

FILED

IN THE DISTRICT COURT OF SEDGWICK COUNTY, KANSAS APP DOCKET NO.         

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CLERK OF DIST. COURT  
18<sup>TH</sup> JUDICIAL DISTRICT  
SEDGWICK COUNTY, KS

BY:         TB        

Case No.  
Ct. No.  
Chapter: 60

09CV0093

DISCOVER BANK, )  
 )  
 ( Plaintiff, )  
 )  
 vs. )  
 )  
 MILA L MEANS, MD, )  
 a.k.a. Mila L Means Holmes )  
 3020 E 101st St N )  
 Valley Center, Kansas 67147-9167 )  
 SSN: XXX-XX-5455 )  
 Or serve at place of employment: )  
 Dr Mila Meads )  
 551 N Hillside St Ste 250 )  
 Wichita, KS 67214 )  
 and )  
 ALVIN B HOLMES )  
 846 N Dellrose St )  
 Wichita, Kansas 67208 )  
 SSN: XXX-XX-8724 )  
 )  
 Defendants. )

PETITION ON A CREDIT CARD PURSUANT TO K.S.A. CHAPTER 60

COMES NOW Plaintiff, and for its cause of action against Defendants, states and alleges the following:

1. At Defendant's request, Plaintiff issued a credit card to Defendants for which Defendants agreed to pay Plaintiff for all purchases made, services rendered and cash advanced to or for Defendants (or any person authorized by Defendants to use the card) to obtain goods, services and advances on credit.

2. Pursuant to the credit card agreement, Plaintiff paid the various merchants and banks for Defendant's purchases and cash advances for which Defendants are obligated to repay Plaintiff.

3. Defendants have not notified Plaintiff or Plaintiff's predecessor of any unresolved billing errors.

4. After giving Defendants credit for all payments and setoffs, there remains due \$13,018.87, together with interest at the rate of 10.25% per annum from the date of judgment.

5. Defendants have failed to timely repay Plaintiff, and thus, Defendants have breached its agreement.

6. Pursuant to the credit card agreement, Plaintiff is entitled to reasonable attorney's fees in the event this account is turned over to an attorney for collection. In this instance, a reasonable attorney's fee is \$1,952.83.

WHEREFORE, Plaintiff prays judgment against Defendants in the principal sum of \$13,018.87, with reasonable attorney's fees of \$1,952.83, together with interest at the rate of 10.25% per annum from the date of judgment, and for costs herein.

COHEN MCNEIL & PAPPAS P.C.

By: 

James M. McNeile #13044  
Richard Milone #22924  
4601 College Boulevard, Suite 200  
Leawood, Kansas 66211  
(913)469-2958 Fax: (913)312-3137  
Toll Free: (877)811-CMPS (2677)  
ATTORNEYS FOR PLAINTIFF

**NOTICE**

This communication is from a debt collector and is an attempt to collect a debt. Any information obtained will be used for that purpose.

You are encouraged to contact our office at (877) 811-2677 (toll free) or at (913) 491-4050 in advance of the court date if you want to settle this matter.

025 08-19723-0 PLEADING

8-19723

**ATTORNEY:** MCNEILE  
**ACCOUNT NUMBER:** 6011008800650167  
**BALANCE:** \$13,018.87  
**CARDMEMBER (S):** MILA L MEANS MD  
ALVIN B HOLMES

STATE OF OHIO  
COUNTY OF FRANKLIN

Nicole Rose, personally appeared before me, this day and after being duly sworn, according to law, upon his/her oath and says:

I am a Legal Placement Account Manager for **DFS SERVICES LLC.**, the servicing agent of **DISCOVER BANK**, an FDIC insured Delaware State Bank.


THAT this affidavit is made on the basis of my personal knowledge and in support of Plaintiff's suit on account against the Debtor(s)

THAT, in my capacity as Legal Placement Account Manager, I have control over and access to records regarding the Discover Card Account of the above referenced Debtor(s), further, that I have personally inspected said Account and statements regarding the balance due on said account. **DFS SERVICES LLC.** maintains these records in the ordinary course of business.

THAT the annexed statement of account is a true and correct statement of what is now due and owing Discover Bank on the account, and exhibit A is a copy of the Cardmember Agreement between Discover Bank and the above referenced Debtor(s). The Cardmember Agreement governs the terms and conditions of the relationship between Discover Bank and the Debtor(s) in connection with the account.

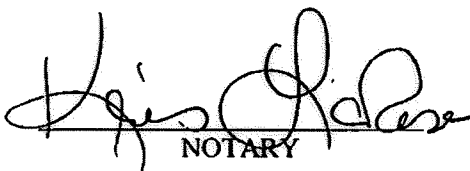
Based on my review of the account records, to the best of my knowledge and belief the above referenced Debtor(s) is not engaged in the military service of the United States and is a resident of the State and of the Country in which this action has been filed.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

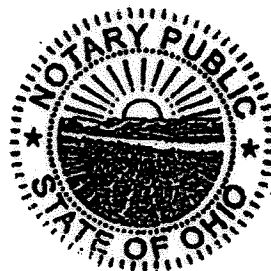


Affiant

Sworn and Subscribed before me,  
This day of Monday, December 15, 2008.



NOTARY



KRIS LAROSA  
Notary Public, State of Ohio  
My Commission Expires  
April 25, 2010





# YOUR DISCOVER® CARD ACCOUNT

**CARDMEMBER AGREEMENT..... Pages 1-12**

The terms and conditions of your Account, including how we calculate finance charges, our fees and an Arbitration of Disputes section. You have the right to reject the arbitration provision with respect to your new Account within 30 days after receiving your Card, as explained in the "Right to Reject Arbitration" section at page 11.

**PRIVACY POLICY..... Pages 13-16**

A summary of the personal information we collect, when it may be shared with others and how we safeguard the confidentiality and security of information. You may limit our sharing of such information with others.

**BILLING RIGHTS..... Pages 16-17**

Important information about your rights and our responsibilities under the Fair Credit Billing Act.

**DESCRIPTION OF COVERAGE..... Pages 17-25**

The terms and conditions of the Scheduled Air Travel Accident Insurance and the Secondary Rental Car Collision Coverage that is provided at no charge to you when you use your Card to purchase airline tickets or rent an automobile.

**GLOBAL TRAVELER'S HOTLINE..... Page 25**

The terms and conditions of this free travel assistance benefit.

### CARDMEMBER AGREEMENT

Please read this Agreement carefully before using your Discover Card Account. It contains the terms and conditions of your Account, some of which may have changed from earlier materials provided to you. In the event of any differences, this Agreement shall control. We respect your privacy. See the Privacy section on page 9 and our Privacy Policy for additional information. The Arbitration of Disputes section on page 10 includes a waiver of a number of rights, including the right to a jury trial. The Right to Reject Arbitration section on page 11 describes the procedure you must follow if you desire to reject the Arbitration of Disputes section.

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**DEFINITIONS**

"Account" means your Discover Card Account.  
 "Authorized User" means any person whom you authorize to use your Account or a Card, whether you notify us or not.  
 "Card" means any one or more Discover Cards issued to you or someone else with your authorization.  
 "Pricing Schedule" means the document accompanying your Card and listing the Finance Charge rates that apply to your Account. The Pricing Schedule is part of this Agreement.  
 "We," "us" and "our" refer to Discover Bank, the issuer of your Discover Card.  
 "You," "your" or "yours" refer to, in addition to you, the Cardmember, any other person or persons who are also contractually liable under this Agreement.

**USING YOUR ACCOUNT**

Your Acceptance of this Agreement. The use of your Account or a Card by you or an Authorized User, or your failure to cancel your Account within 30 days after receiving a Card, means you accept this Agreement, including the Arbitration of Disputes section on page 10. You may, however, reject the Arbitration of Disputes section as explained on page 11.

**Permitted Uses of Your Account** Your Account may be used for:

- Purchases - to purchase or lease goods or services from participating merchants by presenting your Card or Account number or by using promotional checks, which we may furnish to you, in accordance with such additional terms and conditions as we may offer from time to time.
- Cash Advances - to obtain cash advances from participating automated teller machines, financial institutions or other locations, the purchase of lottery tickets, racetrack wagers, vouchers redeemable for cash or for casino chips, money orders, traveler's checks, savings bonds, foreign currency, and wire transfers, or by means of checks which we may furnish to you, all in accordance with such additional terms and conditions as we may offer from time to time.
- Balance Transfers - to transfer balances from other creditors or to make other transactions by means of balance transfer coupons or checks, in accordance with such additional terms and conditions as we may offer from time to time.

In addition, your Account may be used to guarantee reservations at participating establishments. You will be liable for guaranteed reservations that are not cancelled prior to the time specified by the establishment. Your Account may be used for personal, family, household and charitable purposes.

**Prohibited Uses of Your Account** Your Account may not be used to obtain loans to purchase, carry or trade in securities, to pay any amount you owe under this Agreement or for any transactions that are unlawful where you

reside or where you are physically located when you use the Account to initiate the transaction ("Prohibited Transactions").

Purchases and Cash Advances in Foreign Currencies. We convert purchases and cash advances made in a foreign currency to U.S. dollars. We use the conversion rate used by Discover Network to process the transaction in accordance with Discover Network's procedures. Currently, Discover Network uses a government-mandated rate, a government-published rate or the interbank exchange rate, depending on the country and currency. Regardless of source, the rate used will be the rate in effect on the date Discover Network processes the transaction or the prior business day, depending on the time received. Transactions in China are converted at a rate in effect on the date of the transaction.

