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Counsel for Plaintiff and the Putative Class

MARK CAVE, individually and as a representative of the Class, Plaintiff, v. KLOVER HOLDINGS INC., Defendant.	PHILADELPHIA COUNTY COURT OF COMMON PLEAS TRIAL DIVISION CLASS ACTION Case No. **JURY TRIAL DEMANDED**

COMPLAINT – CLASS ACTION

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after the complaint and notice are served by entering a written appearance personally or by attorney, and by filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

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PHILADELPHIA BAR ASSOCIATION
Lawyer Referral and Information Service
1101 Market Street, 11th Floor
Philadelphia, Pennsylvania 19107
(215) 238-1701

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguentes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta asentar una comparencia escrita o en persona o con un abogao y entregar a la corte en forma escrita sus defenses o sus objecoines a las demandas en contra de su persona. Sea avisado que si usted no se defiende la corte tomara medidas y puede continuar la demandaen contra suya sin previo aviso o notificacion. Ademas la corte puede decidira favor del demandante y require que usted cumplacon todas las provisiones de esta demanda. Usted puede perder dinero or sus propriedades u otros derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA O LLAME POR TELEFONOA LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE.

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Plaintiff Mark Cave ("Plaintiff"), individually and on behalf of all others similarly situated, brings this action against Klover Holdings Inc. ("Defendant"):

I. NATURE OF THE ACTION

1. This action concerns a cash advance product that Defendant offers in Philadelphia.

2. Defendant charges fees to obtain compensation for offering this product.

3. These fees cost the equivalent of a loan with an annual percentage rate ("APR") of 500%, 1,000%, or more, which makes it difficult for borrowers to pay their bills, and which greatly increases the chance that borrowers will overdraft their bank account.

4. These charges are illegal because they greatly exceed the lawful 6% rate established by Pennsylvania law. 41 P.S. § 201(a); 7 P.S. § 6203.A.

5. Plaintiff brings this action, on behalf of himself and the class defined below, and seeks to recover the unlawful fees that Defendant has charged.

II. JURISDICTION AND VENUE

6. The Court has subject matter jurisdiction under 42 Pa. C.S. § 931.

7. The Court has personal jurisdiction over Defendant under 42 Pa. C.S. § 5301.

8. Venue is proper under Pa. R. Civ. P. 2179 because Defendant regularly conducts business in this County, this is the County where a cause of action arose, and this is the County where a transaction or occurrence took place out of which a cause of action arose.

III. PARTIES

9. Mark Cave is a person residing in Philadelphia County, Pennsylvania.

10. Defendant is a technology company headquartered in Cook County, Illinois.

11. Defendant is not a bank and is not licensed under any Pennsylvania statute.

12. Defendant makes loans or advances to Pennsylvania consumers over the internet.

IV. FACTUAL ALLEGATIONS

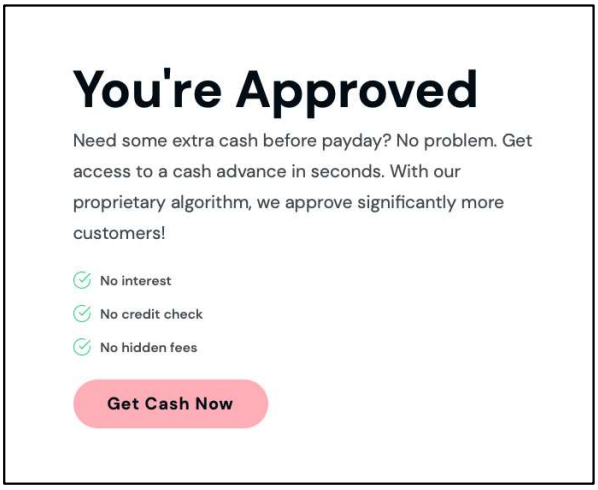
A. *Defendant Offers A Cash Advance Product That Is Advertised As Providing Borrowers With Instant Access To Cash*

