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8
9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**
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14 CONNIE TABAS, ROBERT BARKER,
15 TRISTAN YOUNG, AND KASRA ELIASIEH,
16 ON BEHALF OF THEMSELVES AND ALL
OTHERS SIMILARLY SITUATED,

Case No.: 3:18-cv-07129

COMPLAINT [CLASS ACTION]

17 Plaintiffs,

18 vs.

19 JPMORGAN CHASE & CO., BANK OF
20 AMERICA CORPORATION, AND DOES 1-
21 10,

22 Defendants.

23 Plaintiffs Connie Tabas, Robert Barker, Tristan Young, and Kasra Eliasieh (“Plaintiffs”),
24 by and through the undersigned counsel, bring this Complaint on behalf of themselves and all
25 other consumers similarly situated throughout the United States (as described in the Class Action
26 Allegations below) against Defendant JPMorgan Chase & Co. and Does 1-10 (“Defendants”) for
27 damages, restitution, declaratory and injunctive relief. Plaintiff Kasra Eliasieh also brings this
28 COMPLAINT [CLASS ACTION] - 1

1 Complaint on behalf of himself and all other consumers similarly situated throughout the United
2 States (as described in the Class Action Allegations below) against Defendant Bank of America.

3 Plaintiffs in support thereof state as follows:
4

5 **JURISDICTION AND VENUE**

- 6 1. This Court has federal diversity jurisdiction pursuant to 28 U.S.C. § 1332(a)-(c) because
7 the citizenship of the parties is completely diverse and the amount in controversy exceeds
8 \$75,000 and § 1332(d) because the matter in controversy exceeds the sum or value of
9 \$5,000,000 and is a class action in which at least one member of the class is a citizen of a
10 state different from that of any defendant.
11
- 12 2. Plaintiffs Connie Tabas, Robert Barker, and Kasra Eliasieh are citizens of California.
13 Plaintiff Tristan Young is a citizen of Georgia.
- 14 3. Defendant JPMorgan Chase & Co. (“Chase”) is a Delaware corporation. Chase conducts
15 its banking operations, including the operations involving its credit cards, through its
16 subsidiary J.P. Morgan Chase Bank, N.A. (dba Chase Bank), with headquarters in New
17 York.
18
- 19 4. Defendant Bank of America Corporation (“BOA”) is a Delaware corporation. BOA
20 conducts its banking operations, including the operations involving its credit cards,
21 through its headquarters in North Carolina.
22
- 23 5. Defendants are subject to personal jurisdiction throughout California pursuant to 28
24 U.S.C. §§ 1332(a)-(c); 1391(b)(2) and (3) because they enter into credit card agreements
25 with consumers such as Plaintiffs Tabas, Barker and Eliasieh who live there.
- 26 6. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and (c) because Defendants
27 seek to do and do business in this District, Defendants have transacted business with
28

1 Plaintiffs Tabas, Barker and Eliasieh in this District, and Defendants are subject to
2 personal jurisdiction in this District.

3 **FACTUAL ALLEGATIONS**

- 4
- 5 7. All Plaintiffs entered into credit card agreements (“cardmember agreements”) with
6 Chase. Plaintiff Eliasieh also entered into cardmember agreements with BOA.
- 7 8. Under their respective cardmember agreements, Plaintiffs use their credit cards to
8 establish short-term lines of credit with merchants, under which Defendants agree to pay
9 merchants promptly and Plaintiffs agree to pay Defendants over time with interest.
- 10 9. In order to obtain their respective cardmember agreements, Plaintiffs needed to provide a
11 significant and variegated array of personal financial information (PFI) to Defendants.
12 This PHI is comprised, among other things, of SSN, name, address, banking account(s)
13 and credit history.
- 14
- 15 10. As a result of Plaintiffs’ use of their cards, Plaintiffs have provided – and continue to
16 provide – a further significant and variegated array of PHI to Defendants. This PHI is
17 comprised, among other things, of purchase history with different merchants and
18 payment history with Defendants themselves.
- 19
- 20 11. Plaintiffs’ PHI is valuable to Defendants: they regularly enter into agreements with third
21 parties to provide this PHI in exchange for money and other financial benefit. Defendants
22 have described these parties as “affiliates” and “non-affiliates.” Under these agreements,
23 Defendants have profited greatly from the sale of Plaintiffs’ PFI to third parties.
- 24
- 25 12. Plaintiffs have a property interest in their own PFI.
- 26
27
28

1 13. Plaintiffs have a property interest in their own PFI regardless of what Defendants may do
2 to or with it once Defendants have it in their possession, however it may be de-identified
3 and/or aggregated for sale.

