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18 Attorneys for Plaintiff Aaron Braxton, on
behalf of himself and all others similarly
19 situated

20 UNITED STATES DISTRICT COURT
21 NORTHERN DISTRICT OF CALIFORNIA
22

23 AARON BRAXTON, on behalf of
24 himself and all others similarly situated,

25 Plaintiff,

26 vs.

27 WELLS FARGO BANK, N.A., a
Delaware corporation; WELLS FARGO
28 HOME MORTGAGE, INC., a

Case No.

**CLASS ACTION COMPLAINT
FOR:**

**1. VIOLATION OF THE EQUAL
CREDIT OPPORTUNITY ACT,
15 U.S.C. § 1691, *ET SEQ.*
2. RACE DISCRIMINATION IN
VIOLATION OF THE FAIR**

Case No.

COMPLAINT

Delaware corporation,
Defendants.

**HOUSING ACT OF 1968, 42
U.S.C. § 3601, *ET SEQ.*
3. RACE DISCRIMINATION IN
VIOLATION OF 42 U.S.C. § 1981
4. VIOLATION OF THE UNRUH
CIVIL RIGHTS ACT,
CALIFORNIA CIVIL CODE § 51
5. VIOLATION OF THE
CALIFORNIA UNFAIR
COMPETITION LAW**

DEMAND FOR JURY TRIAL

Plaintiff Aaron Braxton, individually and as a representative of a nationwide class of Black applicants for home mortgage refinancing through Wells Fargo and its related entities (collectively “Plaintiffs” or the “Class”), alleges as follows:

I. NATURE OF ACTION

1. Homeownership has long been considered the cornerstone of the American Dream—allowing citizens to accumulate wealth through access to credit, generating equity, and reducing housing costs.¹ For a decade, historically low interest rates have provided more and more Americans with access to this dream and, by way of refinanced lower home mortgages, the ability to pass their properties on to their next generation.

2. But careful students of American history know that homeownership has for far too long been unattainable for a disproportionate number of Black Americans, and even worse, more difficult for Black Americans to maintain once achieved. Indeed, prior to the passage of the Civil Rights Act (and sometimes even afterwards), Black American homeowners were systematically denied access to the financial benefits of this particular American Dream through the use of pernicious

¹ <https://www.forbes.com/sites/forbesrealestatecouncil/2021/09/28/homeownership-and-the-american-dream/?sh=1c78499623b5>

1 and pervasive race-based exclusions. These included, for example, the Federal
2 Housing Administration’s refusal to insure mortgages in and near Black
3 neighborhoods—a practice now referred to as “redlining”—at the same time that the
4 FHA subsidized builders who mass-produced entire subdivisions made for White
5 Americans. These also included restrictive covenants in deeds that prohibited or
6 restricted the sale of American homes to Black Americans.

7 3. The passage of the Civil Rights Act in 1965—and the judicial
8 interventions that followed—were supposed to fix that historical injustice, eliminate
9 race-based gatekeeping practices like redlining and restrictive covenants while
10 righting this long-standing American wrong. For many homeowners seeking a first
11 or refinanced mortgage with some banks, it did.

12 4. However, despite publicly touting their commitment to “help[] ensure
13 that all people across our workforce, our communities, and our supply chain feel
14 valued and respected and have equal access to resources, services, products, and
15 opportunities to succeed,”² Defendants in this case—Wells Fargo Bank, N.A. and
16 Wells Fargo Home Mortgage (collectively “Defendants” or “Wells Fargo”)—have
17 continued to discriminate against Black American home loan applicants. Federal
18 data shows that over the last several years thousands of Black homeowners have
19 been unable to maintain the dream of home ownership because of Wells Fargo’s
20 ongoing and discriminatory modern day “redlining” practices. These practices
21 delayed, obstructed and denied Black homeowners the benefit of lower interest rates
22 obtained through refinancing, forcing them to pay more for their loans than was
23 required of non-Black applicants, and in many cases sending them into foreclosure.³

24
25 _____
26 ² <https://www.wellsfargo.com/about/diversity/diversity-and-inclusion/>

27 ³ https://www.nclc.org/images/pdf/special_projects/covid-19/IB_Covid_Black_Forbearance_Foreclosure.pdf
28

1 5. Bloomberg reported that the data released under the federal Home
2 Mortgage Disclosure Act shows unequivocally that Wells Fargo rejects a
3 disproportionate number of Black homeowners’ refinancing applications.⁴ Wells
4 Fargo also makes the refinancing application process purposely more difficult and
5 less attractive for Black applicants than others—on a consistently national scale—
6 demanding higher interest rates for loans secured by homes located in
7 neighborhoods with greater proportions of Black residents by placing its loan
8 officers much farther away from those same neighborhoods.⁵ And Wells Fargo
9 customers report that loan officers state that certain “areas” with large Black
10 populations are ineligible for rapid valuations.⁶ Black applicants are further
11 subjected to delays, feigned mistakes, and other obstacles, leading many Black
12 Americans to withdraw their requests for refinancing, and leading others to wait
13 indefinitely while Wells Fargo refuses to act upon their applications.