**Balance Transfers.** We may periodically offer you the opportunity to make balance transfers from other creditors or to make other transactions to your Account by means of balance transfer coupons or checks. Each offer will contain an initial special rate, which will be the Annual Percentage Rate that will apply to transferred balances for the time period specified in the offer, subject to the Default Rates section and may contain a Balance Transfer Transaction Fee Finance Charge for each balance transfer made during the term of the offer, as disclosed in the offer and as set forth in the Pricing Schedule, if applicable. After the expiration of this time period, the Annual Percentage Rate that applies for purchases will apply to transferred balances. Balance transfers subject to the initial special rate are referred to as special rate balance transfers; balance transfers for which the initial special rate has expired are referred to as purchase rate balance transfers. Each offer will contain an expiration date. If you attempt to transfer balances by means of a check after the expiration date, we will treat the transaction as a cash advance. We will not make balance transfers attempted by means of a coupon after the expiration date.

**Credit Authorizations.** Certain transactions will require our authorization prior to completion. In some cases, you may be asked to provide identification. We have the right not to authorize a transaction for security or other reasons. Also, if our authorization system is not working, we may not be able to authorize a transaction. We will not be liable to you if any of these events happen.

**Authorized Users.** If you want to cancel the authority of a current Authorized User to use your Account or a Card, you must notify us and destroy any Card in that person's possession. You can notify us by telephoning 1-800-DISCOVER (1-800-347-2683), or by writing DISCOVER CARD, PO Box 30943, Salt Lake City, Utah 84130-0943. None of your rights under this Agreement (other than to pay amounts owed) may be exercised by any person not a party to this Agreement acting pursuant to a power of attorney, without our separate written agreement (which we are not obligated to give).

**Unauthorized Use.** Prior to its use, each Card must be signed by the person to whom it is issued. If a Card is lost or stolen, or if you think that someone is using your Account or a Card without your permission, notify us immediately. You can notify us by telephoning 1-800-DISCOVER (1-800-347-2683), or by writing DISCOVER CARD, PO Box 30943, Salt Lake City, Utah 84130-0943. You agree to assist us in determining the facts relating to any theft or possible unauthorized use of your Account or a Card and to comply with such procedures as we may require in connection with our investigation. If you have enrolled in an automatic billing arrangement, such as a monthly gym membership, and wish to continue the automatic billing arrangement, you must provide the merchant with your new Account number.

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Your Credit Lines. We will advise you of your Account credit line. We may impose a lower line that will apply to cash advances, referred to as the cash advance credit line. We may also impose a lower line that will apply to balance transfers, referred to as the balance transfer credit line. You agree not to allow your unpaid balance, including Finance Charges and fees, to exceed your Account credit line. If you exceed your Account credit line, we may request immediate payment of the amount by which you exceed your Account credit line.

We may increase or decrease your Account credit line, your cash advance credit line or your balance transfer credit line without notice. The credit available for your use may, from time to time, be less than your Account credit line. For purposes of determining your available credit, we reserve the right to postpone for up to 15 business days reducing your unpaid balances by the amount of any payment that we receive. Your available credit will not be increased by the amount of any credit balance.

**MAKING PAYMENTS**

Promise to Pay. You agree to pay us in U.S. dollars for all purchases, cash advances and balance transfers including applicable Finance Charges and other charges or fees, incurred by you or anyone you authorize or permit to use your Account or a Card, even if you do not notify us that others are using your Account or a Card. If you pay us in other than U.S. dollars, we may refuse to accept the payment or charge your Account our cost to convert your payment to U.S. dollars. All checks must be drawn on funds on deposit in the U.S. You may not use a cash advance check, balance transfer check or coupon, or any other promotional check drawn on any Discover Bank credit card account to make payments on your Account.

If your Account is a joint Account, each of you agrees to be liable individually and jointly for the entire amount owed on your Account. We can accept late payments or partial payments of checks and money orders marked "payment in full" or with any other restrictive endorsement without losing any of our rights under this Agreement.

Monthly Billing Statement. We will send you a billing statement after each monthly billing period in which you have a debit or credit balance, unless we waive our right to do so as permitted by law. The billing statement will show all purchases, cash advances, balance transfers, Finance Charges and other charges or fees and all payments or other credits posted to your Account during the billing period. It will show your New Balance, Minimum Payment Due and Payment Due Date.

Monthly Payment Options. You may at any time pay the entire New Balance shown on your billing statement, but each month you must pay at least the Minimum Payment Due. All payments must be made in accordance with the terms, including the payment cutoff time, stated on your monthly billing statement, and we will credit your Account in accordance with those terms. In addition, we reserve the right to change those terms without prior notice as permitted by law.

How We Apply Payments. We will apply payments and credits to the New Balance shown on your current billing statement in order of the Annual Percentage Rate applicable to the balance of each transaction category (as referenced in the Finance Charges section), generally from lowest to highest beginning with the balance subject to the lowest Annual Percentage Rate. We then apply payments and credits to any new transactions using the same method. However, we have the right to apply payments and credits to balances with higher Annual Percentage Rates prior to balances with lower Annual Percentage Rates, such as when there are two initial special rates applicable to your Account and the lower Annual Percentage

Rate will expire before the higher Annual Percentage Rate. Minimum Monthly Payment. The Minimum Payment Due each month will be the greater of:

- the New Balance if it is less than \$15;
- \$15 if the New Balance is \$15 or more; or
- any past due amount plus the greater of:
  - 2% of the New Balance (excluding current Periodic Finance Charges, Late and Overlimit Fees) rounded up to the nearest dollar or
  - current Periodic Finance Charges plus Late and Overlimit Fees plus \$15 (not to exceed 3% of the New Balance) rounded up to the nearest dollar.

We may also include some or all the amount by which you exceed your Account credit line. We may subtract certain fees to calculate the Minimum Payment Due. The Minimum Payment Due will never exceed the New Balance. Paying the Minimum Payment Due may be insufficient to bring your Account balance below your Account credit line and, consequently, may not avoid the imposition of an additional Overlimit Fee described in the Overlimit Fee section.

Skips-Payment Offset. We may from time to time allow you to not make a minimum monthly payment and will notify you when this option is available. If you take advantage of this offer and do not make a minimum monthly payment, finance charges and any applicable fees will accrue on your Account in accordance with this Agreement and you must pay the Minimum Payment Due for the following billing period.

Credit Balances. We will refund any credit balance within seven business days from receipt of your written request. If you do not request a refund, we will automatically refund credit balances greater than \$1 that remain in your Account after 6 months.

**FINANCE CHARGES**

How We Calculate Periodic Finance Charges. Periodic Finance Charges are imposed on all transactions from the date the transaction is posted to your Account until the date you pay your entire New Balance, by making payments or receiving credits. However, if you paid the New Balance on your previous billing statement by the Payment Due Date shown on that statement and you pay the New Balance by the Payment Due Date on your current billing statement, we will not impose Periodic Finance Charges on new purchases that first appear on the current statement. We call this the "grace period." There is no grace period on balance transfers or cash advances.

We sort your transactions into groups of purchases, cash advances and balance transfers and then further sort the transactions within each group by their Annual Percentage Rate. For example, purchases subject to a promotional rate and purchases subject to a standard rate would be separate groups. We refer to these groups as transaction categories. At the end of each billing period, we compute balances and Periodic Finance Charges for each day of the billing period for each transaction category. We use the following equation to compute Periodic Finance Charges for each transaction category:

Average Daily Balance x days in billing period x Daily Periodic Rate.

(You may refer to the finance charge summary on your billing statement for these amounts.) Then we add up the Periodic Finance Charges for each transaction category to get the total Periodic Finance Charges for your Account. The Average Daily Balance is shown as zero if, because of the grace period, no Periodic Finance Charges apply to the balance in a transaction category.



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How We Calculate Your Balances. We compute the Average Daily Balance for each transaction category by adding up all the daily balances in a billing period for a transaction category and dividing the total by the number of days in the billing cycle. We compute the daily balance for each transaction category on each day by first adding the following to the previous day's daily balance: transactions made that day, fees charged that day and Periodic Finance Charges accrued on the previous day's daily balance; and by then subtracting any credits and payments that are applied against the balance of the transaction category on that day. In calculating the daily balance for the previous billing period, we consider the "previous day's daily balance" to have been zero on the first day of the billing period. If a transaction is posted to your Account after the close of the billing period in which it occurs, we will treat the transaction as having occurred on the first day of the billing period in which it is posted to your Account.

All fees charged to your Account are added to the standard purchase transaction category with the exception of Cash Advance Transaction Fee Finance Charges which are added to the applicable cash advance transaction category and Balance Transfer Transaction Fee Finance Charges which are added to the applicable balance transfer transaction category. When the special rate expires, we move the unpaid balance of the balance transfer and the Balance Transfer Transaction Fee Finance Charges to the standard purchase transaction category. However, if the special rate has been terminated under the Default Rates section, we leave the unpaid balance of the balance transfer and the Balance Transfer Transaction Fee Finance Charges in the applicable balance transfer transaction category until the special rate would have expired.

The Two-Cycle Average Daily Balance Method. We use the two-cycle average daily balance (including new transactions) method of calculating the balance upon which we impose Periodic Finance Charges. This means if you did not pay the New Balance shown on the billing statement you received during the previous billing period by the Payment Due Date shown on that statement, we will impose Periodic Finance Charges on new purchases that first appeared on that billing statement, as well as new purchases that first appear on the current billing statement, unless we already imposed Periodic Finance Charges on the purchases on your previous billing statement.