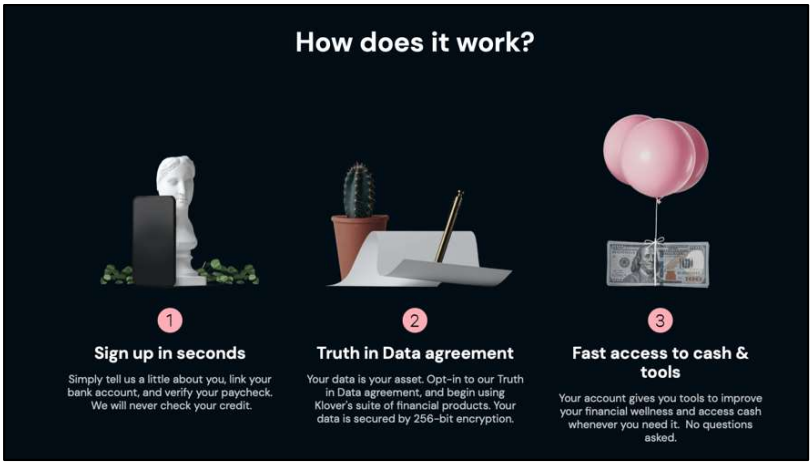
13. Defendant offers a cash advance product to Philadelphia residents over the internet through a lending app called "Klover."

14. This product provides borrowers with up to $200 in cash advances per pay period.

15. Defendant advertises its product as a solution to borrowers who need quick access to cash to cover surprise expenses or pay time-sensitive obligations.

16. For example, Defendant represents that its product allows borrowers to access cash "instantly," within "seconds," or "whenever [they] need it."





B. *Defendant Expects Borrowers To Pay Money To Obtain Its Cash Advance Product*

17. Defendant's goal in offering Philadelphia residents cash advances, like every other lender, is to obtain compensation for lending money.

18. Defendant accomplishes this goal in three ways: (i) by charging an express fee to use cash advances for their advertised and intended purpose; (ii) by requesting borrowers to pay a "tip" charge; and (iii) by requiring borrowers to enroll in a paid monthly membership plan in order to begin using the Klover app to obtain cash advances.

19. Defendant expects borrowers to pay its express fees, "tip" charges, and monthly membership fees, and Defendant structured its cash advance product to ensure most borrowers pay these charges.

i. *Defendant's Express Fee*

20. Defendant ensures borrowers pay its express fee by requiring borrowers to pay this charge to use Defendant's cash advance product for its advertised and intended purpose—as an instant source of cash.

21. The cost of this charge has ranged from $1.49 and $20.78.

22. If a borrower does not pay this charge, they cannot obtain the advertised version of Defendant's cash advance product, and they cannot use the product for its intended purpose.

23. Instead, such borrowers obtain an inferior version of Defendant's product, which provides access to cash days after a request is made, and which cannot be used to pay time-sensitive obligations or cover surprise expenses.

24. Defendant's express fee does not cover the actual cost of providing any service, as it costs little to nothing to advance money instantly; instead, this charge is imposed solely to obtain compensation for lending money.

25. Since the express fee must be paid to use cash advances for their advertised purpose, virtually every borrower pays this charge.

26. Indeed, Pennsylvania's Attorney General recently signed onto a letter recognizing that the payment of express fees, "in practice, . . . may be unavoidable," as cash advance borrowers "often need cash quickly." *See* Andrea Joy Campbell, Attorney General of Massachusetts, Letter to Consumer Financial Protection Bureau ("CFPB"), p. 2 (Aug. 30, 2024) (attached as Exhibit A).

27. That letter also characterized the practice of soliciting express fees as "particularly concerning." *Id.*

ii. *Defendant's "Tip" Charge*

28. Defendant ensures borrowers pay its "tip" charge through deception.

29. Defendant's "tip" charge, just like the express fee, is solely intended to compensate Defendant for lending money.

30. A charge that is solely intended to compensate a corporation for lending money is commonly understood as an "interest" charge. *See Interest*, Black's Law Dictionary (3d ed. 1933) ("Interest is the compensation allowed by law or fixed by agreement by the parties for the use . . . of money."); *Interest*, Black's Law Dictionary (7th ed. 1999) (defining "interest" as "compensation fixed by agreement or allowed by law for the use . . . of money").

31. But Defendant does not truthfully label this charge as an "interest" charge; instead, Defendant misleadingly and falsely labels this charge as a "tip," in a transparent attempt to mislead borrowers into paying this charge.

32. Unlike an actual "tip," which goes to a delivery driver, a server, or some another hourly worker trying to make ends meet, Defendant's "tip" compensates a large and well-funded corporation for lending money.

33. Borrowers often pay Defendant's "tip" charge because they are misled to believe that they are helping needy persons (rather than a large, well-funded corporate lender), or because they are misled to believe that payment is expected or necessary.