14 6. Wells Fargo also uses automated algorithms and machine learning to
15 make underwriting decisions. But these, too, are infected with Wells Fargo’s
16 pervasive race-based discrimination. Wells Fargo’s algorithms and machine
17 learning select “areas” and other characteristics for greater or lesser scrutiny of
18 credit applications, which, over time, only exacerbates the wealth disparities
19 between people living in those areas or among groups which tend to have certain
20 characteristics analyzed by the algorithms and machine learning.

21 7. Numbers do not lie and, here, the numbers tell a shameful story,
22 without any legitimate explanation. Data from eight million refinancing
23

24 ⁴ [https://www.bloomberg.com/graphics/2022-wells-fargo-Black-home-loan-](https://www.bloomberg.com/graphics/2022-wells-fargo-Black-home-loan-refinancing/)
25 [refinancing/](https://www.bloomberg.com/graphics/2022-wells-fargo-Black-home-loan-refinancing/)

26 ⁵ *Id.*

27 ⁶ *Id.*

1 applications from 2020 reveal that “the highest-income Black applicants [had] an
2 approval rate about the same as White borrowers in the lowest-income bracket.”⁷
3 White refinancing applicants earning between \$0 and \$63,000 a year were *more*
4 *likely* to have their refinancing application approved by Wells Fargo than Black
5 refinancing applicants earning between \$120,000 and \$168,000 a year.⁸ Overall, in
6 2020, Wells Fargo rejected a *majority* of all the completed applications submitted
7 by Black homeowners.⁹ And because Wells Fargo designed an application process
8 that is disproportionately difficult for Black homeowners to complete, 27% of all
9 Black homeowners who began a refinance application with Wells Fargo withdrew
10 it.¹⁰

11 8. As a result of its discriminatory practices, Wells Fargo was the only
12 major lender in the United States that approved a smaller share of refinancing
13 applications from Black homeowners in 2020 than it had in 2010.¹¹ And its
14 disproportionately low approval rates for Black applicants are well below the national
15 average.

16 9. In 2020—at the height of the refinancing boom, when millions of
17 Americans benefitted from the historically low interest rate environment—Wells
18 Fargo approved 47% of all applications by Black homeowners (meaning that Wells
19 Fargo rejected the majority of applications from Black homeowners), whereas all
20
21

22 ⁷ *Id.*

23 ⁸ *Id.*

24 ⁹ *Id.*

25 ¹⁰ *Id.*

26 ¹¹ *Id.*

1 other lenders approved 71% of all applications by Black homeowners.¹²

2 10. No other lending institution rejected a majority of Black homeowners'
3 applications for refinancing.¹³

4 11. Wells Fargo also systematically and discriminatorily applied to Black
5 refinance applicants some of the tightest lending standards in the industry, which
6 disproportionately affect minority applicants.¹⁴ A study done by the Board of
7 Governors of the Federal Reserve System analyzing federal mortgage data stated
8 that they "do not have any evidence [a]s to whether these tighter standards reduce
9 loan risk to justify the disparate impact on minority denials they are associated
10 with."¹⁵ And after controlling for relevant underwriting factors (debt-to-income
11 ratios, loan-to-value ratios, credit scores, etc.) the study found that "[l]enders who
12 impose the strictest standards on their white applicants [like Wells Fargo] tend to
13 have the largest unexplained excess denials of minority applicants."¹⁶

14 12. Plaintiff Aaron Braxton is one victim of Wells Fargo's discriminatory
15 policies. Mr. Braxton is a financially successful and eminently creditworthy Black
16 playwright, performer, and a math and science teacher with a Masters degree from
17 the University of Southern California.¹⁷ He has authored several award winning

18 ¹² *Id.*

19
20 ¹³ [https://www.bloomberg.com/graphics/2022-wells-fargo-Black-home-loan-](https://www.bloomberg.com/graphics/2022-wells-fargo-Black-home-loan-refinancing/)
21 [refinancing/](https://www.bloomberg.com/graphics/2022-wells-fargo-Black-home-loan-refinancing/)

22 ¹⁴ *Id.*

23 ¹⁵ *How Much Does Racial Bias Affect Mortgage Lending? Evidence from Human*
24 *and Algorithmic Credit Decisions*, Neil Bhutta, Aurel Hizmo, and Daniel Ringo
(July 2021), at 12, n.20. Available at:

25 https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3887663

26 ¹⁶ *Id.* at 12.

27 ¹⁷ https://www.imdb.com/name/nm1347914/bio?ref=nm_ov_bio_sm

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1 plays, including *DID YOU DO YOUR HOMEWORK?*, which broke the Beverly
2 Hills Playhouse's record for longest running play (9 months).¹⁸ He has also written
3 several films and television pilots, and acted in several film, television, and theatre
4 projects.¹⁹

5 13. In addition, for two decades, Mr. Braxton was a loyal Wells Fargo
6 mortgage customer. He purchased his home in 2000, in a historically Black
7 neighborhood located in South Los Angeles near the campus of the University of
8 Southern California and secured his property with a Wells Fargo home mortgage
9 insured by the Federal Housing Administration. Mr. Braxton always made his
10 mortgage payments and bills on time, and he had a good credit score.