Variable or Fixed Interest Rates. The Daily Periodic Rate and corresponding Annual Percentage Rate that apply to each transaction category are either fixed rates or variable rates as set forth in your Pricing Schedule or in any special offers you receive from us. The Daily Periodic Rate is 1/365th of the corresponding Annual Percentage Rate. Variable Annual Percentage Rates are determined by adding a specified number of percentage points to the Prime Rate. This is shown on the Pricing Schedule as "Prime + (percentage points)." For purposes of this Agreement, the Prime Rate is the highest rate of interest listed as the "prime rate" in the Money Rates section of The Wall Street Journal on the last business day of the month. The Prime Rate is merely a pricing index and does not represent the lowest or best interest rate available to a borrower at any bank at any given time. If you have a variable rate, your Annual Percentage Rate will increase or decrease when the Prime Rate changes. This change will be effective beginning with the first day of the billing period that begins during the same month as the change in the Prime Rate. An increase in the Annual Percentage Rate may increase your Minimum Payment Due.

Default Rates. Each time you do not make a required payment on time, we will increase the standard ANNUAL PERCENTAGE RATES for purchases and cash advances to fixed rates, up to a maximum of 28.99% (the "Default

Rates"). Any special rates on purchases or balance transfers will end and the Default Rate for purchases will apply. We will base your Default Rates on factors such as:

- your current purchase APR
- your payment history with us
- your payment history with other lenders

Any increased rate and change in type will apply beginning with the first day of the billing period in which we did not receive at least the Minimum Payment Due by the Payment Due Date. If your standard Annual Percentage Rate for purchases was increased under this or any previous version of the Default Rates section and, for any nine consecutive billing periods you pay at least the Minimum Payment Due, if any, by the Payment Due Date, then your Annual Percentage Rate for your new purchases will be reduced and your Annual Percentage Rate for your existing purchase balance may be reduced. Any reduced Annual Percentage Rates will apply beginning with the first day of your tenth billing period.

Cash Advance Transaction Fee Finance Charges. Unless otherwise specified in a cash advance offer, we will charge you a Cash Advance Transaction Fee Finance Charge of 3% of the amount of each new cash advance with a minimum Cash Advance Transaction Fee FINANCE CHARGE of \$5 and no maximum. The imposition of Cash Advance Transaction Fee Finance Charges may result in an Annual Percentage Rate for cash advances that is higher than the nominal Annual Percentage Rate. All forms of cash advances, including the use of Discover Card checks, regardless of the purpose for which used, are subject to Cash Advance Transaction Fee Finance Charges. To obtain the total Finance Charge on cash advances for each billing period, we add any Cash Advance Transaction Fee Finance Charges calculated under the Periodic Finance Charges section for each cash advance transaction category and add up these amounts.

Balance Transfer Transaction Fee Finance Charges. If the balance transfer offer you receive contains a Balance Transfer Transaction Fee Finance Charge, we will charge you a Balance Transfer Transaction Fee Finance Charge for the amount of each balance transfer made under that offer. If there is a Balance Transfer Transaction Fee Finance Charge in conjunction with the offer you received when you applied for an Account, it will be in the amount set forth in the Pricing Schedule. The imposition of Balance Transfer Transaction Fee Finance Charges may result in an Annual Percentage Rate for balance transfers that is higher than the nominal Annual Percentage Rate. To obtain the total Finance Charge on balance transfers for each billing period, we add any Balance Transfer Transaction Fee Finance Charges calculated under the Periodic Finance Charges section for each balance transfer transaction category and add up these amounts. Minimum Finance Charge. We will charge you a minimum FINANCE CHARGE of \$50 for any billing period in which some FINANCE CHARGE of less than \$50 would otherwise be imposed.

FEES

Late Fee. We will charge you a Late Fee if you have failed, as of the Payment Due Date, to make the Minimum Payment Due that was required to be paid for that billing period. The amount of the Late Fee is based on the sum of all outstanding purchases, cash advances, balance transfers, other charges, other fees and Finance Charges at the end of that billing period. If the sum is equal to or less than \$500, the Late Fee is \$15 and if the sum is greater than \$500, the Late Fee is \$39.

Overlimit Fee. We will charge you an Overlimit Fee each time that as of the close of a billing period, your outstanding Account balance exceeds

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your Account credit line. This fee may be charged even if the transaction which causes you to exceed your Account credit line is authorized by us or if you exceed your Account credit line due to the posting of Finance Charges or fees to your Account. The amount of the Overlimit Fee is based on the sum of all outstanding purchases, cash advances, balance transfers, other charges, other fees and Finance Charges at the end of the billing period. If the sum is equal to or less than \$500 and you exceed your credit line, the Overlimit Fee is \$15. If the sum is greater than \$500 and you exceed your credit line, the Overlimit Fee is \$29.

**Returned Payment Fee.** We will charge you a Returned Payment Fee of \$35 each time you pay us with a check or other instrument that is returned unpaid. This fee will also apply if a debit transaction to a deposit account from which you have authorized us in writing, electronically or orally to periodically deduct all or a part of an amount you owe us under this Agreement is returned unpaid. We will charge you this fee the first time any payment is returned unpaid, even if it is paid upon resubmission.

**Returned Discover Card Check Fee.** We will charge you a Returned Discover Card Check Fee of \$35 each time we decline to honor a Discover Card cash advance check, balance transfer check, promotional purchase check, or other promotional check.

**Pay-By-Phone Fee.** We may from time to time allow you to make payments by authorizing us over the telephone to transfer or pay funds from a deposit account to your Account. We will charge a Pay-By-Phone Fee of \$10 for each such transfer or payment.

**Research Fee.** We may charge you a Research Fee of \$5 for each copy of a billing statement or sales slip that you request. However, we will not charge a fee if you request copies in connection with a billing error.

#### DEFAULT AND CANCELLATION

**Types of Default.** You are in default if you become involuntarily a bankrupt, file a bankruptcy petition or have one filed against you; if we have a reasonable belief that you are unable or unwilling to repay your obligations to us; if you are declared incompetent by a court or if a court appoints a guardian for you or a conservator for your assets; if you die; if you fail to comply with the terms of this Agreement, including failing to make a required payment when due, exceeding your Account credit line or using your Card or Account for a Prohibited Transaction; or if you fail to make a required payment when due on any other account you have with us.

**Consequences of Default.** If you are in default, we may declare the entire balance of your Account immediately due and payable without notice. If we refer the collection of your Account to an attorney or employ an attorney to represent us with regard to recovery of money that you owe us, we may charge you reasonable attorney's fees and court or other collection costs as permitted by law and as actually incurred by us, including fees and costs in connection with any appeal. We may delay enforcing or not enforce any of our rights under this Agreement without losing or waiving any of them.

**Cancellation.** You may cancel your Account by notifying us in writing or by telephone and returning or destroying every Card and unused check that we have provided you. You can notify us by telephoning 1-800-DISCOVER (1-800-347-2683), or by writing DISCOVER CARD, PO Box 30943, Salt Lake City, Utah 84130-0943. Of course, you will still be responsible to pay any amount you owe us according to the terms of this Agreement. If your Account is a Joint Account, either Cardmember may cancel the Account, but you will both remain responsible to pay any amount owed to us according to the terms of this Agreement. We may cancel or suspend your

Account at any time without notice. We may choose not to renew your Account (beyond the expiration date shown on the face of a Card) without notice. You must return any Card or unused checks to us upon request.

#### PRIVACY AND OUR COMMUNICATIONS WITH YOU

**Our Privacy Policy.** We may from time to time review your credit employment and income records. We respect the privacy of information about you and your Account. Our Privacy Policy includes a summary of the personal information we collect, when it may be shared with others, how we safeguard the confidentiality and security of information and the steps you may take to limit our sharing of such information with others. Please read it carefully as it is part of your Cardmember Agreement.

**Reporting to Credit Reporting Agencies.** As indicated in our Privacy Policy, we may report to credit reporting agencies and other creditors the status and payment history of your Account, including negative credit information. Late payments, missed payments or other defaults on your Account may be reflected in your credit report. We normally report to such credit reporting agencies each month. If you believe that our report of your Account status is inaccurate or incomplete, please write us at the following address: Discover Card, PO Box 15316, Wilmington DE 19850-5316. Please include your name, address, home telephone number and Account number.

**Our Communications with You.** Our personnel may listen to or record telephone calls between you and our representatives without notice to you as permitted by law. We may use any medium, including but not limited to mail, live telephone calls, automated telephone equipment, prerecorded telephone calls, e-mail and may make calls to your cell phone to contact you about your Account or offer you products or services that may be of value to you. If you prefer not to be contacted in one or more of these ways, call us at 1-800-DISCOVER (1-800-347-2683) or write to us at Discover Card, PO Box 15354, Wilmington, DE 19850.

**Releasing Information About Your Account.** We provide various methods by which you can obtain information about your Account. We will only release such information to you, any Authorized User that our records indicate is an authorized buyer on your Account and any other person with your prior permission, in addition to as provided in our Privacy Policy or as required by law. Our security measures cannot insure against unauthorized inquiries. You agree that we will not be responsible for the release of information to anyone who, even if without your authorization or permission, has gained possession of a Card or has learned other identifying characteristics about you such as your personal identification number, Account number or social security number.

