

**CERTIFIED FOR PUBLICATION**

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

CARLYN D. JOHNSON et al.,

Plaintiffs and Appellants,

v.

CAPITAL ONE BANK,

Defendant and Respondent.

B169516

(Los Angeles County  
Super. Ct. No. BC284627)

ORDER MODIFYING OPINION  
AND DENYING REHEARING  
[NO CHANGE IN JUDGMENT]

THE COURT:\*

It is ordered that the opinion filed herein July 21, 2004, be modified as follows:

1. On page 7, the first sentence of the first full paragraph is deleted and the following sentence is inserted in its place:

While the assessment of late fees and finance charges in a manner inconsistent with the cardmember agreements may be a breach of contract, it would also, if proven, constitute a violation of the provisions of TILA and Regulation Z.

2. Throughout the opinion, wherever the name "Capitol One" appears, it should be changed to: Capital One.

There is no change in the judgment.  
Appellants' petition for rehearing is denied.

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\*EPSTEIN, Acting P.J., CURRY, J.