11 14. Yet despite his successful career and his creditworthiness, when Mr.
12 Braxton sought to refinance his home mortgage loans in August of 2019, Wells
13 Fargo consistently obstructed his ability to refinance his loan. Despite favorable
14 loan-to-value metrics and his personal history with the institution, Wells Fargo was
15 focused more on his race and the location of his home within a historically Black
16 Los Angeles neighborhood, and used the fact of his race and the location of his
17 home to delay, obstruct and deny him the full benefits of historically low home
18 mortgage interest rates. Wells Fargo did this even though, having paid his loan for
19 more than 18 years, Mr. Braxton had equity in his home far greater than the amount
20 remaining, on his Federal Housing Administration (FHA) secured loan.

21 15. Mr. Braxton was given the runaround to such an extent that it took him
22 over nine months to refinance his federally backed mortgage loan (and 12 months to
23 refinance his home equity loan) at an above-market interest rate of around 4%. This
24 was after various Wells Fargo representatives kept telling him they lost his
25 paperwork, made incomplete inquiries and needed to request more information,

26 ¹⁸ *Id.*

27 ¹⁹ *Id.*

1 delayed its responses, and even placed him into an unsolicited debt-trap deferred
2 payment program without his permission. It was only after Mr. Braxton notified the
3 Department of Housing and Urban Development (“HUD”) that Wells Fargo
4 approved the refinancing of his federally backed FHA loan (indeed, Wells Fargo
5 approved the application the very next day). Of course, for the prolonged period
6 that Mr. Braxton was waiting for Wells Fargo to refinance his loans, he was paying
7 the higher rates associated with his original loans.

8 16. Mr. Braxton’s experience is unfortunately consistent with the
9 experiences of thousands of Black Americans who have been victimized by Wells
10 Fargo’s intentional, knowing and systematic race discrimination, violating the
11 contractual, commercial and civil rights of Class members and causing millions (and
12 perhaps even billions) of dollars in damages to the Nationwide Class. Individually
13 and as a representative of the Class, Mr. Braxton brings this action to make good to
14 the Class all damages resulting from Defendants’ violations of the federal civil
15 rights laws and to restore to the Class any amounts to which they otherwise would
16 have been entitled, together with other equitable and remedial relief as the Court
17 may deem appropriate.

18 **II. JURISDICTION AND VENUE**

19 17. This Court has federal question jurisdiction over this matter pursuant to
20 28 U.S.C. §§ 1331, 1332(d), and 1343, because the Plaintiff asserts federal causes of
21 action, because Plaintiff asserts civil rights causes of action, and because at least one
22 member of the Class is a citizen of a different state than all Defendants, and because
23 the amount in controversy exceeds \$5,000,000.

24 18. Personal jurisdiction is appropriate over Defendants because Wells
25 Fargo Bank, N.A. transacts business in the State of California and has its principal
26 place of business in San Francisco, California. Wells Fargo Home Mortgage, Inc.
27 originates loans to California customers from its California offices and maintains a
28 systematic and continuous presence in the State.

1 two years, homeowners in the United States refinanced over \$5 trillion worth of
2 mortgages.

3 **A. Wells Fargo's Discriminatory Refinancing Practices**

4 24. Wells Fargo is a major issuer of home-based loans in the United States,
5 holding nearly a trillion dollars in outstanding debt.

6 25. Wells Fargo's discrimination began at the latest in 2018 and continues
7 through today.

8 26. In 2020, Defendant Wells Fargo approved Black homeowner
9 refinancing applications at a rate lower than that of any other major lender in
10 America. It is the only lender that approved fewer such applications in 2020 than it
11 did in 2010.²⁰

12 27. Bloomberg analyzed data from eight million refinancing applications
13 from 2020, released under the Home Mortgage Disclosure Act, and found that, for
14 Wells Fargo, "the highest-income Black applicants [had] an approval rate about the
15 same as White borrowers in the lowest-income bracket."²¹

16 28. The disparate treatment of Black applicants results at least in part from
17 Wells Fargo's tactics that, in practice, perpetuate redlining of areas with
18 disproportionately more Black residents and imposing in those areas hurdles and
19 obstacles that either delay or prevent refinancing.

20 29. For example, in order to minimize the likelihood and frequency of
21 Black mortgage applications, Wells Fargo systematically and intentionally places its
22 loan officers in areas with disproportionately low numbers of Black residents. In
23 many cities across the nation with large Black populations, like Atlanta, Baltimore,
24

25 _____
26 ²⁰ <https://www.bloomberg.com/graphics/2022-wells-fargo-Black-home-loan-refinancing/>

27 ²¹ *Id.*
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1 and Philadelphia, Wells Fargo's online store locator will direct individuals in
 2 predominately Black ZIP codes to areas in predominately White ZIP codes.²²
 3 Likewise, in New Haven, Connecticut, which in 2020 was a hot spot for denials, the
 4 nearest Wells Fargo loan officer available to homeowners was 25 miles away. Even
 5 to initiate the application process by visiting a loan officer, a Black applicant had to
 6 do more than a non-Black applicant.