**Electronic Notices to You.** We may offer you the opportunity to receive certain notices from us electronically rather than through the mail, including monthly billing statements and change of terms notices. The terms and conditions for receiving these electronic communications will be described in the offer.

**Change of Address or Telephone Number.** If you change your address or telephone number you must notify us of your new address or telephone number within 15 days. You can notify us by telephoning 1-800-DISCOVER (1-800-347-2683) or by writing DISCOVER CARD, PO Box 30943, Salt Lake City, Utah 84130-0943.

#### CLAIMS AND DISPUTES

**Merchant Disputes.** We are not responsible for the refusal of anyone to accept or honor a Card or to accept checks that we have provided you. If a merchant fails to provide your purchase to your satisfaction and you

request a credit to your Account, we will investigate the dispute. If we resolve the dispute in your favor, we will issue a credit to your Account and you will be deemed to have assigned to us your claim against the merchant and/or any third party for the credited amount. Upon our request, you agree to provide us with written evidence of such assignment.

**Claim Notices.** In the event that you or we have a claim that arises from or relates to your Account, any prior account you had with us, your application, the relationships which result from your Account or the enforceability of the Agreement or any prior agreement, before instituting, joining or participating in any judicial or arbitration proceeding, as either an individual litigant or member of a class ("Proceeding"), the complaining party shall give the other party: (1) a written notice of the claim ("Claim Notice"), at least 15 days before instituting any Proceeding, explaining in reasonable detail the nature of the claim and any supporting facts; and (2) a reasonable good faith opportunity to resolve the claim without the necessity of a Proceeding. This includes any claims involving our parent corporation, subsidiaries, affiliates (including, without limitation, Discover Financial Services LLC), predecessors, successors, assigns, as well as the officers, directors and employees of each of these entities. Any Claim Notice shall be sent to us at PO Box 3024, New Albany, Ohio 43054 (or such other address as we shall subsequently provide to you) (the "Claim Notice Address") or to you at your address appearing in our records or, if you are represented by counsel, to your attorney at your attorney's office.

**Arbitration of Disputes. Agreement to arbitrate.** In the event of any past, present or future claim or dispute (whether based upon contract, tort, statute, common law or equity) between you and us arising from or relating to your Account, any prior account you have had with us, or the application, the relationships which result from your Account or the enforceability or scope of this arbitration provision, of the Agreement or of any prior agreement, you or we may elect to resolve the claim or dispute by binding arbitration. IF EITHER YOU OR WE ELECT ARBITRATION, NEITHER YOU NOR WE SHALL HAVE THE RIGHT TO UTIGATE THAT CLAIM IN COURT OR TO HAVE A JURY TRIAL ON THAT CLAIM. PRE-HEARING DISCOVERY RIGHTS AND POST-HEARING APPEAL RIGHTS WILL BE LIMITED. NEITHER YOU NOR WE SHALL BE ENTITLED TO JOIN OR CONSOLIDATE CLAIMS IN ARBITRATION BY OR AGAINST OTHER CARDMEMBERS WITH RESPECT TO OTHER ACCOUNTS, OR UTIGATE IN COURT OR ARBITRATE ANY CLAIMS AS A REPRESENTATIVE OR MEMBER OF A CLASS OR IN A PRIVATE ATTORNEY GENERAL CAPACITY ("Class Action Waiver").

Notwithstanding anything else to the contrary in this arbitration provision, only a court, and not an arbitrator, shall determine the validity and effect of the Class Action Waiver. Even if all parties have opted to litigate a claim in court, you or we may elect arbitration with respect to any claim made by a new party or any new claims later asserted in that lawsuit and nothing undertaken therein shall constitute a waiver of any rights under this arbitration provision. We will not invoke our right to arbitrate an individual claim you bring in small claims court or your state's equivalent court, if any, unless such action is transferred, removed or appealed to a different court.

**Governing Law and Rules.** Your Account involves interstate commerce and this provision shall be governed by the Federal Arbitration Act (FAA). The arbitration shall be conducted, at the option of whoever files the arbitration claim, by either the American Arbitration Association (AAA) or the National Arbitration Forum (NAF) in accordance with their procedures in effect when the claim is filed. For a copy of their procedures, to file a claim or for other information, contact AAA at 235 Madison Ave., Floor 18, New York, NY 10017-5905, [www.adr.org](http://www.adr.org) (phone 1-800-778-1679) or NAF at PO

Box 50191, Minneapolis, MN 55405 (phone 1-800-474-2371). No other arbitration forum will be permitted, except as agreed to pursuant to either the Change to this Agreement section or a writing signed by both parties. Unless consented to by all parties, no arbitration may be administered by any administrator that has any formal or informal policy, rule or procedure that is inconsistent with or purports to override the terms of this section.

**Fees and Costs.** As your written request, we will advance any arbitration filing, administrative and hearing fees which you would be required to pay to pursue a claim or dispute as a result of our electing to arbitrate that claim or dispute. Send requests to PO Box 15182, Wilmington, DE 19886-1020. The arbitrator will decide who will ultimately be responsible for paying those fees. You will only be responsible for paying or reimbursing our arbitration filing, administrative or hearing fees to the extent you would have been responsible for paying attorneys' fees and court or other collection costs had the action proceeded in court. In no event will you be required to pay any fees or costs incurred by us in connection with an arbitration proceeding where such a payment or reimbursement is prohibited by applicable law.

**Hearings and Decisions.** Any arbitration hearing will take place in the federal judicial district where you reside. The arbitrator shall follow applicable substantive law to the extent consistent with the FAA and applicable statutes of limitations and shall honor claims of privilege recognized at law and shall be authorized to award all remedies permitted by the substantive laws that would apply if the action were pending in court. If requested by any party, the arbitrator shall write an opinion containing the reasons for the award. The arbitrator's decision will be final and binding except for any appeal rights under the FAA and except that if the amount in controversy exceeds \$100,000, any party may appeal the award within 30 days to a three-arbitrator panel, which shall review the award de novo. Unless applicable law provides otherwise, the appealing party will pay the cost of the appeal, regardless of its outcome. However, we will consider in good faith any reasonable request for us to bear the fees charged by the arbitration administrator and the arbitrators in connection with the appeal. Judgment upon any award by the arbitrator may be enforced in any court having jurisdiction.

**Other Beneficiaries of this Provision.** Our rights and obligations under this arbitration provision shall inure to the benefit of and be binding upon our parent corporation, subsidiaries, affiliates (including, without limitation, Discover Financial Services LLC), predecessors, successors, assigns, as well as the officers, directors and employees of each of these entities, and will also inure to the benefit of any third party named as a co-defendant with us or with any of the foregoing in a claim which is subject to this arbitration provision. Your rights and obligations under this arbitration provision shall inure to the benefit of and be binding upon all persons contractually liable under this Agreement and all Authorized Users of the Account.

**Survival of this Provision.** This arbitration provision shall survive termination of your Account as well as voluntary payment in full by you, any legal proceedings by us to collect a debt owed by you, any bankruptcy by you and any sale by us of your Account.

**Right to Reject Arbitration.** You may reject the Arbitration of Disputes section by providing us a notice of rejection within 30 days after receiving a Card, at the following address: Discover Card, PO Box 30238, Salt Lake City, UT 84130-0938. If you were previously subject to arbitration with respect to any account with us, this right to reject arbitration will not apply to you. Your rejection notice must include your name, address, telephone number, Account number and signature and must not be sent with any

other correspondence. Calling us to indicate that you reject the Arbitration of Disputes section or sending a rejection notice in a manner or format that does not comply with all applicable requirements is insufficient notice. In order to process your notice, we require that the notice be provided by you directly and not through a third party. Rejection of arbitration will not affect your other rights or responsibilities under this Agreement or your obligation to arbitrate disputes under any other account as to which you and we have agreed to arbitrate disputes. If you do not send a rejection notice, you will be obligated by the Arbitration of Disputes section with respect to this and any prior account you have had with us, even if you have previously sent a rejection notice with respect to that prior account.

#### LEGAL INTERPRETATION OF THIS AGREEMENT

**Severability.** If any part of this Agreement becomes unenforceable, it will not make any other part unenforceable, except that if the Class Action Waiver set forth above in the Arbitration of Disputes section is invalidated in any proceeding in which you and we are involved, then the Arbitration of Disputes section will be void with respect to that proceeding.

**Compliance with Interest Rate Limitations.** We intend that this Agreement will comply with applicable interest rate limitations. You will not be required to pay Finance Charges or other charges at a rate that is greater than the maximum amount permitted by law. If it is ever finally determined that, but for this section, the Finance Charges or other charges under this Agreement would exceed the maximum lawful amount, the Finance Charges and other charges will be reduced to the maximum lawful amount. Any excess amount that you have already paid will be used to reduce the outstanding balance of your Account or will be refunded to you by means of a check in our discretion.

**Governing Law.** This Agreement and any claim or dispute arising out of this Agreement will be governed by applicable federal law and, to the extent state law applies, Delaware law.

#### ASSIGNMENT OF ACCOUNT

We may sell, assign or transfer your Account or any portion thereof without notice to you. You may not sell, assign or transfer your Account without first obtaining our prior written consent.

#### CHANGES TO THIS AGREEMENT

We may change any term or part of this Agreement, including, but not limited to, any finance charge rate, fee or method of computing any balance upon which the finance charge rate is assessed or add any new term or part to this Agreement. If required by law we will send you a written or electronically delivered notice at least 15 days before the change is to become effective. We may apply any such change to the outstanding balance of your Account on the effective date of the change and to new charges made after that date.

