

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO**

NAVAJO NATION, a federally recognized Indian Tribe, on its own behalf, by Ethel B. Branch, Attorney General of the Navajo Nation, and as *parens patriae* on behalf of the Navajo people,

Plaintiff,

vs.

WELLS FARGO & COMPANY; WELLS FARGO BANK, N.A.; and DOES 1-10,

Defendants.

Civ. Action No. 1:17-cv-1219

COMPLAINT

Plaintiff Navajo Nation, a federally recognized Indian Tribe, by and through its Attorney General, Ethel B. Branch, hereby files this Complaint against Defendants Wells Fargo & Company and Wells Fargo Bank, N.A. (together, “Wells Fargo”), and alleges, upon information and belief, facts that are a matter of public record, and investigation of counsel, including but not limited to the review and analysis of pleadings and documents that are publicly available, the following:

SUMMARY OF ACTION

1. The Navajo Nation seeks relief from Wells Fargo’s widespread system of unfair, deceptive, fraudulent and illegal practices. The Navajo Nation and its members entrusted Wells Fargo with their finances and personal information. In return, Wells Fargo preyed on members of the Navajo Nation, including Navajo elders, who are some of the Navajo Nation’s most vulnerable citizens. Wells Fargo had a singular focus: it would exploit the trust of Navajo people who chose

to bank with Wells Fargo in order to advance Wells Fargo's profit interests. And Wells Fargo was wildly successful. For years, Wells Fargo created unauthorized bank accounts; activated unauthorized debit cards; pressured, cajoled and deceived Navajo elders; and enrolled Navajo customers in online banking services without authorization.

2. Under intense pressure from superiors to grow sales figures, Wells Fargo employees lied to Navajo consumers, telling elderly Navajo citizens who did not speak English that in order to have their checks cashed, they needed to sign up for savings accounts they neither needed nor understood. Wells Fargo representatives stalked local events like basketball games and flea markets to sign up consumers for unnecessary accounts *en masse*, especially targeting Navajo women who sold native crafts and products. They opened accounts for underage Navajo citizens, going so far as to falsify birthdates to avoid obtaining necessary parental consent. And Wells Fargo employees even strong-armed Navajo family members into signing up for Wells Fargo products they did not need—all in an effort to satiate Wells Fargo's desire for ever-increasing account figures and profits.

3. In September 2016, shockwaves were sent across the United States when the Consumer Financial Protection Bureau ("CFPB") announced that for years, "Wells Fargo employees secretly opened unauthorized accounts to hit sales targets and receive bonuses." According to the CFPB, Wells Fargo engaged in illegal banking practices by creating fake accounts and signing customers up for online banking services, without customers' knowledge or consent.

4. After Wells Fargo's improper and illegal practices came to light, Wells Fargo assured the Navajo Nation and its people that they had not been part of the classes of consumers

affected. Specifically, in January 2017, Wells Fargo falsely claimed that “there has been no impact from Wells Fargo’s improper sales practices, as outlined by the Consumer Finance [sic] Protection Bureau, to the Navajo Nation community. No Tribal community members in Arizona or New Mexico were harmed, and no Wells Fargo team members who worked at bank branches located on Navajo Nation lands were terminated.” The Navajo Nation now knows Wells Fargo’s representations were untrue and were simply an attempt to lull the Navajo Nation away from pursuing recourse.

5. The Navajo Nation learned only recently that, contrary to Wells Fargo’s express representation, since at least 2009 and continuing through 2016, Wells Fargo employees at branches on the Navajo Nation routinely opened unauthorized savings and credit accounts, misled customers into opening unnecessary accounts, obtained debit cards without customers’ consent, and enrolled customers in online banking without proper consent. What’s more, Wells Fargo and its employees specifically targeted elderly members of the Navajo Nation, who often did not speak or read English and who were particularly susceptible to Wells Fargo’s unlawful practices. On information and belief, Navajo consumers were exploited and deceived, and subjected to a multitude of hardships including monthly fees, late fees, debt collection, and negative credit reporting. These unlawful business practices were in service of Wells Fargo’s goal to maximize the number of banking products that each customer enrolled in, without regard for meaningful consent.