7 30. The effect of this is clear: while Wells Fargo's approval rates for Black
 8 refinancing applicants are much lower than the approval rates for Black applicants at
 9 other national banks, *this gap widens in counties with more Black residents*.²³ As
 10 noted above, nationally, Wells Fargo approved just 47% of its Black refinancing
 11 applicants.²⁴ However, in Fulton County, which has more Black than white
 12 residents, Wells Fargo only approved 43% of its Black refinancing applications,
 13 nearly 10% less than its already-low national approval rate.²⁵

14 31. And even for those Black applicants whose loans were ultimately
 15 approved, they faced delays that White applicants living in predominately White
 16 neighborhoods did not, causing them damages through continued higher mortgage
 17 rates during the unjustified delay as they awaited loan approval. In some cases,
 18 Wells Fargo officers simply told Black applicants living in predominately Black
 19 neighborhoods that "perhaps the area is not eligible" for quick evaluations of
 20 refinancing applications.²⁶ Wells Fargo regularly approved refinancing applications

21
 22 ²² <https://www.wellsfargo.com/locator/mortgage/consultant> .

23 ²³ <https://www.bloomberg.com/graphics/2022-wells-fargo-Black-home-loan-refinancing/>
 24

25 ²⁴ *Id.*

26 ²⁵ *Id.*

27 ²⁶ *Id.*
 28

1 of non-Black homeowners in a matter of weeks, but only approved the applications
 2 of Black homeowners after many months (if those Blacks applicants happened to be
 3 approved).

4 32. Wells Fargo also perpetuated its discriminatory practices using
 5 algorithms. Wells Fargo identifies neighborhoods eligible for quick evaluations of
 6 refinancing applications using an internal algorithm.

7 33. The director of the CFPB describes these types of banking algorithms
 8 as “black boxes behind brick walls.”²⁷ “When consumers and regulators do not
 9 know how decisions are made by the algorithms, consumers are unable to
 10 participate in a fair and competitive market free from bias.”²⁸

11 34. Wells Fargo’s algorithm singled out predominately Black
 12 neighborhoods and labeled those neighborhoods ineligible for rapid processing,
 13 which led loan officers to inform Black applicants that they could not enjoy the
 14 same rapid application processing as white applicants.

15 35. Wells Fargo’s lending standards also help to perpetuate its
 16 discrimination of Black applicants. Wells Fargo has the strictest lending policies of
 17 any other major lender.²⁹ And as a result, Wells Fargo has the largest disparity
 18 between the approval rates of Black refinancing applicants to white refinancing
 19 applicants—25% compared to 16%.³⁰ A study done by the Board of Governors of
 20 the Federal Reserve System analyzing federal mortgage data stated that they “do not

21
 22 ²⁷ <https://www.consumerfinance.gov/about-us/newsroom/remarks-of-director-rohit-chopra-at-a-joint-doj-cfpb-and-occ-press-conference-on-the-trustmark-national-bank-enforcement-action/>

24 ²⁸ *Id.*

25 ²⁹ <https://www.bloomberg.com/graphics/2022-wells-fargo-Black-home-loan-refinancing/>

27 ³⁰ *Id.*

1 have any evidence [] as to whether these tighter standards reduce loan risk to justify
 2 the disparate impact on minority denials they are associated with.”³¹ And after
 3 controlling for relevant underwriting factors (debt-to-income ratios, loan-to-value
 4 ratios, credit scores, etc.) the study found that “[l]enders who impose the strictest
 5 standards on their white applicants tend to have the largest unexplained excess
 6 denials of minority applicants.”³² The study also found that, under the more
 7 stringent standards, “Black applicants are 1.9 percentage points more likely...to be
 8 denied than a comparable white applicant after controlling flexibly for an array of
 9 important underwriting factors.”³³

10 36. This Federal Reserve study also found that the most common reasons
 11 for denials “for Black applicants [were] ‘incomplete’ [documents] and
 12 ‘verification’” issues.³⁴ The study found that loan officers like those of Wells Fargo
 13 “may work less diligently with minority borrowers to gather all necessary
 14 documents or verify aspects of their application, resulting in a denial.”³⁵ Excess
 15 denials are also caused by “issues with the latter stages of the mortgage application
 16 process that disproportionately affect minorities.”³⁶ Wells Fargo’s loan officers’
 17 lack of diligence in processing applications from Black homeowners seeking
 18 refinancing caused disproportionate delays in the processing of their applications,
 19

20 ³¹ *How Much Does Racial Bias Affect Mortgage Lending? Evidence from Human*
 21 *and Algorithmic Credit Decisions*, Neil Bhutta, Aurel Hizmo, and Daniel Ringo
 (July 2021), at 12, n.20. Available at:

22 https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3887663

23 ³² *Id.* at 12.

24 ³³ *Id.* at 9.

25 ³⁴ *Id.* at 13.

26 ³⁵ *Id.* at 13, n.23.

27 ³⁶ *Id.* at 14.

1 causing damage even when the loans were ultimately approved.

2 37. The above practices are arbitrary and artificial and unnecessary to
3 achieve a valid interest or legitimate objective. The vast difference between
4 refinancing approval rates Wells Fargo issued to Black Americans as compared to
5 any other lending institutions' approval rates negates any possible legitimate
6 objective.