You may be offered the opportunity to reject some of the changes, and if you do, you must notify us in writing or electronically within 15 days after the mailing of the notice of change at the address provided in the notice of change, in which case your Account will be closed and you must pay us the balance that you owe us under the existing terms of the unchanged Agreement. Otherwise, you will have agreed to the changes in the notice. Use of your Account after the effective date of the change will be deemed acceptance of the new terms as of such effective date, even if you previously notified us that you did not agree to the change.

We may also change any term of any product, service or benefit offered in connection with your Account. We will notify you as required by law or by the terms of the product, service or benefit.

## PRIVACY POLICY

### We Respect Your Privacy

Our mission is to provide you with superior products and services, along with the peace of mind knowing that the security of your personal information is our top priority. We understand your concerns about guarding information about you and your Account. We want to assure you that we have taken steps, and will continue to take steps, to safeguard that information.

This Privacy Policy describes our efforts to meet these objectives. It includes a summary of the following important information:

- A listing of the personal information we collect;
- The circumstances in which we may share information with others;
- The ways we safeguard the confidentiality and security of information; and
- The steps you may take to limit our sharing of such information with others. See Section 4 on page 14 for complete details.

Please read our Privacy Policy carefully. It will help you understand how we collect and share information.

#### 1. What Personal Information Do We Collect?

To serve you better and manage our business, it is important that we collect and maintain accurate personal information about you. We obtain this information from applications and other forms you submit to us, from your dealings with us and others, from consumer reporting agencies and from other sources, such as our Web sites. For example:

- We may obtain information such as your name, address and date of birth from applications and other forms you submit to us.
- We may obtain information such as Account balances, payment history, your use of your Account and the types of services you prefer from your transactions and other dealings with us and others.
- We may obtain information such as the balances of your loans with other lenders and your payment history with others from consumer reporting agencies.
- We may obtain information such as your Internet service provider, your email address, your computer's operating system and Web browser, your Web site use and your product and service preferences from your visits to Web sites.

#### 2. Is Personal Information Shared With Others?

We limit the sharing of information with others. Many of the offers you receive for products and services are provided directly to you from us. For example, a retailer that accepts the Discover® Card may come to us with a special offer for Cardmembers, such as a discount certificate of product upgrade. After careful consideration of the nature of the offer and the company, we will create a list of Cardmembers who may be interested in the offer based on certain characteristics. We will send the offer directly to those Cardmembers on behalf of the retailer by, for example, including an insert in their monthly billing statement or mailing the offer ourselves. We control the information used to make the offer; we do not share the list or any information about our Cardmembers with the retailer. However, please understand that if you do receive this type of offer from us and choose to take advantage of it, the retailer may then learn information about you because only Cardmembers with certain characteristics received the offer.

There are, however, circumstances in which we may share the information

we collect about you, as described in Section 1, with other companies in order to provide you with access to products and services and to service your Account effectively, as detailed below. We require these companies to adhere to our privacy standards and to use this information only for the limited purpose for which it was shared. We do not allow them to disclose it to others without our prior approval.

#### **a. Sharing Personal Information with Our Corporate Family**

We are part of the Morgan Stanley family of companies. Our corporate family offers a wide variety of products and services that can help you manage your finances. In order to provide you with access to these products and services, we may share the information we collect about you, as described in Section 1, with other members of our corporate family. These companies include financial service providers that offer mortgage lending services, securities and asset management services, investment opportunities and mutual funds, and may include non-financial service providers in the future as our corporate family continues to grow.

#### **b. Sharing Personal Information with Non-Affiliated Parties for Marketing Purposes**

We may share the information we collect about you, as described in Section 1, with non-affiliated third parties, including those that accept the Discover Card, in order to provide you with access to products and services offered directly by these companies that may be of value to you. These companies include financial service providers, such as insurance companies, and non-financial companies, such as retailers.

#### **c. Sharing Personal Information with Others**

We may share the information we collect about you, as described in Section 1, with companies that perform support or marketing services on our behalf, such as mailing, market research and data processing, other financial institutions with which we have joint-marketing agreements, or companies that are our partners for cobrand credit card programs or reward programs. We may also share such information as permitted by law.

#### **3. How Do We Protect the Confidentiality, Security and Integrity of Information About You?**

We maintain physical, electronic and procedural safeguards to protect the information we collect about you. Access to such information is restricted to individuals who need it in order to service your Account or provide products and services to you and who are trained in the proper handling of such information. Employees who violate these confidentiality requirements are subject to our disciplinary process. Where third parties provide support services, we require them to conform to our privacy standards.

It is important that the information we maintain about you is accurate and complete. If you see information in your monthly billing statements or elsewhere which suggests that our information is incomplete or inaccurate, please write to us at Discover Card, PO Box 30943, Salt Lake City, UT 84130-0943 so that we can update this information.

#### **4. How Can You Limit Sharing of Information About You?**

We respect your privacy and offer you choices as to whether we may share information about you with others. You have the option to tell us not to share the information we collect about you, as described in Section 1, with non-affiliated third parties. You also have the option to tell us not to share certain information we collect about you, as described in Section 1, with companies in our corporate family. However, this option is limited to information about your eligibility for credit obtained from your

application, such as your income and from consumer reporting agencies, such as your credit history. If you indicate a preference for either of these options, please understand that you may not receive offers for products and services provided by other companies that could help you lower your costs, maximize your financial resources or manage your finances.

To indicate your preferences, please call us at 1-800-225-5202 or write to us at Discover Card, PO Box 30251, Salt Lake City, UT 84130-0251. If you have previously notified us about your privacy preferences, it is not necessary to do so again unless you decide to change your preferences. Your written request should include your name, address, telephone number and Account number(s) and should not be sent with any other correspondence. In order to process your request, we require that the request be provided by you directly and not through a third party. You will need to provide us with your preferences for each credit card account you have with us.

You may notify us about your preferences at any time. Your request will remain in effect until you notify us otherwise. We will honor your request and not share this information except as permitted by law. For example, federal law permits us to share information about you with consumer reporting agencies, service providers and financial institutions with which we have joint marketing agreements. It also permits us to share information about our experiences and transactions with you, such as your Account balance and payment history with us, with other members of our corporate family. If you are a new Cardmember, we will not share any information about you, except as permitted by law, for thirty days after we provide this Policy to you in order to give you an opportunity to inform us about your preferences. If you are an existing Cardmember, please understand that you may continue to receive marketing offers directly from other companies that were already in production prior to the processing of your request.

This Privacy Policy is provided to the primary Cardmember listed on the Account. However, any joint Cardmember has the right to notify us about preferences and we will treat that request as applying to the entire Account. We do not share information about former customers, except as permitted by law. This notification supersedes all previously issued Privacy Policies. We reserve the right to amend this Privacy Policy from time to time and we will notify you if we do so.

This Privacy Policy is provided to you by Discover Bank and its subsidiaries, which currently include GTC Insurance Agency, Inc. and Discover Products Inc. Unless otherwise specified, it applies to the family of Discover Cards for consumers and the products and services offered in connection with those Cards, including the Wallet Protection card registration service (with the exception of any information registered in connection with the service, which will not be shared). It is part of your Cardmember Agreement and provides a further explanation of how we collect and share information. You may have other rights under state laws that apply to this information. Please note that you will also receive privacy notices for other credit card accounts you have with us, as well as other financial products and services provided to you by us and our affiliates. You will need to indicate your preferences for each of these separately as disclosed in the notice.

**Vermont Residents** - Your state law requires financial institutions to obtain your consent prior to sharing information about you with others. Except as permitted by law, we will not share information we collect about you with non-affiliated third parties or companies in our corporate family unless you call us at 1-800-DISCOVER and authorize us to do so.



California Residents - Your state law requires financial institutions to obtain your consent prior to sharing information about you with non-affiliated third parties. Except as permitted by law, we will not share information we collect about you with non-affiliated third parties while you are a resident of California.

### Your Billing Rights

#### KEEP THIS NOTICE FOR FUTURE USE

This notice contains important information about your rights and our responsibilities under the Fair Credit Billing Act.

##### 1. Notify Us in Case of Errors or Questions About Your Bill

If you think your bill is wrong or if you need more information about a transaction on your bill, write us on a separate sheet of paper at the address listed on your bill for Notice of Billing Errors. Write to us as soon as possible. We must hear from you no later than 60 days after we sent you the first bill on which the error or problem appeared. You can telephone us, but doing so will not preserve your rights.

In your letter, give us the following information:

- your name and Account number.
- your dollar amount of the suspected error.
- describe the error and explain, if you can, why you believe there is an error. If you need more information, describe the item you are not sure about.

If you have authorized us to pay your credit card bill automatically from your savings or checking account, you can stop the payment on any amount you think is wrong. To stop the payment, your letter must reach us three business days before the automatic payment is scheduled to occur.

##### 2. Your Rights and Our Responsibilities After We Receive Your Written Notice

We must acknowledge your letter within 30 days, unless we have corrected the error by then. Within 90 days, we must either correct the error or explain why we believe the bill was correct.

After we receive your letter, we cannot try to collect any amount you question or report you as delinquent. We can continue to bill you for the amount you question, including finance charges and we can apply any unpaid amount against your Account credit limit. You do not have to pay any questioned amount while we are investigating, but you are still obligated to pay the parts of your bill that are not in question.