4 14. Plaintiffs have not agreed that Defendants may profit from their PFI.

5 15. Defendants have not disclosed to Plaintiffs that they profit from Plaintiffs' PFI.

6 16. Defendants have not shared any of the profit from Plaintiffs' PFI with Plaintiffs
7 themselves.

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9 **CLASS ACTION ALLEGATIONS**

10 17. **Class definition:** All U.S. consumers who have entered into cardmember agreements
11 with Defendants.

12 18. **Class definition:** All U.S. consumers who continue to have cardmember agreements with
13 Defendants.

14 19. **Class definition:** All California consumers who have entered into cardmember
15 agreements with Defendants.

16 20. **Class definition:** All California consumers who continue to have cardmember
17 agreements with Defendants.

18 21. Numerosity. There are so many potential class members that individual joinder of class
19 members is impractical.

20 22. Commonality. There are questions of law or fact common to class members.

21 23. Typicality. Claims of representative are typical of those of absent class members.

22 24. Adequacy of representation. Class counsel and Plaintiffs intend to fairly and adequately
23 protect the interests of absent class members.

24
25 **(FIRST CLAIM FOR RELIEF)**

(common law conversion)

25. Plaintiffs incorporate by reference and hereby re-allege the allegations of paragraphs 1-24 of this Complaint as if fully set forth herein.

26. Defendants have converted the property of Plaintiffs for their own use, to the financial detriment of Plaintiffs and to the financial benefit of Defendants.

(SECOND CLAIM FOR RELIEF)

(common law bailment liability)

27. Plaintiffs incorporate by reference and hereby re-allege the allegations of paragraphs 1-26 of this Complaint as if fully set forth herein.

28. Defendants have profited from Plaintiff's property contrary to the expectation of Plaintiffs. Separately, Defendants have breached the duty to preserve Plaintiffs' property confidentially. These actions have been, are and continue to be to the financial detriment of Plaintiffs and to the financial benefit of Defendants.

(THIRD CLAIM FOR RELIEF)

(common law *quantum meruit*)

29. Plaintiffs incorporate by reference and hereby re-allege the allegations of paragraphs 1-28 of this Complaint as if fully set forth herein.

30. Defendants have benefited financially from the property of Plaintiffs in a way not intended by Plaintiffs or fair.

(FOURTH CLAIM FOR RELIEF)

(California UCL: unlawful, unfair, fraudulent)

31. Plaintiffs incorporate by reference and hereby re-allege the allegations of paragraphs 1-30 of this Complaint as if fully set forth herein.

1 32. Defendants have by their conduct engaged in unfair competition, in that the conduct
2 violates the law, is unfair, and is fraudulent under Cal. Bus. & Prof. Code § 17200.

3 **DEMAND FOR RELIEF**

4
5 33. WHEREFORE, Plaintiffs pray for judgment against all Defendants that:

- 6 a. Defendants be preliminarily and permanently enjoined from committing the acts
7 alleged herein as well as be declared in violation of each of these laws;
- 8 b. Defendants be ordered to provide restitution to Plaintiffs;
- 9 c. Defendants be ordered to pay Plaintiffs' attorneys' fees and costs to the extent
10 available under the statutes sued hereunder and under Cal. Civ. Proc. Code § 1021.5;
- 11 d. Plaintiffs be awarded punitive damages; and
- 12 e. Plaintiffs be awarded such other and further relief as the Court deems just and proper.

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14 **JURY DEMAND**

15 Plaintiffs respectfully request a jury trial on all issues triable thereby.

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18 Dated this 22nd of November, 2018.

19
20 /s/ David M. Rosenberg-Wohl

21 David M. Rosenberg-Wohl
22 HERSHENSON ROSENBERG-WOHL
23 A PROFESSIONAL CORPORATION
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