7 38. As noted, the above practices have a disproportionately adverse effect
8 on Black Americans seeking to refinance their loans. Black Americans are
9 members of a protected class.

10 39. Wells Fargo's practices directly harmed Black Americans by forcing
11 them to pay higher interest rates while applications were pending, by forcing them
12 to pay higher interest rates when applications were completed, and/or by denying
13 refinancing applications. In the absence of these policies, Black Americans would
14 not have had to pay higher rates or face rejection in their refinancing applications.

15 40. The disparity between Wells Fargo's treatment of Black American
16 applicants and non-Black American applicants is significant and shocking. As
17 noted, a White American in the lowest income bracket was just as likely to receive
18 refinancing approval as a Black American in the highest income bracket.

19 41. Wells Fargo's racial discrimination during the refinancing boom is
20 consistent with Wells Fargo's sordid history of racial discrimination in lending. In
21 2012, it agreed to pay \$184 million to settle claims with the Department of Justice
22 that the bank pushed Black and Hispanic homeowners to obtain subprime
23 mortgages, and then charged them higher fees and interest rates.³⁷

24 42. Several municipalities have sued Wells Fargo as well. In 2019, it
25 settled a lawsuit with the City of Philadelphia premised on allegations that it

26 _____
27 ³⁷ [https://www.justice.gov/opa/pr/justice-department-reaches-settlement-wells-
28 fargo-resulting-more-175-million-relief](https://www.justice.gov/opa/pr/justice-department-reaches-settlement-wells-fargo-resulting-more-175-million-relief).

1 purposefully made it difficult for minorities to refinance their mortgages.³⁸

2 43. Worse yet, despite harming Black homeowners by making it more
3 difficult to refinance their loans, Wells Fargo deceives the public by trumpeting its
4 supposed commitment to diversity, equity and inclusion. In its 2020 annual report,
5 Wells Fargo expressed its supposed commitment to “the concept of equity to our
6 diversity and inclusion efforts in recognition of the systemic and structural
7 challenges in our society that have contributed to disparities that exist today.”³⁹

8 44. In the same year that Wells Fargo denied a majority of Black
9 homeowners’ refinancing applications, the Wells Fargo CEO claimed that “the calls
10 for racial justice in 2020 reinforced the urgency of working to create a company
11 culture with broad representation in who we are, how we think, and how we make
12 decisions.”⁴⁰ However these words ultimately ring hollow, because it denied Black
13 homeowners refinancing at much higher rates than any other major lender in that
14 same year.

15 **B. Plaintiff Aaron Braxton is Harmed by Wells Fargo’s Race-Based**
16 **Discrimination**

17 45. Plaintiff Aaron Braxton purchased his home in South Los Angeles,
18 California, near the University of Southern California, in April 2000, through a
19 Wells Fargo home loan for \$139,500 (“First Loan”). This First Loan was insured
20 through the FHA. In 2005, after the price of the house appreciated, he took out a
21 second home equity line of credit loan, also from Wells Fargo (“Second Loan”). He
22 improved upon the property and built an accessory dwelling unit. Today, the home
23

24 ³⁸ <https://www.phila.gov/2019-12-16-city-of-philadelphia-and-wells-fargo-resolve-litigation/>.

25 ³⁹ 2020 Annual Report, at 17; accessible at

26 <https://www08.wellsfargomedia.com/assets/pdf/about/investor-relations/annual-reports/2020-annual-report.pdf>.

27 ⁴⁰ *Id.* at 16.
28

1 is worth approximately \$800,000, as it was in 2019. In or about August 2019, Mr.
2 Braxton began the process of applying to refinance his two Wells Fargo loans to
3 take advantage of reduced interest rates. At the time, he owed \$185,000 on both his
4 Wells Fargo loans and paid a 6% interest rate on both loans, multiple percentage
5 points higher than the average refinance rate at the time.

6 46. When Mr. Braxton initially applied to refinance his First Loan, Wells
7 Fargo repeatedly asked him to resubmit paperwork because Wells Fargo
8 representatives claimed the paperwork was either missing or lost. Wells Fargo
9 representatives also continually took weeks and weeks to issue or reply to
10 correspondence. Mr. Braxton thereafter began the process of refinancing his Second
11 Loan and was confronted with the same delays.

12 47. Frustrated by the delays and because he was continuing to pay a higher
13 mortgage rate while his applications were pending, Mr. Braxton regularly contacted
14 his loan officers and other Wells Fargo personnel to ask about the status of his
15 applications.

16 48. After months of frustrating encounters with Wells Fargo personnel, Mr.
17 Braxton decided to call HUD. A HUD representative informed Mr. Braxton that
18 they would be contacting Wells Fargo. The very next day, Wells Fargo approved
19 the refinancing of Mr. Braxton's federally backed FHA home loan, approximately
20 nine months after he began the process.