6. Wells Fargo’s relentless focus on sales led to Wells Fargo placing unrealistic sales goals on its employees. The pressure created by these unrealistic goals inevitably drove employees to engage in illegal and fraudulent behavior. Wells Fargo’s managers and executives either

encouraged or turned a blind eye to these illegal practices, and to the protection of its Navajo customers, for the sake of increased sales and higher profits.

7. The Navajo Nation seeks restitution, disgorgement, actual and punitive damages, costs, attorneys' fees, civil penalties, and injunctive relief to address the considerable harms to the Navajo Nation's members caused by Wells Fargo's unfair, fraudulent, and illegal business practices.

THE PARTIES

A. The Plaintiff

8. The Navajo Nation is a federally-recognized Indian tribe with a sovereign governing body recognized by the Secretary of the Interior. The Navajo Nation's headquarters is located in Window Rock, Arizona.

B. The Defendants

9. Defendant Wells Fargo & Company is incorporated in Delaware with its principal place of business in San Francisco, California. According to Wells Fargo & Company's public filings, it is a "diversified financial services company" that provides "retail, commercial and corporate banking services through banking locations and offices, the internet and other distribution channels to individuals, businesses, and institutions" nationwide. Wells Fargo & Company has approximately 269,100 full-time employees, and is ranked 25th on Fortune Magazine's 2017 rankings of America's 500 largest corporations. Wells Fargo & Company holds roughly \$1.9 trillion in assets.

10. Defendant Wells Fargo Bank, National Association (“Wells Fargo Bank, N.A.”) is, and at all times relevant hereto was, a national banking association chartered under the laws of the United States, with its primary place of business in Sioux Falls, South Dakota and its headquarters in San Francisco, California. Wells Fargo Bank, N.A. is Wells Fargo & Company’s principal subsidiary.

11. Defendants John/Jane Does 1-10 (the “Doe Defendants”) are persons whose identities are currently unknown to the Navajo Nation. On information and belief, the Doe Defendants were the agents and/or principals of Defendants Wells Fargo & Company and Wells Fargo Bank, N.A., and they did take part in the unfair and unlawful sales practices set forth below, to the detriment of the Navajo Nation and its members. The Navajo Nation will amend this complaint to add the true names and identities of the Doe Defendants when they become known.

JURISDICTION

12. This Court has jurisdiction over this action because the action is brought under a “Federal consumer financial law,” 12 U.S.C. § 5565(a)(1) and presents a federal question, 28 U.S.C. § 1331. The Attorney General is authorized to enforce Federal consumer financial law by 12 U.S.C. § 5552(a).

13. This Court has supplemental jurisdiction over the Navajo Nation’s state-law and tribal-law claims because they are so related to the federal claims that they form part of the same case or controversy. 28 U.S.C. § 1367(a).

VENUE

14. Venue is proper in the United States District Court for the District of New Mexico under 28 U.S.C. § 1391(b).

GENERAL ALLEGATIONS

15. Wells Fargo is one of the “Big Four Banks” of the United States and in 2015, it was reported to be the bank with the largest market value worldwide. Wells Fargo is the predominant provider of banking services to the Navajo Nation, operating five branches across the Navajo Nation, in the following locations: Kayenta, AZ; Tuba City, AZ; Chinle, AZ; Window Rock, AZ; and Shiprock, NM. In addition, Wells Fargo has a number of branches within roughly one half-hour’s drive of the reservation, including one branch in Bloomfield, NM; three branches in Farmington, NM; one branch in Gallup, NM; one branch in Holbrook, AZ; five branches in Flagstaff, AZ; and one branch in Blanding, UT. Each of these branches serves members of the Navajo Nation.

A. Wells Fargo’s Nationwide Unlawful Business Practices

16. On September 8, 2016, the CFPB and Office of the Comptroller of the Currency (“OCC”) announced that they had reached Consent Orders with Wells Fargo based on a widespread scheme of illegal and unfair business practices that included (a) opening unauthorized deposit accounts for existing customers and transferring funds to those accounts from customers’ original accounts, without their knowledge or consent; (b) submitting credit card applications using customer information without customers’ consent; (c) enrolling customers in online banking

services they did not request; and (d) ordering and activating debit cards using customers' information without their knowledge or consent.

17. Wells Fargo encouraged these activities in service of its goal to increase the average number of "solutions" per account holder or "household." Wells Fargo used the term "solutions" to refer to products or sales that would satisfy an employee's daily sales quota. "Solutions" included opening new banking accounts and credit card accounts, issuing debit cards, and enrolling customers in online banking.