34. Defendant's deceptive labeling tactic works, as many borrowers agree to pay a "tip" charge, even though the charge is allegedly voluntary. *See, e.g.*, California Department of Financial Protection and Innovation, 2021 Earned Wage Access Data Findings, pp. 1, 7 (2023) (attached as Exhibit B) (finding close to 75% of borrowers pay "tips" when cash advance apps request them).

35. Pennsylvania's Attorney General agrees that the solicitation of "tips" is a "troubling feature" of cash advance apps, and that this practice has a "strong tendency to mislead consumers." *See* Exhibit A, p. 2.

36. Additionally, Pennsylvania's Attorney General recently took action against another cash advance provider for soliciting "tips." *See Commw. of Pa. v. Solo Funds, Inc.*, No. 240700170 (C.P. Phila. 2024) (attached as Exhibit C).

iii. *Defendant's Monthly Membership Fee*

37. Like its "tip" charge, Defendant ensures borrowers pay its monthly membership fee through deception.

38. This fee, like Defendant's express fee and "tip" charge, is intended to compensate Defendant for lending money.

39. As a condition of receiving a cash advance, borrowers are required to enroll, or are automatically enrolled, in a monthly membership plan.

40. Borrowers enrolled in this plan are charged a $4.99 monthly membership fee.

41. Given this structure, borrowers reasonably believe that this fee is required to obtain a cash advance.

42. And because of that belief, this structure ensures that most borrowers will continue to pay this charge.

C. *Defendant Expects Borrowers To Repay Its Cash Advance Product*

43. Like every other lender, Defendant expects borrowers to repay its cash advances.

44. To ensure it will obtain repayment, Defendant requires borrowers, as a condition of receiving an advance, to link their bank accounts to the Klover app, and to authorize Defendant to debit the principal amount of a cash advance, with any fees that a borrower agrees to pay, from the borrower's linked bank account on payday.

45. And to ensure that the linked bank account will have sufficient funds to satisfy the automatic account debits that Defendant requires borrowers to agree to as a condition of receiving an advance, Defendant requires borrowers to have employers that pay them regularly, and to link the bank account into which paychecks are deposited to the Klover app.

46. Defendant performs a proprietary credit check on borrower accounts before issuing a cash advance to ensure that the account will have sufficient funds to satisfy the automatic bank account debits that Defendant requires borrowers to authorize Defendant to initiate as a condition of receiving a cash advance.

47. Defendant will not issue advances unless it believes it will be able to automatically deduct the sum of an advance (the loan principal), plus any additional charges (including express fees, tips, and monthly fees), from the linked account as soon as the borrower's employer deposits the borrower's next paycheck.

48. The requirements Defendant imposes on borrowers as a pre-condition to obtaining its cash advance product ensure that Defendant obtains repayment on virtually every cash advance that Defendant issues.

49. Furthermore, borrowers do not agree to pay Defendant's express fee, "tip" charge, or monthly membership fee after they obtain or receive a cash advance; instead, they are required to agree to pay these charges before advances are issued.

50. The agreement to pay these charges is incorporated into the automatic account debit rights Defendant obtains as a condition of issuing an advance, and Defendant debits those amounts on the borrowers' next payday.

51. For example, a borrower that obtains a $100 cash advance and that agrees to pay a $10 tip and a $12 express fee, must also agree, as a condition of receiving the advance, to authorize Defendant to automatically deduct $122 from their linked bank account immediately after their employer deposits a paycheck on payday.

52. In other words, the borrower basically assigns $122 of their wages to Defendant in return for a $100 cash advance.

53. Accordingly, Defendant's cash advance product is nothing more than a loan that is secured by a borrower's wages.

54. This type of credit product is commonly called a "payday loan."

D. *Defendant's Cash Advances Violate Pennsylvania Law*

55. The term "payday loan" refers to a short-term, high-cost form of lending, requiring consumers to repay small dollar loans on their next payday. *See Dep't of Banking v. NCAS of Del., LLC*, 948 A.2d 752, 754 (Pa. 2008) ("Payday loans are short-term, high-interest-or-fee loans that are generally secured by a post-dated check or a debit authorization executed by the borrower and, subsequently, presented by the lender after a predetermined period, usually set to two weeks to coincide with the borrower's payday.").