21 49. Eventually, around October 2020, Wells Fargo finally approved a
22 refinancing of his Second Loan. However, despite the contact from HUD, which
23 presumably prompted it to act on Mr. Braxton's First Loan, Wells Fargo continued
24 its discrimination through race-based application delays. It continued to claim that
25 paperwork needed to process the Second Loan was missing, even though Mr.
26 Braxton had already provided the paperwork. At one point, after having sent a
27 notary to his home to finalize some paperwork, Wells Fargo informed Mr. Braxton
28 that the notary had lost the paperwork and he needed to complete some forms again.

1 the Class or Subclass in their individual capacities impracticable, inefficient, and
2 unmanageable, and without class-wide relief, each member of the Class would
3 effectively be denied his, her, or their rights to prosecute and obtain legal and
4 equitable relief based on the claims and allegations averred in the Complaint.

5 57. Plaintiff, as detailed below, can fairly and adequately represent the
6 proposed Class. In the alternative, Plaintiff can act as the representative of the
7 below subclasses.

8 **B. Proposed Subclasses**

9 58. Additionally, or in the alternative, pursuant to Federal Rule of Civil
10 Procedure 23(c)(5), Mr. Braxton brings this action on behalf of the following
11 subclasses:

12 59. The Delayed Refinancing Subclass: All Black persons in the United
13 States who applied for refinancing from the Defendants during the class period and
14 whose applications processed at a rate slower than that of the average processing
15 time of applications made by non-Black applicants.

16 60. The Higher Rate Subclass: All Black persons in the United States who
17 applied for refinancing from the Defendants during the class period and whose
18 refinancing applications were eventually approved, but at a higher interest rate than
19 prevailing market rates based on their creditworthiness.

20 **C. Numerosity and Ascertainability**

21 61. **Numerosity.** While the exact numbers of the members of the Class
22 and Subclasses are unknown to Plaintiff at this time, membership in the Class and
23 Subclasses may be ascertained from the records maintained by Wells Fargo. At this
24 time, Plaintiff is informed and believes that the Class includes hundreds of
25 thousands of members and the Subclasses includes tens of thousands of members.
26 Therefore, the Class and Subclasses are sufficiently numerous that joinder of all
27 members of the Class and Subclasses in a single action is impracticable under Rule
28 23(a)(1) of the Federal Rules of Civil Procedure, and the resolution of their claims

1 through a class action will be of benefit to the parties and the Court.

2 62. **Ascertainability.** The names and addresses of the members of the
3 Class and Subclasses are contained in Wells Fargo's records. Notice can be
4 provided to the members of the Class and Subclasses through direct mailing, email,
5 publication, or otherwise using techniques and a form of notice similar to those
6 customarily used in consumer class actions arising under State and Federal law.

7 **D. Commonality and Predominance**

8 63. This matter involves common questions of law and fact which
9 predominate over any question solely affecting individual Class Members.

10 64. The common questions of law and fact include, but are not limited to:

- 11 • Whether Defendant systematically discriminated against Class
12 Members on account of their race;
- 13 • Whether Black applicants' home mortgage and refinance
14 applications were processed at a rate slower than that of the
15 average processing time of applications made by non-Black
16 applicants;
- 17 • Whether Black applicants' home mortgage and refinance
18 applications were denied when the score of a similarly situated
19 non-Black applicant would be approved;
- 20 • Whether Black applicants' resulting refinance loans were made
21 at higher interest rates as compared to similarly situated non-
22 Black applicants;
- 23 • Whether Defendant selected disproportionately white areas for
24 rapid refinancing evaluation and disproportionately Black areas
25 for increased scrutiny;
- 26 • Whether Defendants' underwriting algorithms and machine
27 learning programs were racially biased and led to unfairly
28 discriminatory credit policies that harmed Black refinancing
 applicants.

24 65. **Predominance.** Class action status is warranted under Rule 23(b)(3) of
25 the Federal Rules of Civil Procedure because questions of law or fact common to the
26 members of the Class and Subclasses predominate over any questions affecting only
27 individual members. The interests of the members of the Class and Subclasses in
28 individually controlling the prosecution of separate actions are theoretical and not

1 practical. Prosecution of this action through multiple Class Representatives would
2 be superior to individual lawsuits. Plaintiff is not aware of any difficulty which will
3 be encountered in the management of this litigation which should preclude its
4 maintenance as a class action.

5 **E. Typicality and Adequacy**

6 66. Plaintiff Aaron Braxton's claims are typical of the other Class
7 Members' claims because all Class Members were injured in the same manner as a
8 result of substantially similar conduct by Wells Fargo.

9 67. Mr. Braxton is an adequate Class Representative because his interests
10 do not conflict with the interests of the other members of the Class and Subclasses
11 he seeks to represent. Plaintiff has retained counsel competent and experienced in
12 complex class action litigation, and Plaintiff intends to prosecute this action
13 vigorously. The Class and Subclasses' interests will be fairly and adequately
14 protected by Plaintiff and his counsel.

15 **F. Superiority**

16 68. A class action is the superior method for the fair and efficient
17 adjudication of this matter, because the damages and other harms suffered by
18 Plaintiff and other Class Members are small compared to the burden and expense of
19 individual litigation. Thus, it would be impractical, if not impossible, for individual
20 plaintiffs to seek redress against Defendants for the harms suffered.