If we find that we made a mistake on your bill, you will not have to pay any finance charges related to any questioned amount. If we didn't make a mistake, you may have to pay the finance charges, and you will have to make up any missed payments on the questioned amount. In either case, we will send you a statement of the amount you owe and the date that it is due.

If you fail to pay the amount that we think you owe, we may report you as delinquent. However, if our explanation does not satisfy you and you write us within ten days telling us that you still refuse to pay, we must tell anyone we report you to that you have a question about your bill. And, we must tell you the name of anyone we reported you to. We must tell anyone we report you to that the matter has been settled between us when it finally is. If we don't follow these rules, we can't collect the first \$50 of the questioned amount, even if your bill was correct.

##### 3. Special Rule for Credit Card Purchases

If you have a problem with the quality of goods or services that you purchased with a credit card, and you tried in good faith to correct the problem with the merchant, you may have the right not to pay the remaining amount due on the goods or services. There are two limitations on this right:

- (a) you must have made the purchase in your home state or, if not within your home state, within 100 miles of your current mailing address; and
- (b) the purchase price must have been more than \$50.

These limitations do not apply if we own or operate the merchant or if we mailed you the advertisement for the goods or services.

##### 4. Purchases Made with Checks or Cash Advances

The Special Rule for Credit Card Purchases does not apply to purchases made with a balance transfer check, cash advance or promotional purchase check. Therefore, if you have a problem with the quality of goods or services that you purchased with a balance transfer check, promotional purchase check, cash advance check or the proceeds of a cash advance, you do not have the right to withhold payment of the amount due.

#### DESCRIPTION OF COVERAGE

**SCHEDULED AIR TRAVEL ACCIDENT INSURANCE.** Discover<sup>®</sup> More<sup>™</sup> Cardmembers and Discover<sup>®</sup> Open Road<sup>™</sup> Cardmembers are provided with \$500,000 Scheduled Air Travel Accident Insurance and Discover<sup>®</sup> Titanium Cardmembers are provided with \$150,000 Scheduled Air Travel Accident Insurance.\* You, your Spouse, Domestic Partner or eligible Dependent Children for whom a ticket was purchased on your Card (as defined below) will be automatically insured against Accidental Loss of Life arising from and occurring on a Covered Trip while you, your Spouse, Domestic Partner or eligible Dependent Children for whom a ticket was purchased on your Card are riding as a passenger in or entering, exiting or being struck by a Scheduled Aircraft or a conveyance operated by a military transport service or riding as a passenger in or entering or exiting any conveyance licensed to carry the public for a fee and while traveling directly to or from the airport immediately preceding the departure of a Scheduled Aircraft on which the Insured Person has purchased passage and immediately following the arrival of a Scheduled Aircraft on which the Insured Person was a passenger.

\*Coverage is underwritten by Federal Insurance Company, a member insurer of the Chubb Group of Insurance Companies. Certain limitations and exclusions apply.

#### PLAN FEATURES

**THE BENEFITS:** The full Benefit Amount (\$500,000 for Discover More and Discover Open Road Cardmembers; \$150,000 for Discover Titanium Cardmembers) is payable for Accidental Loss of Life. The Loss must occur within one year of the Accident.

**MAXIMUM LIMIT OF INSURANCE:** If more than one Insured Person suffers a Loss in the same Accident, the Company will not pay more than the maximum limit of insurance (\$20,000,000) per Accident. If an Accident results in Benefit Amounts becoming payable, which when totaled, exceed the applicable limit of insurance shown above, the maximum limit of insurance will be divided proportionally among the Insured Persons, based on each applicable Benefit Amount. In the event of multiple Accidental deaths per Account arising from any one Accident, the Company's liability for all such Losses will be limited to a maximum limit of insurance equal to

two times the applicable Benefit Amount for Loss of Life. Benefits will be proportionately divided among the Insured Persons up to the maximum limit of insurance.

#### DEFINITIONS:

**Accident or Accidental** means a sudden, unforeseen and unexpected event happening by chance, and includes unavoidable exposure to elements arising from a covered Hazard.

**Accidental Bodily Injuries** means bodily injury which is Accidental, is the direct source of a Loss, is independent of disease, illness or other cause and occurs while this policy is in force.

**Account** means a Card account.

**Benefit Amount** means the Loss amount at the time the entire cost of the passenger fare is charged to an Account.

**Card** means the Discover More Card, Discover Open Road Card or Discover Titanium Card, as applicable.

**Cardmember** means the holder of the Card whose name appears on the credit card.

**Company** means the Federal Insurance Company.

**Covered Trip** means travel on a Scheduled Aircraft when the entire cost of the passenger fare for such transportation, less redeemable certificates, vouchers or coupons, has been charged to the Insured Person's Account.

**Dependent Child or Children** means those children, including adopted children and those children placed for adoption, who are primarily dependent upon the Insured Person for maintenance and support and who are: (1) under the age of 19 and reside with the Insured Person; (2) beyond the age of 19, permanently mentally or physically challenged, and incapable of self support; or (3) under the age of 25 and classified as full-time students at an institution of higher learning.

**Domestic Partner** means a person who: (1) is at least 18 years of age and competent to enter into a contract; (2) is not related to the Insured Person by blood; (3) has exclusively lived with the Insured Person for at least one year prior to the date of enrollment; (4) is not legally married or separated; and (5) as of the date of enrollment, has with the Insured Person at least two of the following financial arrangements: (a) a joint mortgage or lease; (b) a joint bank account; (c) joint title to or ownership of a motor vehicle or status as a joint lessee on a motor vehicle lease; or (d) a joint credit card account with a financial institution. Neither the Insured Person nor the Domestic Partner can be married to, nor in a civil union with, anyone else.

**Hazard** means the covered circumstances for which this insurance is provided as stated in Section III of the Declarations, Hazards, and described in the Hazards form, as described on page 1 of this Description of Coverage.

**Insured Person** means all Cardmembers, their spouses, Domestic Partners and Dependent Children, as well as authorized users of the Account.

**Loss** means the Loss of Life.

**Loss of Life** means death, including clinical death determined by the local governing medical authorities.

**Policyholder** means Discover Financial Services LLC, the entity responsible for the payment of premium.

**Scheduled Aircraft** means an aircraft owned and/or operated by a Scheduled Airline.

**Scheduled Airline** means an airline which is either of United States registry and certified by the United States government to carry passengers on a regularly scheduled basis or of foreign registry and approved by the United States government and the appropriate foreign authority.

**War** means hostilities following a declaration of War by a government

authority. If there is no declaration of War, then (1) armed, open and continuous hostilities between two countries or (2) armed, open and continuous hostilities between two factions, each in control of territory, or claiming jurisdiction over the site of the area of hostility.

**DISAPPEARANCE BENEFITS:** If the Insured Person has not been found within one year of the disappearance, stranding, sinking, wrecking or breakdown of any Scheduled Aircraft or conveyance in which the Insured Person was covered as an occupant, it will be assumed, subject to all other terms of the policy, that the Insured Person has suffered Loss of Life covered under this policy.

**EXPOSURE BENEFITS:** Accident includes unavoidable exposure to elements arising from a covered Hazard.

**ELIGIBILITY:** This insurance plan is provided to Insured Persons automatically when the entire cost of the passenger fare(s) on a Scheduled Airline is charged to the Cardmember's Account while the insurance is effective. It is not necessary for you to notify the Policyholder or the Company when Scheduled Airline tickets are purchased.

**EFFECTIVE DATES:** Your insurance under this insurance plan is effective on the later of: 1) April 1, 2007; or 2) the date you become an eligible Cardmember. Your insurance coverage under this insurance plan will cease on the earlier of: (1) the date the insurance coverage is terminated; or (2) the date you cease to be an eligible Cardmember.

**COST:** This insurance plan is provided at no additional cost to eligible Insured Persons for Covered Trips. Policyholder pays the full cost of the insurance.

**THE BENEFICIARY:** The Loss of Life benefit will be paid to the beneficiary designated by you. If no such designation has been made, that benefit will be paid to the first surviving beneficiary in the following order: a) your spouse; b) your children; c) your parents; d) your brothers and sisters; e) your estate. All other indemnities will be paid to you. If you wish to change your beneficiary, you may request a beneficiary designation form by writing to the plan administrator at: The Direct Marketing Group, Inc., 13265 Bedford Avenue, Omaha, NE 68164 or at [Beneficiaryrequest@TheDirectMG.com](mailto:Beneficiaryrequest@TheDirectMG.com).

**EXCLUSIONS:** This insurance plan does not cover Loss resulting from: (1) an Accident occurring while an Insured Person is in, entering, or exiting any aircraft owned, leased or operated by this Policyholder or any aircraft owned, leased or operated by an employee of the Policyholder on behalf of the Policyholder (this exclusion does not apply to aircraft chartered with pilot or crew on one time charter basis); (2) an accident while an Insured Person is in, entering, or exiting any aircraft while acting or training as a pilot or crew member (this exclusion does not apply to passengers who temporarily perform pilot or crew functions in a life threatening emergency); (3) emotional trauma, mental or physical illness, disease, pregnancy, childbirth or miscarriage, bacterial or viral infection, or bodily malfunctions (except bacterial infection caused by an Accident or from Accidental consumption of a substance contaminated by bacteria); (4) suicide, attempted suicide or Loss that is intentionally self-inflicted; or (5) declared or undeclared War.