56. This form of lending first originated in the late 1800s, with its defining feature being the varying devices that lenders have created to evade the law.

57. Historically, payday lending took the form "wage buying," where lenders would claim they were buying earned wages, even though they were actually loaning money at excessive rates. *See USA Payday Cash Advance Ctrs. v. Oxendine*, 585 S.E.2d 924, 926 (Ga. Ct. App. 2003) (citing *Gunnels v. Atlanta Bar Assoc.*, 12 S.E.2d 602 (Ga. 1940), and *Hinton v. Mack Purchasing Co.*, 155 S.E. 78 (Ga. Ct. App. 1930)); *see also* F.B. Hubachek, *The Development of Regulatory Small Loan Laws*, 8 LAW & CONTEMP. PROB. 108, 120-21 (1941).

58. Pennsylvania prohibited wage buying at common law. *See* Department of Banking, Report on Small Loan Companies, p. 11 (1937) (attached as Exhibit D).

59. Pennsylvania's current usury laws also prohibit this device, and subject the practice to usury restrictions. *See* 7 P.S. § 6218.

60. Over the years, payday lending has resurfaced in varying forms—some lenders use banks to issue loans and repurchase the loans for themselves, attempting to hide under the banks' charter to charge excessive fees, *see, e.g.*, *Ga. Cash Am. v. Greene*, 734 S.E. 2d 67 (Ga. Ct. App. 2012); other lenders describe transactions as "sale/leasebacks," whereby consumers purportedly sell personal property and lease it back for a fee, *see, e.g.*, *Clay v. Oxendine*, 645 S.E.2d 553 (Ga. Ct. App. 2007); and yet other lenders described transactions as "deferred presentments," whereby lenders advance cash to borrowers in return for a post-dated check for the amount of the advance and a fee, which the borrower agrees the lender may cash on payday, *see, e.g.*, *Crawford v. Great Am. Cash Advance*, 644 S.E.2d 522 (Ga. Ct. App. 2007).

61. No matter what form payday lending may take, Pennsylvania intends for its usury statutes to apply to and prevent this practice. *See Hartranft v. Uhilinger*, 8 A. 244, 246 (Pa. 1887)

("[I]t is . . . wholly immaterial under what form or pretence usury is concealed, if it can by any means be discovered our courts will refuse to enforce its payment"); *NCAS*, 948 A.2d at 761 n.11 (quoting *Richman v. Watkins*, 103 A.2d 688, 691 (Pa. 1954)) ("[U]sury is generally accompanied by subterfuge of one kind or another to present the color of legality.").

62. Pennsylvania outlaws payday lending (no matter its form) because the excessively high costs associated with this form of lending leave holes in paychecks, which can create a cycle of reborrowing, where borrowers take out new loans to fill the gaps created by old loans. *See, e.g.*, Center for Responsible Lending, A Loan Shark in Your Pocket: The Perils of Earned Wage Access, pp. 6-8 (Oct. 2024) (attached as Exhibit E) (analyzing 214,093 cash advance transactions for the Klover app and similar cash advance apps, finding many borrowers fall into reborrowing cycles after using these apps, and finding cash advance app lenders make their money on borrowers that are trapped in reborrowing cycles); Not Free: The Large Hidden Costs of Small-Dollar Loans Made Through Cash Advance Apps, pp. 5-12 (April 2024) (attached as Exhibit F) (analyzing 37,826 transactions and making similar findings).[1]

[1] *See also* Paulina Cachero, *Popularity of Apps for Early Paydays Masks Added Risks*, Bloomberg (July 29, 2023), https://www.bloomberg.com/news/articles/2023-06-29/know-the-risks-before-using-cash-advance-apps-like-earnin-dailypay (interviewing borrower who "found himself trapped in a constant loop or borrowing," and felt he had "completely lost control of the situation, with no way to work it out"); Cyrus Farivar, *Millions use Earnin to get cash before payday. Critics say the app is taking advantage of them*, NBC News (July 26, 2019), https://www.nbcnews.com/tech/internet/millions-use-earnin-get-cash-payday-critics-say-app-taking-n1034071 (interviewing borrower who described a cash advance app as a "vicious cycle," and who "had no money" after paying tips and fees); Sidney Fussell, *The New Payday Lender Looks a Lot Like the Old Payday Lender*, The Atlantic (Dec. 18, 2019), https://www.theatlantic.com/technology/archive/2019/12/online-banking-lending-earnin-tip/603304/ (interviewing borrower who fell into a "cycle of get paid and borrow, get paid and borrow").