21 69. Individual litigation of these harms would also be inefficient for the
22 court system, and would create a risk of inconsistent or contradictory rulings and
23 judgments.

24 70. No unusual circumstances exist that would make this matter more
25 difficult to manage than a typical class action. Individualized damages figures can
26 be mathematically computed by collecting data about the length of each Class
27 Member's delay and the differential between the interest rates they ultimately
28 received versus the prevailing market rate based on race-neutral variables such as

1 debt-to-income ratio, loan-to-value ratio, and credit score.

2 **G. Injunctive Relief**

3 71. Plaintiff also seeks to represent a class under Rule 23(b)(2) seeking
4 injunctive relief forcing Wells Fargo to cease and desist its current discriminatory
5 practices.

6 **COUNT I**

7 **VIOLATION OF THE EQUAL CREDIT OPPORTUNITY ACT**

8 **15 U.S.C. § 16901, *et seq.***

9 72. Plaintiff, on behalf of himself and all those similarly situated, realleges
10 each and every paragraph above and incorporates them by reference as though fully
11 stated herein.

12 73. The Equal Credit Opportunity Act makes it unlawful for a creditor to
13 discriminate against any applicant with respect to any aspect of a credit transaction
14 on the basis of race.

15 74. The Equal Credit Opportunity Act applies to applications for
16 refinancing, like those of the Plaintiff and others similarly situated. Plaintiff applied
17 for credit by seeking to refinance his home loans.

18 75. Defendants are creditors because they regularly extend, renew, and
19 continue issuances of credit.

20 76. Defendants' consistent delays, roadblocks, feigned difficulties, and
21 sometimes denials of applications for refinancing submitted by Black Americans
22 constitute race-based discrimination forbidden by the Equal Credit Opportunity Act.

23 77. Plaintiff and all those similarly situated were harmed by Defendants'
24 conduct, including but not limited to harm in the form of higher interest rates paid
25 while applications were pending, higher interest rates paid upon a delayed approval,
26 or from a denied application.

27 78. On behalf of himself and the Class he seeks to represent, Plaintiff
28 requests the relief set forth below.

COUNT II

**RACE DISCRIMINATION IN VIOLATION OF THE FAIR HOUSING ACT
OF 1968, 42 U.S.C. § 3601, *et seq.***

79. Plaintiff realleges each and every paragraph above and incorporates them by reference as though fully stated herein.

80. The Fair Housing Act makes it unlawful, in residential real estate transactions, such as refinancing, to discriminate against designated classes of individuals.

81. Plaintiff and others similarly situated sought to engage in residential real estate transactions with the Defendants.

82. Plaintiff and others similarly situated are Black Americans and therefore members of a protected class under the Fair Housing Act.

83. Defendants refused to transact business with Plaintiff and others similarly situated when they refused to approve refinancing applications on the same timeline as the applications made by other parties with similar qualifications that were not members of the protected class, by causing applicants to withdraw applications due to roadblocks and feigned difficulties, or by denying refinancing applications. As noted, Defendants approved fewer than half of Black homeowners' refinancing applications in 2020 while approving 71% of the applications of White homeowners.

84. Defendants refused to transact business with Plaintiff and those similarly situated during the Class Period and at the same time did transact business with non-Black homeowners with similar qualifications.

85. Plaintiff and those similarly situated were injured by Defendants' refusal to transact business with them because they paid application fees for refinancing applications that were delayed or denied, because they continued to pay higher interest rates while their delayed applications were pending, because they were provided with higher interest rates than other homeowners with similar

1 qualifications, and/or because their applications were denied.

2 **COUNT III**

3 **RACE DISCRIMINATION IN VIOLATION OF 42 U.S.C. § 1981**

4 86. Plaintiff realleges each and every paragraph above and incorporates
5 them by reference as though fully stated herein.

6 87. Under 42 U.S.C. § 1981, persons of all races are guaranteed the same
7 right to make and enforce contracts, regardless of race. The term “make and
8 enforce” contracts includes the making, performance, modification, and
9 terminations of contracts, as well as all of the other aspects of a contractual
10 relationship.

11 88. By seeking to refinance their home loans and submitting an application
12 to Defendants, Plaintiff and others similarly situated sought to “make and enforce”
13 contracts with the Defendants.

14 89. Plaintiff and those similarly situated were denied their right to make
15 and enforce contracts when Defendants refused to provide refinancing on the same
16 terms as they offered to members of a different race, by delaying or frustrating the
17 applications process, and/or by denying the applications.

18 90. Plaintiff and those similarly situated were harmed by Defendants’
19 denial of their rights to make and enforce contracts.

20 **COUNT IV**

21 **VIOLATION OF THE UNRUH CIVIL RIGHTS ACT,**
22 **CALIFORNIA CIVIL CODE §51**

23 91. Plaintiff realleges each and every paragraph above and incorporates
24 them by reference as though fully stated herein.

25 92. The Unruh Civil Rights Act provides that all persons within the State of
26 California are free and equal no matter their race and are entitled to full and equal
27 treatment in all business establishments.

28 93. The Unruh Civil Rights Act thus prohibits discrimination of any kind

1 against any person in any business establishment.

