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6 Attorneys for Defendant
 Capital One Bank (erroneously sued
 7 as Capital One Services, Inc.)

8 UNITED STATES DISTRICT COURT
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 10 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

11 DICK NEWMAN, ANN NEWMAN, AND THE
 12 CLASS OF PERSONS SIMILARLY
 SITUATED,

13 Plaintiffs,

14 vs.

15 CAPITAL ONE SERVICES, INC.; TRANS
 16 UNION LLC; EQUIFAX, INC.;
 17 EXPERIAN SERVICES CORP.; BANK OF
 AMERICA CORPORATION; JPMORGAN
 CHASE & CO.; MBNA MARKETING
 18 SYSTEMS, INC.; DISCOVER FINANCIAL
 SERVICES, INC.; FIRST USA BANK, A
 19 BANK ONE COMPANY; CAVALRY
 PORTFOLIO SERVICES, LLC; DAVID A.
 20 BAUER,

21 Defendants.

No.: C05-05409 JW HRL

The Honorable James Ware

**[PROPOSED] ORDER GRANTING
 DEFENDANT CAPITAL ONE BANK'S
 MOTION TO DISMISS PLAINTIFFS'
 COMPLAINT**

Date: May 18, 2006
 Time: 9:00 a.m.
 Place: Courtroom 8

REED SMITH LLP
 A limited liability partnership formed in the State of Delaware

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1 The Court has reviewed Defendant Capital One Bank's ("Capital
2 One") Motion to Dismiss the Complaint filed by Plaintiffs Dick
3 Newman and Ann Newman and all opposition and supporting papers.
4 Good cause appearing therefore, the Court hereby grants Capital
5 One's Motion to Dismiss in its entirety, and dismisses, with
6 prejudice, Plaintiff's first, second, third, fourth, fifth, sixth,
7 and seventh causes of action, respectively, for: (1) libel;
8 (2) breach of contract; (3) fraud; (4) purported violations of the
9 federal Fair Credit Reporting Act; (5) purported violation of the
10 Equal Credit Opportunity Act; (6) purported violation of the
11 California Fair Debt Collection Practices Act; and (7) intentional
12 infliction of emotional distress.

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14 Dated:

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16 The Honorable James Ware
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