63. This cycle of reborrowing erodes the paychecks of borrowers, which prevents them from saving money for their families, and prevents the financially vulnerable from improving their situation and moving out of debt.

64. This cycle of reborrowing also makes it more likely that consumers will be subject to additional charges or fees, like bank overdraft fees, which further erodes the financial stability of cash advance app users. *See, e.g.*, Exhibit E, pp. 8-9; Exhibit F, pp. 6-7.

65. To prevent the harms caused by short-term, high-cost loans, Pennsylvania prohibits lenders from receiving any interest, fee, or other charge that exceeds the equivalent of a 6% simple interest loan. *See Cash Am. Net of Nev., LLC v. Dep't of Banking*, 8 A.3d 282, 285-86 (Pa. 2010) (unlicensed entities, such as Klover, are "bound by the 6% cap"); *see also* 7 P.S. § 6203.A; 41 P.S. § 201(a).

66. Defendant's cash advances far exceed the lawful rate, as the express fees, monthly membership fees, and "tip" charges that Defendant receives uniformly cost the equivalent of a loan with a 100% annual percentage rate ("APR"), and often cost the equivalent of a loan with a 500%, 1,000%, or even higher APR.

67. Further, Defendant's cash advance product is nothing more than the newest attempt by the payday lending industry to evade usury restrictions.

68. For example, identical to a payday loan, Defendant's cash advance product is short in term (generally two weeks or less) and high in cost (APRs often cost 100%, 200%, 300%, 400%, or more).

69. Moreover, Defendant's cash advance product, just like a payday loan, is secured by "a debit authorization executed by the borrower and, subsequently, presented by [Defendant] . . . [on] the borrower's payday." *NCAS of Del., LLC*, 948 A.2d at 754.

70. Accordingly, regardless of how Defendant has structured its cash advance product, there is no question that the product is a payday loan, which means the product is plainly unlawful under Pennsylvania law.

E. *Plaintiff's Experience With Cash Advances From Defendant*

71. Plaintiff obtained cash advances from Defendant.

72. Plaintiff used the cash advances for personal, family, and/or household purposes.

73. Plaintiff paid charges on the cash advances that cost the equivalent of loans with an APR in the triple digits.

74. For example, Plaintiff paid a $9.99 express fee to obtain a $75.00 advance, which was to be repaid within 7 days, which yielded a 694.54% APR.

75. Plaintiff also paid a $4.99 monthly fee to access the cash advance service provided on the Klover app.

76. When this charged is included in the APR calculation, the APR of Plaintiff's loan increases to 1,041.47%.

77. Plaintiff downloaded and used the Klover app solely to obtain cash advances.

78. Plaintiff has not used the Klover app for any purpose other than to obtain advances.

79. Plaintiff believed paying the monthly fee was mandatory to obtaining an advance.

V. CLASS ACTION ALLEGATIONS

80. Plaintiff brings this action individually and on behalf of all others similarly situated under Rules 1702, 1708, and 1709 of the Pennsylvania Rules of Civil Procedure.

81. Plaintiff seeks to certify a class of: "All persons who reside in Philadelphia County and obtained an advance or loan from Defendant."

82. Plaintiff reserves the right to expand, narrow, or otherwise modify the class as the litigation continues and discovery proceeds.

83. Pa. R. Civ. P. 1702(1), 1708(a)(2): The class is so numerous that joinder of the class members is impracticable. Since each of the claims of the class members is substantially identical, and the class members request substantially similar relief, centralizing the class members' claims in a single proceeding likely is the most manageable litigation method available.

84. Fed. R. Civ. P. 23(a)(2), (b)(3): Plaintiff and the class members share numerous common questions of law and fact that will drive the resolution of the litigation and predominate over any individual issues. For example, there is a single common answer to whether Defendant's advances qualify as "loans" or "advances" under the relevant laws, and whether the fees Plaintiff paid qualify as "interest" or other amounts under the laws at issue. These common questions, and other common questions of law and fact, will predominate over individual questions, to the extent any individual questions exist.

85. Pa. R. Civ. P. 1702(3): Plaintiff's claims are typical of the claims of the class because the claims of Plaintiff and the class are based on the same legal theories and arise from the same conduct.