2 94. Defendants are business establishments under the Unruh Civil Rights
3 Act.

4 95. Plaintiff and other individuals similarly situated were denied full and
5 equal treatment under the Unruh Civil Rights Act when Defendants refused to offer
6 them refinancing terms on the same terms as individuals who were not Black
7 Americans.

8 96. Plaintiff and other individuals similarly situated were harmed by
9 Defendants' refusal to transact business with them because they paid application
10 fees for refinancing applications that were delayed or denied, because they
11 continued to pay higher interest rates while their delayed applications were pending,
12 because they were provided with higher interest rates than other homeowners with
13 similar qualifications, and/or because their applications were denied.

14 **COUNT V**

15 **VIOLATION OF THE CALIFORNIA UNFAIR COMPETITION LAW**

16 97. Plaintiff realleges each and every paragraph above and incorporates
17 them by reference as though fully stated herein.

18 98. The California Unfair Competition Law ("UCL") forbids "unlawful,
19 unfair or fraudulent" conduct in connection with business activity.

20 99. Defendants' business offering refinancing of existing loans is a
21 business activity under the UCL.

22 100. Plaintiff and others similarly situated are "persons" under the UCL.

23 101. Defendants' conduct described herein constitutes unlawful competition,
24 as in the course of engaging in the business acts described above, it engaged in
25 conduct that constituted a predicate violation of the laws identified herein, namely
26 the Equal Credit Opportunity Act, the Fair Housing Act, 42 U.S.C. § 1981, and the
27 Unruh Civil Rights Act.

28 102. Defendants' conduct described herein constitutes unfair competition

1 under the UCL, as their practices are likely to deceive the public by informing the
 2 public of an alleged commitment to diversity and equality, but instead using hidden
 3 business practices designed to deny, delay and refuse the refinancing of loans of
 4 Black Americans, and subjecting those that are approved, to unfavorable terms. As
 5 there is no legitimate justification for these practices, which have a
 6 disproportionately negative impact on the public, in comparison to any fair business,
 7 purpose Defendants' practices are unfair as defined under the UCL.

8 103. Defendants' conduct described herein constitutes fraudulent
 9 competition under the UCL, as they advertise and other wise state that they are
 10 committed to diversity and equality, and will fairly and quickly process the
 11 refinancing applications of all applicants, but instead use hidden business practices
 12 designed to deny, delay and refuse the refinancing of loans of Black Americans, and
 13 subjecting those that are approved, to unfavorable terms. These business practices
 14 are likely to deceive the public, and thus are fraudulent.

15 104. Plaintiff and those similarly situated were injured by Defendants'
 16 refusal to transact business with them because they paid application fees for
 17 refinancing applications that were delayed or denied, because they continued to pay
 18 higher interest rates while their delayed applications were pending, because they
 19 were provided with higher interest rates than other homeowners with similar
 20 qualifications, and/or because their applications were denied.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, Plaintiff respectfully requests that this Court provides the
 23 following relief:

- 24 a. Certify the 23(b)(2) and 23(b)(3) classes outlined above;
- 25 b. Designate Plaintiff as a Class Representative and designate the
 26 undersigned counsel as lead Class Counsel;
- 27 c. Find that Defendants' acts described herein violate the Equal Credit
 28 Opportunity Act, the Fair Housing Act, 42 U.S.C. § 1981, the Unruh

Civil Rights Act, and the California UCL;

- d. Find that Defendants have engaged in a pattern and practice of racial discrimination resulting in the harm to Plaintiff and class members described above;
- e. Award Plaintiff and all others similarly situated restitutionary relief, together with compensatory and punitive damages;
- f. Award Plaintiff and all others similarly situated injunctive relief by ordering Defendants to stop the discriminatory practices described herein;
- g. Award Plaintiff and all others similarly situated prejudgment interest and attorney's fees, costs, and disbursements; and
- h. Award Plaintiff and all others similarly situated such other relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury of all issues so triable.

DATED: March 18, 2022

ELLIS GEORGE CIPOLLONE
O'BRIEN ANNAGUEY LLP

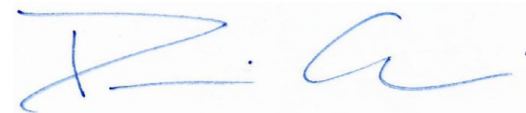
Dennis S. Ellis

Noah S. Helpen

Ryan Q. Keech

Joseph Kiefer (*pro hac vice* forthcoming)

Stefan Bogdanovich



By: _____

Dennis S. Ellis

Attorneys for Plaintiff Aaron Braxton and all
other similarly situated Plaintiffs

1 DATED: March 18, 2022

FRANK, SIMS & STOLPER LLP

2 Jason M. Frank

3 Scott H. Sims

4 Andrew D. Stolper

5
6 By: /s/ Jason Frank

7 Jason Frank

8 Attorneys for Plaintiff Aaron Braxton and all
other similarly situated Plaintiffs

9 **Attestation under N.D. Cal. L.R. 5-1(h)**: the ECF filer of this document attests that
10 all of the other signatories have concurred in the filing of the document, which shall
serve in lieu of their signatures on the document.