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12 **IN THE UNITED STATES DISTRICT COURT**
13 **FOR THE DISTRICT OF ARIZONA**

14 Christine Baker,

15 Plaintiff,

16 vs.

17 Capital One Bank; Capital One, F.S.B.; Capital
18 One Services, Inc.; Equifax Credit Information
19 Services; Retailers National Bank; Ameriquest
20 Mortgage Company; Panda Management, Inc.;
21 Anthony Ferlanti; Does 1-10,

22 Defendants.

NO. CV04-1192-PCT-NVW

**DEFENDANT CAPITAL ONE
BANK'S REPLY IN SUPPORT
OF ITS OBJECTION TO
PORTIONS OF PLAINTIFF'S
AFFIDAVIT**

(Assigned to Hon. Neil V. Wake)

23 Defendant Capital One Bank "Capital One" hereby replies in support of its
24 Objection to Portions of Plaintiff's Affidavit. Capital One's Objections are supported by
25 the following Memorandum of Points and Authorities.

26 DATED this 10th day of July, 2006.

27 QUARLES & BRADY STREICH LANG LLP
28 Renaissance One
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Phoenix, AZ 85004-2391

By s/Kathleen A. Biesterveld
Kevin D. Quigley
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Attorneys for Defendant Capital One Bank

1 full and complete expert disclosures passed on December 30, 2005, more than six months
2 ago. Ms. Baker's Affidavit should be struck for the additional reason that she failed to
3 comply with the disclosure requirements set forth in Rule 26.

4 Finally, even if Ms. Baker were an expert and had properly disclosed herself as
5 such in this case, the matters set forth in paragraphs 5 through 12, 17 through 19, 21 and
6 24 are not a proper use of expert testimony. Ms. Baker does not provide any reliable basis
7 for her "opinions" in paragraphs 5 through 9. Rather, the testimony in those paragraphs
8 are bald conclusions which she lacks foundation or personal knowledge to reach.

9 For the foregoing reasons, Capital One requests that the Court not consider
10 paragraphs 5 through 12, 17 through 19, 21 and 24 in deciding Capital One's Motion for
11 Summary Judgment.

12 DATED this 10th day of July, 2006.

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Phoenix, AZ 85004-2391

16 By s/Kathleen A. Biesterveld

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CERTIFICATE OF SERVICE

I hereby certify that on July 10, 2006, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

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s/ Kathleen A. Biesterveld