86. Pa. R. Civ. P. 1702(4), 1709: Plaintiff is an adequate representative of the class because the interests of Plaintiff and the class members align. Plaintiff will fairly, adequately, and vigorously represent and protect the interests of the class and has no interest antagonistic to the class. Plaintiff retained counsel who are competent and experienced in the prosecution of class action litigation generally and consumer finance and credit litigation specifically.

87. Pa. R. Civ. P. 1708(a)(3), (6), (7): Given the complexity and nature of the issues presented and the relief requested, the expense and time necessary to obtain such relief, and the

anticipated recovery and relief Plaintiff and the class members may obtain, the class action mechanism is by far the preferred and most efficient litigation mechanism to adjudicate the claims of Plaintiff and the class members. Additionally, requiring Plaintiff and the class members to file individual actions would impose a crushing burden on the court system and almost certainly lead to inconsistent judgments. Class treatment presents far fewer management difficulties and provides benefits of a single adjudication and economies of scale.

VI. CAUSES OF ACTION

COUNT I
Violation of the Consumer Discount Company Act
7 P.S. §§ 6201, *et seq.*

88. The CDCA applies to any person engaged "in the business of negotiating or making loans or advances." 7 P.S. § 6203.A.

89. Defendant clearly engages in this business, as its cash advance product falls within the commonly understood definition of "loan" or "advance." *See Loan*, Black's Law Dictionary (3d ed. 1933) (defining "loan" as a "sum of money confided in another"); *Advance*, Black's Law Dictionary (3d ed. 1933) (defining "advance" as a "loan or gift, or money advanced to be repaid conditionally").

90. Any person engaged in the business of negotiating or making "loans or advances" may not "charge, collect, contract for or receive interest, discount, bonus, fees, fines, commissions, charges, or other considerations which aggregate in excess of the interest that the lender would otherwise be permitted by law to charge if not licensed under this act on the amount actually loaned or advanced[.] 7 P.S. § 6203.A.

91. The first clause of this prohibition ("no person shall . . . charge, collect, contract for or receive interest, discount, bonus, fees, fines, commissions, charges, or other considerations") is called the "subject charge clause."

92. The second clause of this prohibition ("which aggregate in excess of the interest that the lender would otherwise be permitted by law to charge if not licensed under this act on the amount actually loaned or advanced") is called the "benchmark clause."

93. The "subject charge clause" is intended to identify the types of charges subject to the CDCA. *NCAS*, 948 A.2d at 760.

94. Defendant's express fee, "tip" charge, and monthly membership fee, fall within the types of charges subject to the CDCA because these charges plainly qualify as "interest," "bonus," fees," and/or "charges." *See Interest*, Black's Law Dictionary (3d ed. 1933) (defining "interest" as "compensation . . . fixed by agreement for the use . . . of money"); *Bonus*, Black's Law Dictionary (3d ed. 1933) (defining "bonus" as something "given in addition to what is ordinarily received by, or strictly due, the recipient," and recognizing that the "natural import" of "bonus" implies "a gift or gratuity"); *Fee*, Black's Law Dictionary (3d ed. 1933) (defining "fee" as the "compensation for a particular act or service"); *Charge*, Black's Law Dictionary (7th ed. 1999) (defining "charge" as "[p]rice, cost, or expense").

95. The benchmark clause is intended to set a benchmark against which subject charges may be assessed. *NCAS*, 948 A.2d at 760.

96. For an unlicensed entity, like Defendant, the benchmark clause prohibits charging, collecting, contracting for, or receiving any amounts that combine to create a cost greater than the equivalent of a loan with a 6% interest rate. *See Cash Am.*, 8 A.3d at 285-86.

97. Defendant assessed charges well in excess of the benchmark set by the CDCA since Defendant's express fees, "tip" charges, and monthly membership fees created costs equivalent to loans with interest rates of 500%, 1,000%, or more.

98. Finally, to the extent there is any question as to whether the CDCA applies, one of the CDCA's anti-evasion provisions confirms the statute's applicability.

99. "As usury is generally accompanied by subterfuge and circumvention of one kind or another to present the color of legality, it is the duty of the court to examine the substance of the transaction as well as its form" to determine whether a lender is engaged in usurious practices. *Simpson v. Penn Disc. Corp.*, 5 A.2d 796, 798 (Pa. 1939).

