

# **EXHIBIT F**

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15 San Francisco, CA 94111  
Telephone: (415) 398-0900  
16 Facsimile: (415) 398-0911

17 *Counsel for Plaintiffs and the Proposed Class*

18 [Additional Counsel Listed on Signature Page]

19 SUPERIOR COURT OF CALIFORNIA

20 SAN FRANCISCO COUNTY

21 STEVE YOURKE AND KRISTIN  
22 RICHARDS, Individually and on behalf of All  
23 Others Similarly Situated,

24 Plaintiffs,

25 v.

26 BANK OF AMERICA, N.A., BANK OF  
27 AMERICA CORPORATION, BANK OF  
28 AMERICA, CALIFORNIA and DOES 1-50,

Defendants.

Case No. \_\_\_\_\_

CLASS ACTION

DECLARATION OF STEVE YOURKE

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I, Steve Yourke, hereby declare and state as follows:

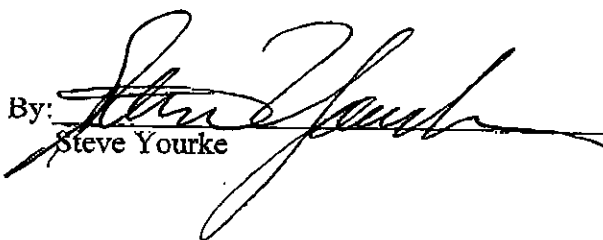
1. I am over the age of 18, and a Plaintiff in this action. The facts contained in this declaration are based on my personal knowledge, and if called upon to do so, I could and would testify competently hereto.

2. I have, at all times relevant hereto, resided in San Francisco County, California.

3. The Complaint in this action, filed concurrently with this declaration, is filed in the proper place for trial under Civil Code § 1780(d), because at all times relevant hereto, the Defendants have done and are doing business in this District, in San Francisco County, California.

I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct.

Executed on April 8, 2009, in San Francisco, CA.

By:   
Steve Yourke

# **EXHIBIT G**

LIEFF, CABRASER, HEIMANN & BERNSTEIN, LLP

ELIZABETH A. ALEXANDER  
PARTNER

ATTORNEYS AT LAW  
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SUITE 1650  
NASHVILLE, TENNESSEE 37219-2423  
TELEPHONE: (615) 313-9000  
FACSIMILE: (615) 313-9965  
mail@lchb.com  
www.lchb.com

SAN FRANCISCO  
NEW YORK

April 8, 2009

**VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED**

Bank of America Corporation  
Agent for Service of Process  
C T Corporation System  
818 West Seventh St  
Los Angeles, CA 90017

Bank of America, National Association  
Agent for Service of Process  
C T Corporation System  
818 West Seventh St  
Los Angeles, CA 90017

Janet W. Lamkin, President  
Bank of America California, NA  
555 California Street  
San Francisco, CA 94104

Re: Notice and Demand Letter Re: Bank of America Overdraft Fees

Dear Bank of America, NA, Bank of America Corporation, and Ms. Lamkin:

Together with our co-counsel, Phillips, Erlewine & Given, LLP and the National Consumer Law Center, we represent Steven Yourke and Kristin Richards. Pursuant to the California Consumer Legal Remedies Act ("CLRA"), California Civil Code § 1750, *et seq.* (specifically, §§ 1782(a)(1) and (2)), Ms. Richards and Mr. Yourke, on behalf of themselves and all other similarly situated consumers in California (collectively, the "Class"), through their undersigned counsel, hereby notify you that Bank of America, N.A., Bank of America Corporation, and Bank of America California N.A. (collectively, "Bank of America") are alleged to have violated the CLRA by making deceptive misrepresentations in connection with its banking services, by representing that its banking services have characteristics, uses or benefits which they do not have, by representing that its services confer or involve rights, remedies or obligations which they do not have or which are prohibited by law, and by including unconscionable provisions in its Deposit Agreement and other account documents.

Specifically, Bank of America charged Plaintiffs and Class members with overdraft fees for point of sale or automatic teller machine transactions at times when they had

funds available in their accounts but for the manipulation of the transactions by the bank. Bank of America further failed to give the Plaintiffs and Class members the right to opt-out of the overdraft program entirely, failed to notify them, adequately or at all, that they had the right to opt-out of the overdraft program entirely, and failed to alert them at the time of the overdraft transaction that they would incur a fee as the result of the transaction. We hereby demand that Bank of America correct its unlawful practices and refund the unlawful fees it has charged to Plaintiffs and Class members within thirty (30) days from your receipt of this letter.

Mr. Yourke is a resident of San Francisco, California. He opened a checking account with Bank of America in or around 2002 and was issued a check card with the opening of the account. Since that time, Mr. Yourke has been charged thousands of dollars in overdraft fees as the result of check card transactions, some of which were incurred when he should have had sufficient funds in his account to cover the transactions. When Mr. Yourke attempted to opt-out of the overdraft scheme, he was told on several occasions by Bank of America that he could not do so. He was never informed at the time of any transaction that he would be charged a fee as a result of the transaction.