**CLAIM NOTICE:** Written claim notice must be given to the Company within 90 days after the occurrence of any Loss covered by this policy or as soon as reasonably possible. Failure to give notice within 90 days will not invalidate or reduce any otherwise valid claim if notice is given as soon as reasonably possible.

**CLAIM FORMS:** When the Company receives notice of a claim, the

Company will send you forms for giving proof of Loss to us within 15 days. If you do not receive the forms, you should send the Company a written description of the Loss.

**CLAIM PROOF OF LOSS:** Complete proof of Loss must be given to Company within 90 days after the date of Loss, or as soon as reasonably possible. Failure to give complete proof of Loss within these time frames will not invalidate any otherwise valid claim if notice is given as soon as reasonably possible and in no event later than one year after the deadline to submit complete proof of Loss.

**CLAIM PAYMENT:** The Company will pay you or your beneficiary the applicable Benefit Amount within 60 days after complete proof of Loss is received and if you, the Policyholder and/or the beneficiary have complied with all the terms of the policy.

**ARBITRATION:** In the event of a dispute under this policy, either the Company or the Insured Person may make a written demand for arbitration. In that case, the Company and the Insured Person will each select an arbitrator. The two arbitrators will select a third, if they cannot agree within 15 days, either the Company or the Insured Person may request that the choice of arbitrator be submitted to the American Arbitration Association. The arbitration will be held in the state of the Insured Person's principal residence.

**IF YOU HAVE ANY CLAIM RELATED QUESTIONS, PLEASE CALL THE CLAIMS SERVICE CENTER AT 1-800-CLAIMS-0 (1-800-252-4670) OR (757) 222-4232**

You can also go to the Company Website ([www.chubb.com](http://www.chubb.com)), click on Report a Loss, select Accident, Benefits and Life claims, select the appropriate form, print out the claim form, fill out and mail. You can file a claim by mail or fax.

**Mailing Address:** CHUBB GROUP OF INSURANCE COMPANIES  
 CLAIMS SERVICE CENTER  
 600 INDEPENDENCE PARKWAY  
 P.O. BOX 4700  
 CHESAPEAKE VA 23327-4700  
**Fax Number:** 1-800-300-2538

As a handy reference guide, please read this and keep it in a safe place with your other insurance documents. This description of coverage is not a contract of insurance but is a summary of the principal provisions of the insurance while in effect. Complete policy provisions are contained in the Master Policy, which can be obtained from the Policyholder;

Policy # 9905-18-06

Policy Underwritten By  
 Federal Insurance Company  
 a member insurer of the  
 Chubb Group of Insurance Companies  
 15 Mountain View Road, P.O. Box 1615  
 Warren, NJ 07061-1651

Plan Administrator  
 The Direct Marketing Group, Inc.  
 13255 Bedford Avenue  
 Omaha, NE 68164

**DESCRIPTION OF COVERAGE**

**SECONDARY RENTAL CAR COLLISION COVERAGE.** Discover® More™, Discover® Open Road™ and Discover® Titanium Cardmembers can benefit from the security and safety offered through Excess Collision Damage Waiver. If you rent a vehicle for 31 consecutive days or less (or 45 days under certain circumstances described below) with your Card (as defined below), you may be eligible for benefits under this coverage. Excess

Collision Damage Waiver is an insurance program, underwritten by Federal Insurance Company Policy # 9905-17-53 (the "Policy").

**DEFINITIONS:**

**Account** means a Card account.  
**Actual Cash Value** means the cost to repair or replace the Rented Automobile at the time of loss, less depreciation.  
**Cardmember** means the holder of the Card whose name appears on the credit card.  
**Card** means the Discover More Card, Discover Open Road Card or Discover Titanium Card, as applicable.  
**Collision Damage** means the direct and accidental damage to a Rented Automobile caused by upset or collision with another object. Collision Damage does not include loss caused by missiles, falling objects, fire, theft or larceny, explosion, earthquake, windstorm, hail, water, flood, malicious mischief or vandalism, riot or civil commotion.  
**Company** means the Federal Insurance Company.  
**Insured** means Cardmembers and authorized users of the Account.  
**Policyholder** means Discover Financial Services LLC, the entity responsible for the payment of premium.  
**Rental Agency** means a commercial automobile rental company licensed under the laws of the applicable jurisdiction.  
**Rented Automobile** means a four-wheeled private passenger type motor vehicle or a mini-van manufactured and designed to transport a maximum of seven passengers and used exclusively to carry passengers. A Rented Automobile must be designed for travel on public roads and rented from Rental Agency.

**TO GET COVERAGE:**

- The Collision Damage Waiver Coverage is provided to you, as an Insured, automatically when the entire rental fee for the Rented Automobile is charged or debited to your Account. It is not necessary for you to notify the Company at the time the rental fee is charged or debited to your Account.
- You must decline the Loss Damage Waiver offered by the vehicle Rental Agency.
- You must rent the vehicle in your own name and sign the vehicle rental agreement/contract.
- The coverage period will not exceed 31 consecutive days, or 45 consecutive days if the Insured is an employee of an organization which has provided a Card to the Insured for business use.

**THE KIND OF COVERAGE YOU RECEIVE:**

In consideration of the premium paid by the Policyholder as required, and subject to all the terms of the Policy, the Company agrees to reimburse on an Actual Cash Value basis either the Insured or the Rental Agency for repair or replacement of the Rented Automobile as a result of Collision Damage to the Rented Automobile. The Company's liability will be for a maximum reimbursement of \$25,000. In no event will the Company be liable beyond the amounts actually paid by the Insured or the Rental Agency.

- If you or an Insured's primary vehicle insurance or other coverage has made payments for a covered loss, Excess Collision Damage Waiver will cover your deductible and any other eligible amounts not covered by other insurance.
- This coverage is not all-inclusive, which means it does not cover such things as personal injury or personal liability. It does not cover you for any damages to other vehicles or property. It does not cover you for any injury to any party.



**WHO IS COVERED:**

- Discover More Cardmembers
- Discover Open Road Cardmembers
- Discover Triamium Cardmembers

**EXCLUDED RENTAL VEHICLES:**

Off-road, antique or limited edition motor vehicles; trucks; recreational vehicles, campers, pickup trucks, and mini-buses; limited edition motor vehicles or high value, exotic, high performance or collector type. High value motor vehicles are motor vehicles whose replacement value exceeds \$50,000, and antique motor vehicles are defined as any vehicle over 25 years old, or any vehicle which has not been manufactured for 10 years or more.

**WHERE YOU ARE COVERED:**

- Coverage applies to vehicles rented in the United States and Canada only.
- Coverage is not available where prohibited by law.

**WHAT IS NOT COVERED:**

Coverage does not apply to loss resulting from the following:

- Any dishonest, fraudulent or criminal act of the insured.
- Forgery by the insured.
- Loss due to war or confiscation by authorities.
- Loss due to nuclear reaction or radioactive contamination.
- The insured being intoxicated, as defined by the laws of the jurisdiction where the loss occurred, or under the influence of any narcotic unless prescribed by a physician.
- Use of the Rented Automobile to carry passengers and property for hire.
- Use of the Rented Automobile by a person other than the one authorized to operate the Rented Automobile by the terms of the Rental Agreement.
- Loss of use of the Rented Automobile.
- Intentional damage to the Rented Automobile by the insured.
- Damage which is due and confined to wear and tear, freezing, mechanical or electrical breakdown or failure.
- Damage to tires unless the loss is coincident with a covered loss.
- Use of the Rented Automobile in tests, races or contests.
- The Rented Automobile being operated or located in any territory prohibited by the terms of the Rental Agreement.

**FOR INSURED'S WHO ARE NEW YORK STATE RESIDENTS:**

To the extent that this plan provides insurance against damage to a rented motor vehicle, the following terms and conditions apply: (1) the period of insurance coverage will not exceed 31 consecutive days, or 45 consecutive days if the insured is an employee of an organization which has provided the Card to the insured for business use; and (2) the insurance provided by this plan will be excess over any other valid and collectible insurance covering the Rented Automobile. However, the insurance provided under this plan may be primary if specifically provided for under the terms of this plan and if the following criteria is met: (a) the Rented Automobile is rented for use outside the United States, its territories and possessions; (b) the insured is an employee of an organization which has provided the Card to the insured for business use; and (c) the Rented Automobile is rented without a driver.

**HOW TO FILE A CLAIM UNDER EXCESS COLLISION DAMAGE WAIVER:**

In the event of a claim, written or verbal notice must be provided as soon as reasonably possible.

IF YOU HAVE ANY CLAIM RELATED QUESTIONS, PLEASE CALL THE CLAIMS SERVICE CENTER AT 1-800-CLAIMS-0 (1-800-252-4670) or (757) 222-4232

You can also go to the Company Website ([www.chubb.com](http://www.chubb.com)), click on Report a Loss, select Accident, Benefits and Life claims, select the appropriate form, print out the claim form, fill out and mail. You can file a claim by mail or fax.

Mailing Address: CHUBB GROUP OF INSURANCE COMPANIES  
CLAIMS SERVICE CENTER  
500 INDEPENDENCE PARKWAY  
P.O. BOX 4700  
CHESAPEAKE, VA 23327-4700  
1-800-300-2538

Fax Number:

**CLAIM PROCEDURE:**

The insured must send the Company written notice of a claim, including the insured's name and Policy number, within 90 days after a covered loss occurs. If notice cannot be given within that time, it must be given as soon as reasonably possible. To file a sworn proof of loss, the insured must send the following information to the Company or its authorized representative:

- A copy of the Account statement showing the automobile rental transaction.
- A copy of the automobile rental agreement.
- A copy of the police report.
- A copy of the initial claim report submitted to the automobile Rental Agency.
- A copy of the paid claim presented by the automobile Rental Agency for the Collision Damage for which the insured is responsible.
- Proof of submission of the loss to, and the results of any settlement or denial by the applicable insurance carrier(s).
- If no other insurance is applicable, a notarized statement from the insured to that effect.