100. Courts are required to analyze the substance of a transaction to "protect the citizenry of this Commonwealth from being exploited at the hands of unscrupulous individuals seeking to circumvent the law at the expense of *unsuspecting* borrowers who may have no other avenue to secure financial backing." *NCAS*, 948 at 761 n.11 (quoting *Smith v. Mitchell*, 616 A.2d 17, 20 (Pa. Super. 1992)) (emphasis in original).

101. The CDCA generally incorporates this common law "anti-evasion" doctrine. *See* 7 P.S. §§ 6203.B, 6211.

102. The CDCA goes on to include more targeted provisions that are intended to outlaw specific evasion devices.

103. Section 6218 is relevant to this case, and states:

> "The payment of twenty-five thousand dollars ($25,000) or less, in money, credit, goods or things in action as consideration for any sale or assignment of, or order for, the payment of wages, salary, commissions or other compensation for services, whether earned or to be earned, shall, for the purposes of regulation under this act, be deemed a loan secured by such assignment, and the amount by which such assigned compensation exceeds the amount of such consideration actually paid shall for the purpose of regulation under this act, be deemed interest or charges upon such loan from the date of such payment to the date such compensation is

> payable. Such transactions shall be governed by and subject to the provisions of this act."

Id. § 6218.

104. Defendant's cash advance product is the exact type of transaction that § 6218 was designed to regulate—Defendant pays money to borrowers as consideration for authorization to automatically debit the borrower's linked bank account on payday, and that authorization includes the right to debit the principal amount of a cash advance, with any express fees, "tip" charges, or monthly membership fees that a borrower agrees to pay.

105. The excess between the consideration Defendant pays borrowers (*i.e.*, the principal amount of an advance), and the assigned compensation Defendant obtains authorization to debit (*i.e.*, the principal amount of the advance a borrower receives, and any fees a borrower agrees to pay) must be treated as "interest or charges" for purposes of § 6218.

106. And, as explained above, there is no question that Defendant's "interest or charges" exceed the benchmark 6% rate established by the CDCA.

107. Equitable relief is available to private parties under the CDCA for these types of overcharges. *See Mellish v. CACH, LLC*, No. 19-cv-01217, 2020 U.S. Dist. LEXIS 52383, at *7 (W.D. Pa. Mar. 26, 2020) ("If a private civil litigant seeks enforcement of the CDCA, the available remedy is equitable[.]").

108. Accordingly, the Court should issue an order: awarding restitution in the amount of any interest, fees, or other amounts that Defendant charged, collected, contracted for, or received in excess of 6%; and awarding attorneys' fees and costs.

COUNT II
Violation of the Loan Interest and Protection Law
41 P.S. §§ 101, *et seq.*

109. The LIPL allows a person that has paid interest or charges prohibited or in excess of those allowed by law to obtain triple the amount of such interest or charges against the person that collected the interest or charges. *See* 41 P.S. § 502.

110. As described above in Count I, Plaintiff paid interest or charges prohibited or in excess of those allowed by the CDCA. *See* 7 P.S. § 6203.A.

111. Moreover, Plaintiff paid interest or charges prohibited or in excess of the LIPL, as the LIPL only allowed Defendant to collect interest at a rate of 6%. *See* 41 P.S. § 201(a).

112. The LIPL provides for, among other things, damages, declaratory and injunctive relief, and attorneys' fees and costs. *Id.* §§ 501, 502, 503.

113. Accordingly, the Court should issue an order: awarding any excess interest, fees, or other charges collected by Defendant; awarding triple the amount of any excess interest, fees, or other charges collected by Defendant; and awarding attorneys' fees and costs.

VII. JURY TRIAL DEMANDED

Plaintiff requests a jury trial on all claims so triable.

VIII. DISCOVERY

Attached as Exhibit G is Plaintiff's First Set of Interrogatories and Requests for Production of Documents.

IX. PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for the following relief:

a. An order certifying the proposed class, appointing Plaintiff as representative of the proposed class, and appointing undersigned counsel as counsel for the proposed class;

b. An order awarding actual, statutory, treble, and all other damages available by law, along with pre- and post-judgment interest;

c. An order providing Plaintiff and the class members restitution for any interest, fees, or other charges that were paid to Defendant and that aggregated in excess of 6%; and

d. An order awarding attorneys' fees and costs;

Respectfully Submitted,

Dated: March 11, 2025

By: /s/ Kevin Abramowicz

Kevin Abramowicz
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