Ms. Richards is a resident of Citrus Heights, California. She opened a checking account with Bank of America in or around 2008 and was issued a check card with the opening of the account. Since that time, Ms. Richards has been charged hundreds of dollars in overdraft fees as the result of check card and ATM transactions, some of which were incurred when she should have had sufficient funds in her account to cover the transactions. Ms. Richards was never informed that she could opt-out of the overdraft scheme and was never informed at the time of any transaction that she would be charged a fee as a result of the transaction.

The unlawful overdraft fees have caused significant financial consequences for our clients and consumers in California.

Bank of America's misrepresentations and its active concealment of and failure to disclose the true nature of the checking account agreement constitute the following violations of the CLRA:

1. Bank of America has made deceptive representations in connection with the services in question (§ 1770(a)(5) and (14));
2. Bank of America has represented that its services have characteristics, uses or benefits that they do not have (§ 1770(a)(5));
3. Bank of America has represented that its services confer or involve rights, remedies or obligations which they do not have, or which are prohibited by law (§ 1770(a)(14)); and
4. Bank of America's Deposit Agreement and other related documents include unconscionable provisions (§ 1770(a)(19)).

April 8, 2009

Page 3

Pursuant to §1782 of the CLRA, and based on the foregoing, we hereby demand that within thirty (30) days of receiving this letter, Bank of America agree to refund any unwarranted overdraft fees charged to Plaintiffs and others like them.

Please be advised that should Bank of America refuse this demand, Mr. Yourke and Ms. Richards will seek monetary damages for themselves and the Class, as well as an award of injunctive relief, restitution, punitive damages, attorneys' fees and costs, and any other relief a court deems proper.

If you have any questions regarding this notice and demand, feel free to contact me at (615) 313-9000.

Very truly yours,

A handwritten signature in black ink that reads "Beth Alexander". The signature is written in a cursive, flowing style.

Elizabeth A. Alexander

EAA:sp

cc: Michael W. Sobol  
Roger Heller  
Nicholas A. Carlin  
David M. Given  
Charles Delbaum

792054.1

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Bank of America, National Association  
 Agent for Service of Process  
 C T Corporation System  
 818 West Seventh St  
 Los Angeles, CA 90017

2. Article Number

(Transfer from service label)

7007 2560 0001 1026 7938

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X

- Agent
- Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type

- Certified Mail  Express Mail
- Registered  Return Receipt for Merchandise
- Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)

Yes

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

UNITED STATES POSTAL SERVICE



First-Class Mail  
 Postage & Fees Paid  
 USPS  
 Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

LIEFF, CABRASER, HEIMANN & BERNSTEIN LLP  
 EMBARCADERO CENTER WEST  
 275 BATTERY STREET, 30TH FLOOR  
 SAN FRANCISCO, CA 94111-3339

7007 2560 0001 1026 7938

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS. FOLD AT DOTTED LINE.

**CERTIFIED MAIL™**



7007 2560 0001 1026 7938

U.S. Postal Service™

**CERTIFIED MAIL™ RECEIPT**

(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at [www.usps.com](http://www.usps.com)

**OFFICIAL USE**

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Postmark Here

Sent To

CT Corporation System  
 Street, Apt. No.,  
 or PO Box No. 818 W. 7th St  
 City, State, ZIP+4 Los Angeles CA 90017

PS Form 3800, August 2006

See Reverse for Instructions



**SENDER: COMPLETE THIS SECTION**

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- Attach this card to the back of the mailpiece, or on the front if space permits.

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Janet W. Lamkin, President  
Bank of America California, NA  
555 California Street  
San Francisco, CA 94104

2. Article Number

(Transfer from service label)

7007 2560 0001 1026 7945

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X

Agent

Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1?  Yes

If YES, enter delivery address below:  No

3. Service Type

Certified Mail

Express Mail

Registered

Return Receipt for Merchandise

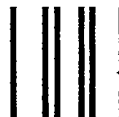
Insured Mail

C.O.D.

4. Restricted Delivery? (Extra Fee)

Yes

UNITED STATES POSTAL SERVICE



First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

LIEFF, CABRASER, HEIMANN & BERNSTEIN LLP  
EMBARCADERO CENTER WEST  
275 BATTERY STREET, 30TH FLOOR  
SAN FRANCISCO, CA 94111-3339

7007 2560 0001 1026 7945

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**CERTIFIED MAIL™**



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**OFFICIAL USE**

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Postmark  
Here

Sent To Bank of America CA  
Street, Apt. No.,  
or PO Box No. 555 California St.  
City, State, ZIP+4 San Francisco CA 94104

PS Form 3800, August 2006

See Reverse for Instructions

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Bank of America Corporation  
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 C T Corporation System  
 818 West Seventh St  
 Los Angeles, CA 90017

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  
 Addressee  
**X**

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type

Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

2. Article Number  
 (Transfer from service label)

7007 2560 0001 1026 7952

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540



Postage & Fees Paid  
 USPS  
 Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

LIEFF, CABRASER, HEIMANN & BERNSTEIN LLP  
 EMBARCADERO CENTER WEST  
 275 BATTERY STREET, 30TH FLOOR  
 SAN FRANCISCO, CA 94111-3339

7007 2560 0001 1026 7952

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

**CERTIFIED MAIL™**



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 7007 2560 0001 1026 7952

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**OFFICIAL USE**

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Postmark  
 Here

Sent To C T Corporation System  
 Street, Apt. No. or PO Box No. 818 W. 7th St  
 City, State, ZIP+4 Los Angeles CA 90017

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