Reminder: Please refer to the Insurance Disclosures section.

**INSURANCE DISCLOSURES**

As a handy reference guide, please read this document and keep it in a safe place with your other insurance documents. This Summary of Coverage is not a contract of insurance but is simply an informative statement to eligible insureds of the principal provisions of the insurance while in effect. Complete provisions pertaining to this plan of insurance are contained in the master policy on file with Discover Financial Services LLC, herein referred to as the Policyholder. If a statement in this Summary of Coverage and any provision in the policy differ, the policy will govern.

Policy Underwritten by Federal Insurance Company ("Company")  
a member of the Chubb Group of Insurance Companies  
15 Mountain View Road, P.O. Box 1615  
Warren, New Jersey 07061-1615

Plan Administrator: The Direct Marketing Group, Inc.  
13265 Bedford Avenue  
Omaha, NE 68164

Master Policy Number: 9906-17-63

Effective date of benefits: Effective April 1, 2007, this guide replaces all prior disclosures, program descriptions, advertising and/or brochures by any party. Policyholder and Company reserve the right to change the benefits and features of these programs at any time.

Cancellation: Policyholder can cancel these benefits at any time or choose not to renew the insurance coverage for all authorized Cardmembers. If Policyholder does cancel these benefits, you will be notified at least 60 days in advance. If the Company terminates, cancels, or chooses not to renew the coverage to Policyholder, you will be notified as soon as is

practicable, insurance benefits will still apply for any benefits you were eligible for prior to the date of such termination, cancellation or non-renewal, subject to the terms and conditions of coverage.

**Benefits to you:** These benefits apply only to Cardmembers whose cards are issued by U.S. financial institutions. The United States is defined as the 50 United States, the District of Columbia, American Samoa, Puerto Rico, Guam and the U.S. Virgin Islands. No person or entity other than the Cardmember shall have any legal or equitable right, remedy, or claim for insurance proceeds and/or damages under or arising out of this coverage. These benefits do not apply if your Card privileges have been cancelled. However, insurance benefits will still apply for any benefit you were eligible for prior to the date that your Account is suspended or cancelled subject to the terms and conditions of coverage of your Cardmember Agreement.

**Transfer of rights or benefits:** No rights or benefits provided under these insurance benefits may be assigned without the prior written consent of the Company.

**Misrepresentation and Fraud:** Coverage of the Insured will be void if, at any time, the Insured has concealed or misrepresented any material fact or circumstance concerning this coverage or the subject thereof or the interest of the Insured herein, or in case of any fraud or false swearing by the Insured relating thereto.

Coverage for an Insured will be void if, whether before or after a loss, the Policyholder or its subscribing organization(s) has concealed or misrepresented any material fact or circumstance concerning this coverage or the subject thereof or the interest of the Insured therein, or in case of any fraud or false swearing by the Policyholder or its subscribing organization(s) relating hereto.

**Addition of New Insureds:** All eligible persons will be automatically insured under this Policy.

**Examination Under Oath:** It is a condition of this insurance that the Insured and the Policyholder, as often as may be reasonably required by the Company, will submit, and within its power cause others to submit, to examinations under oath and will produce for examination all writings, books of account, bills, invoices and other vouchers, or certified copies thereof if originals are lost, at such reasonable time and place as may be designated by the Company or its representative, and will permit extracts and copies thereof to be made. No such examination under oath, examination of documents or any other act of the Company, its employees or representatives in connection with the investigation of any loss or claim will be deemed a waiver of any defense and such acts shall be deemed to have been made or done without prejudice to the Company's liability.

**No Benefit to Others:** This coverage will in no way injure directly or indirectly to the benefit of any insured, person or organization or other parties.

**Subrogation:** It is a condition of this insurance that if the Company pays the Insured for a loss, it will require the Insured to assign and transfer any claim or right of action against any individual, firm or corporation for such loss to the Company or subrogate or hold in trust all such rights to the extent of the amount paid. The Insured will agree to take action as requested by the Company to enforce such rights. Upon payment by the Company to the Insured, the Insured agrees to direct enforcement of such rights as reasonably requested by the Company and to return to the Company any recovery to the extent payment of loss has been made by the Company.

**Arbitration:** In the event of a dispute under this policy, either the Company or the Insured may make a written demand for arbitration. In that case, the Company and the Insured will each select an arbitrator. The two arbitrators will select a third. If they cannot agree within 15 days, either the Company or the Insured may request that the choice of arbitrator be submitted to the American Arbitration Association. The arbitration will be held in the state of the Insured's principal residence.

### GLOBAL TRAVELER'S HOTLINE TERMS AND CONDITIONS

The Global Traveler's Hotline provides Cardmembers and their families a wide range of free travel assistance benefits. It is operated by AXA Assistance USA, Inc. Visit [Discover.com/travel](http://Discover.com/travel) to learn more.

**Eligibility:** You must be a Cardmember whose Account is in good standing, the Cardmember's spouse or dependent child traveling with the Cardmember or an Authorized User of an Account in good standing.

**Third-Party Charges:** Global Traveler's Hotline is not insurance, so you will be responsible for all third-party fees and expenses for services requested, such as professional or medical fees.

**Availability of Services:** Certain services may not be available in all areas. Call us at 1-800-DISCOVER (1-800-347-2583) for assistance or if you have questions about a specific destination. Outside the U.S., call us collect at 1-801-902-3100. While AXA Assistance will make every reasonable effort to provide the services, neither AXA Assistance nor Discover bank or our respective affiliates will be liable if a service is not provided or for any services that are provided by third parties. The services and these terms and conditions are subject to change without notice.

IN THE DISTRICT COURT OF SEDGWICK COUNTY, KANSAS  
CIVIL COURT DEPARTMENT

FILED

APP DOCKET NO. fm

2009 JAN 12 P 1:16

CLERK OF DIST. COURT  
18TH JUDICIAL DISTRICT  
SEDGWICK COUNTY, KS

BY TC

DISCOVER BANK )  
)  
Plaintiff, )  
)  
vs. )  
)  
MILA L MEANS, MD, )  
a.k.a. Mila L Means Holmes )  
3020 E 101st St N )  
Valley Center, Kansas 67147-9167 )  
Or serve at place of employment: )  
Dr Mila Meads )  
551 N Hillside St Ste 250 )  
Wichita, KS 67214 )  
)  
Defendant. )

Case No. )  
Court No. )  
Chapter 60 )

09CV0093

SERVICE INSTRUCTION FORM

To: Clerk of the District Court:

The Clerk of the Court will issue a summons in the above entitled action. You are hereby instructed to effect service as follows:

     a. Service through the office of the Sheriff of SEDGWICK County, State of Kansas, other than by certified mail.

  X   b. Service by a Process Server authorized or appointed by the provisions of K.S.A. 60-303.

     c. Overnight mail delivery by the undersigned litigant/attorney, who understands that the responsibility for obtaining service and effecting its return shall be on the attorney. The Receipt for service must be filed with the Clerk's office before service can be perfected.

     d. Certified mail service by the undersigned litigant/attorney, who understands that the responsibility for obtaining service and effecting its return shall be on the attorney. The Receipt for service (green card) must be filed with the Clerk's office before service can be perfected.

     e. Certified mail service by the office of the Sheriff. The undersigned understands that the responsibility for obtaining service and effecting its return shall be on the Sheriff.

COHEN MCNEILE & PAPPAS P.C.

By: [Signature]  
James M. McNeile #13044  
Richard Milone #22924  
4601 College Boulevard, Suite 200  
Leawood, Kansas 66211  
(913)469-2958 Fax: (913)312-3137  
Toll Free: (877)811-CMPS (2677)  
ATTORNEYS FOR PLAINTIFF

IN THE DISTRICT COURT OF SEDGWICK COUNTY, KANSAS  
CIVIL COURT DEPARTMENT

FILED

TG

APP DOCKET NO.

2009 JAN 12 P 1:16

CLERK OF DIST. COURT  
18TH JUDICIAL DISTRICT  
SEDGWICK COUNTY, KS

BY TG

DISCOVER BANK

Plaintiff,

vs.

ALVIN B HOLMES,  
846 N Dellrose St  
Wichita, Kansas 67208

Defendant.

Case No.  
Court No.  
Chapter 60

SERVICE INSTRUCTION FORM

09CV0093

To: Clerk of the District Court:

The Clerk of the Court will issue a summons in the above entitled action. You are hereby instructed to effect service as follows:

     a. Service through the office of the Sheriff of SEDGWICK County, State of Kansas, other than by certified mail.

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     e. Certified mail service by the office of the Sheriff. The undersigned understands that the responsibility for obtaining service and effecting its return shall be on the Sheriff.

COHEN MCNEIL & PAPPAS, P.C.

By:

*[Handwritten Signature]*

James M. McNeile #13044  
Richard Milone #22924  
4601 College Boulevard, Suite 200  
Leawood, Kansas 66211  
(913)469-2958 Fax: (913)312-3137  
Toll Free: (877)811-CMPS (2677)  
ATTORNEYS FOR PLAINTIFF