

Ropers Majeski Kohn & Bentley
A Professional Corporation
San Francisco

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10 Attorneys for Defendant
11 CHASE BANK USA, N.A.

12 UNITED STATES DISTRICT COURT
13 FOR THE NORTHERN DISTRICT OF CALIFORNIA

14 LARRY MONTGOMERY,
15 Plaintiff,

16 v.

17 CHASE BANK USA, NATIONAL
18 ASSOCIATION an FDIC insured
19 corporation and DOES 1 through 100
20 inclusive,

21 Defendants.

CASE NO. 3:12-cv-02455-CRB

**STIPULATION TO CONSOLIDATE
RELATED CASES**

22 LARRY MONTGOMERY,
23 Plaintiff,

24 v.

25 CHASE BANK USA, NATIONAL
26 ASSOCIATION an FDIC insured
27 corporation and DOES 1 through 100
28 inclusive,

Defendants.

CASE NO. 4:12-cv-02611-CRB

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1 Plaintiff Larry Montgomery and Defendant Chase Bank USA, N.A., hereby stipulate as
2 follows:

3 WHEREAS, on April 12, 2012, an action was commenced in the Superior Court for the
4 State of California, County of Alameda, entitled *Larry Montgomery v. Chase Bank USA, National*
5 *Association*, Case No. HG12625388 (“Montgomery I”). Montgomery I alleged violations of the
6 Fair Credit Reporting Act, 15 U.S.C. §1681s-2(b), the California Song-Beverly Credit Card Act
7 of 1971, Cal. Civ. Code §1741, the California Consumer Credit Reporting Act, Cal. Civ. Code
8 §1785.25(a) and the California Business & Professions Code §17200. Montgomery I also
9 asserted causes of actions for libel, intentional and negligent infliction of emotional distress,
10 deceit, and constructive fraud. Montgomery I was based on Chase’s allegedly inaccurate credit
11 reporting to credit reporting agency Experian of plaintiff’s Chase credit card account, number
12 “541657496919.” On May 15, 2012, Chase removed Montgomery I to this Court on subject
13 matter jurisdiction (plaintiff alleged violations of the federal Fair Credit Reporting Act).

14 WHEREAS, on April 16, 2012, a second action was commenced by Larry Montgomery in
15 the Alameda County Superior Court, Case No. HG12625861 (“Montgomery II”), against the
16 same defendant, Chase Bank USA, N.A., alleging the exact same causes of action, relating to the
17 exact same Chase credit card account, number “541657496919.” The difference being that
18 Montgomery I related to Chase’s allegedly inaccurate credit reporting to Experian, while
19 Montgomery II related to Chase’s allegedly inaccurate credit reporting to Equifax. The lawsuits
20 are otherwise identical. On May 21, 2012, Chase removed Montgomery II to this Court on
21 subject matter jurisdiction.

22 WHEREAS, pursuant to Chase's administrative motion to relate cases, this Court related
23 Montgomery I and Montgomery II on June 13, 2012.

24 WHEREAS, the factors to be considered in consolidating cases are :

- 25 1. Risk of delaying trial: consolidation may be denied where the cases involved are at
26 different stages of preparedness for trial. *Mills v. Beech Aircraft Corp.*, 886 F.2d
27 758, 762 (5th Cir. 1989);
- 28 2. Risk of prejudice and confusion: the risk of prejudice and confusing the jury from

1 consolidating separate cases must be weighed against the risk of inconsistent
2 adjudications if they are not consolidated. *Cantrell v. GAF Corp.*, 999 F.2d 1007,
3 1011 (6th Cir. 1993); *Malcolm v. National Gypsum Co.*, 995 F.2d 346, 350 (2nd
4 Cir. 1993).

- 5 3. Burden on parties, witnesses, and judicial resources: at a time will be required in
6 trying multiple lawsuits consolidated for trial with greater inconvenience and
7 expense to all concerns. *Johnson v. Celotex Corp.*, 899 F. 2d. 1281, 1285 (2nd Cir.
8 1990).

9 WHEREAS, here, the above factors favor consolidation for the following reasons:

- 10 1. The actions were commenced within four days of each other and removed to this
11 Court within seven days of each other. Plaintiff filed an amended complaint in
12 both actions on June 11, 2012. The actions are therefore at the same stage of
13 preparedness for trial.
- 14 2. As set forth in Chase's administrative motion to relate cases, and confirmed by the
15 Court's order relating cases, both actions involve the same plaintiff, the same
16 defendant, and the same subject credit card accounts, the sole difference being that
17 Montgomery I related to Chase's allegedly inaccurate reporting to Experian, while
18 Montgomery II related to Chase's allegedly inaccurate reporting to Equifax. There
19 is therefore no risk of prejudice or confusing the jury by consolidating the cases
20 and there is a risk of inconsistent adjudication if the matters are not consolidated.
- 21 3. Because Montgomery I and Montgomery II concern the same plaintiff and the
22 same defendant, and allege the same causes of action relating to the same credit
23 card account, it would be an unnecessary burden on the parties, witness, and the
24 available judicial resources to try two separate lawsuits, which would also involve
25 the risk of inconsistent adjudications.

26 IT IS HEREBY STIPULATED by and between plaintiff Larry Montgomery and
27 defendant Chase Bank USA, N.A. that Montgomery I and Montgomery II should be consolidated.
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Dated: June 15, 2012

SAGARIA LAW, P.C.

By: /s/ Elliot W. Gale

SCOTT I. SAGARIA
ELLIOT W. GALE
Attorneys for Plaintiff
LARRY MONTGOMERY

Dated: June 15, 2012

ROPER, MAJESKI, KOHN & BENTLEY, PC

By: /s/ Wendy C. Krog

GEORGE G. WEICKHARDT
WENDY C. KROG
Attorneys for Defendant
CHASE BANK USA, N.A.

~~PROPOSED~~ ORDER CONSOLIDATING CASES

The parties having stipulated, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED, that:

Larry Montgomery v. Chase Bank USA, National Association, Case No. 3:12-cv-02455-

CRB, and

Larry Montgomery v. Chase Bank USA, National Association, Case No. 4:12-cv-02611-

CRB

ARE HEREBY CONSOLIDATED for all purposes, including trial.

SO ORDERED.

DATED: July 16, 2012

THE HONORABLE
U.S. DISTRICT JUDGE

