their loans than they bargained for, and have suffered damages in an amount to be proven at trial.

96. Chase directly benefited from, and was unjustly enriched by, its contractual breaches alleged herein.

## **FIFTH CAUSE OF ACTION**

### **Negligent Misrepresentation**

97. Plaintiff, on behalf of herself and the Class, re-alleges and incorporates by reference each and every allegation set forth in the preceding paragraphs, as though they are alleged in full herein.

98. As alleged herein, in the course of conducting its business of providing credit products and services, Chase falsely represented to Plaintiff and members of the Class that:

- (a) interest rates of between 2.99% to 4.99% APR would apply to their check loans “for the life of the loan;” and
- (b) their interest rates “will not be impacted by” the changes to the loan terms set forth in the Notice.

99. Chase's misrepresentations were supplied for the purpose of affecting Plaintiff's and Class members' financial decisions.

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

101. Chase failed to exercise reasonable care and/or diligence in communicating its misrepresentations.

71. Chase's misrepresentations were objectively material to the reasonable consumer, and therefore reliance upon such representations maybe presumed as a matter of law.

102. Chase intended that Plaintiff and members of the Class would rely on its misrepresentations.

103. Plaintiff and members of the Class reasonably and justifiably relied to their detriment on Chase's misrepresentations.

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

105. Chase directly benefited from, and was unjustly enriched by, its misrepresentations.

## **SIXTH CAUSE OF ACTION**

### **Fraud**

106. Plaintiff, on behalf of herself and the Class, re-alleges and incorporates, by reference each and every allegation set forth in the preceding paragraphs, as though they are alleged in full herein.

107. As alleged herein, in the course of conducting its business of providing credit products and services, Chase has intentionally and falsely represented to Plaintiff and members of the Class that:

- (a) interest rates of between 2.99% to 4.99% APR would apply to their check loans “for the life of the loan;” and
- (b) their interest rates “will not be impacted by” the changes to the loan terms set forth in the Notice.

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

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

110. In making the misrepresentations alleged herein, Chase intended that Plaintiff and members of the Class would rely on such misrepresentations.

111. Plaintiff and members of the Class reasonably and justifiably relied to their detriment on Chase’s intentional misrepresentations.

112. As a proximate result of Chase’s intentional misrepresentations, Plaintiff and members of the Class suffered damages in an amount to be proven at trial.

113. Chase directly benefited from, and was unjustly enriched by, its intentional misrepresentations.

## **SEVENTH CAUSE OF ACTION**

### **Unjust Enrichment/Restitution**

114. Plaintiff, on behalf of herself and the Class, re-alleges and incorporates by reference each and every allegation set forth in the preceding paragraphs, as though they are alleged in full herein.

115. By its deceptive, misleading and unlawful conduct alleged herein, Chase unjustly received a benefit at the expense of Plaintiff and Class members.

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

117. Chase acted with conscious disregard for the rights of Plaintiff and Class members.

118. Plaintiff 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 and unlawful conduct.

### **EIGHTH CAUSE OF ACTION**

#### **Breach of Implied Covenant of Good Faith and Fair Dealing**

119. Plaintiff, on behalf of herself and the Class, re-alleges and incorporates by reference each and every allegation set forth in the preceding paragraphs, as though they are alleged in full herein.

120. Under Illinois common law, a covenant of good faith and fair dealing is implied into every contract.

121. Chase violated this covenant of good faith and fair dealing in its loan agreements with Plaintiff and members of the Class by: (a) unilaterally imposing unfair and unconscionable changes to the interest rates and other loan terms; (b) coercing and/or attempting to coerce Plaintiff and members of the Class to pay their entire loan balances in full prematurely; and (c) coercing and/or attempting to coerce Plaintiff and members of the Class to transfer their loan balances to accounts with higher and variable interest rates.

122. Plaintiff and members of the Class performed all, or substantially all, of the significant duties required by their loan agreements with Chase.

123. The conditions required for Chase's performance under the loan agreements had occurred.

124. Chase unfairly interfered with the right of Plaintiff and Class members to receive the benefits under their loan agreements with Chase.

125. Plaintiff and the Class have been damaged by Chase's breach of the implied covenant of good faith and fair dealing in an amount to be proven at trial.

**PRAYER FOR RELIEF**

Plaintiff, on behalf of herself and the Class, requests that the Court order relief and enter judgment against Chase as follows:

A. An order certifying the proposed Class and appointing Plaintiff and her counsel of record to represent the Class;

B. An order that Chase be permanently enjoined from its improper conduct and practices alleged herein;

C. A judgment awarding Plaintiff and members of the Class actual damages in an amount according to proof for Chase's breaches of its loan agreements and for all other of Chase's conduct alleged under all causes of action herein entitling Plaintiff and members of the Class to actual damages;

D. A judgment awarding Plaintiff and members of the Class restitution, including, without limitation, disgorgement of all profits and unjust enrichment obtained by Chase as a result of its unlawful, unfair, and fraudulent business practices and conduct alleged herein;

E. A judgment awarding Plaintiff and members of the Class exemplary damages for Chase's knowing, willful, and intentional conduct, as alleged herein;

F. Pre-judgment and post-judgment interest;

G. Attorneys' fees, expenses, and the costs of this action; and

H. All other and further relief as the Court deems necessary, just, and proper.

**JURY DEMAND**

Pursuant to Fed. R. Civ. P. 38(b), Plaintiff demands a trial by jury for all issues so triable under the law.

Dated: February 17, 2009

Respectfully submitted,

WEXLER WALLACE LLP

By: /s/ Kenneth A. Wexler \_\_\_\_\_

Kenneth A. Wexler  
[kaw@wexlerwallace.com](mailto:kaw@wexlerwallace.com)  
Jennifer Fountain Connolly  
[jfc@wexlerwallace.com](mailto:jfc@wexlerwallace.com)  
S. Melisa Twomey  
[smt@wexlerwallace.com](mailto:smt@wexlerwallace.com)  
55 W. Monroe Street, Suite 3300  
Chicago, IL 60603  
Telephone: (312) 346-2222  
Facsimile: (312) 346-0022

Karin E. Fisch  
[kfisch@abbeyspanier.com](mailto:kfisch@abbeyspanier.com)  
Grace E. Parasmo  
[gparasmo@abbeyspanier.com](mailto:gparasmo@abbeyspanier.com)  
Abbey Spanier Rodd & Abrams, LLP  
212 E. 39th Street  
New York, NY 10016  
Telephone: (212) 889-3700  
Facsimile: (212) 684-5191

***Counsel for Plaintiffs***