18. Wells Fargo's business model is premised on getting customers to maintain multiple accounts. A brochure published by Wells Fargo entitled "The Vision & Values of Wells Fargo," emphasizes "*Going for gr-eight*." According to the brochure, "Our average retail banking household has about six products with us. We want to get to eight ... and beyond." Under this "Eight is Great" program, "retail banking households" were defined as households that used at least one of the following retail products: deposit accounts, savings accounts, savings certificates, individual retirement accounts ("IRAs"), certificates of deposit, personal lines of credit, personal loans, home equity lines of credit, or home equity loans. The "Eight is Great" program was critical to Wells Fargo achieving its financial goals.

19. Between 2012 and 2016, Wells Fargo & Company reported in its Annual Reports and Form 10-Q filings that its retail banking households averaged over six products per household (the average for banks overall was three). Wells Fargo & Company's 2012 third quarter 10-Q touted that their "retail bank household cross-sell ha[d] increased each quarter since the beginning of 2011[.]" But this was apparently not enough: the 10-Q went on to state that "there is more opportunity for cross-sell . . . [o]ur goal is eight products per customer[.]" This success and

continued push towards increasing growth came at a price; it was achieved through aggressive sales quotas and heightened incentives that ultimately pushed Wells Fargo employees to cross the line and engage in illegal, fraudulent and deceptive means to reach the quotas. Wells Fargo & Company executives knew of these practices and continued to perpetuate the highly pressurized sales culture at Wells Fargo. They could have taken steps to change the practices (by, for example, modifying employee incentives). They did not do so. Instead, they reaped financial rewards from the escalating sales figures as Wells Fargo's unlawful practices continued unabated.

20. To meet its goal of selling a high number of "solutions" to each consumer, Wells Fargo implemented strict and unreasonable sales quotas and established an incentivized compensation structure that emphasized sales of multiple "solutions" per consumer. Wells Fargo implemented quotas regulating the number of daily "solutions" its bankers must reach. Employees were under intense pressure to meet their goals. If employees did not meet these quotas, they were required to enter a counseling program and were subject to firing, demotion, and daily or sometimes twice-daily reporting calls to explain their lack of sales.

21. Employees operated in a cutthroat sales environment. Branch managers were subjected to a constant barrage of emails, visits, and up to five calls per day with their district managers. District managers told branch managers that they were to hit their metrics, no matter what it took. As a result, branch managers held daily meetings or "huddles" with employees to discuss sales quotas. In some instances, employees reported that managers took hourly inventory of the number of sales each banker was achieving throughout the day. Employees who did not meet quotas were subject to ridicule, as well as demeaning and verbally abusive reviews by

management. Employees were forced to work longer hours and deterred from taking vacation if they did not meet their quotas.

22. The sales quotas placed on employees were often not attainable through traditional means. The intense sales pressure, fear of losing their jobs, and incentive compensation structure predictably incentivized Wells Fargo employees to use alternative means to reach sales quotas. This pressure was all the more intense for employees on the Navajo Nation where unemployment rates reach 42%.

23. This sales pressure originated at Wells Fargo's executive level and trickled down to the district managers, who tolerated and even encouraged illegal and fraudulent acts by employees in order to meet their sales numbers. Some managers encouraged employees to open accounts for family members in order to meet sales quotas. Wells Fargo's pressure-filled environment encouraged employees to resort to unfair and illegal tactics (internally referred to as "gaming") to increase their sales and meet quotas.

24. At Wells Fargo, unfair tactics, including (a) bundling, (b) pinning, and (c) sandbagging were well known and widely practiced.

- a. In the practice of "**bundling**," consumers are told that the account they want can only be obtained with the purchase of additional accounts or products, when in fact the account they want is available on its own.
- b. In what is known as "**pinning**," a Wells Fargo employee obtains a debit card number and assigns a PIN without customer authorization. By using this PIN, employees can enroll consumers in online banking, which is considered a "solution" and results in a sales credit.

- c. The practice of “**sandbagging**” involved delaying the opening of an account or processing of a sale, without customers’ knowledge. In the month of December, for example, employees routinely stockpiled new accounts or sales and waited until January to process them. Customers who inquired as to why their accounts were not open were given false explanations such as computer system failures or technical problems.

25. Wells Fargo employees also made misrepresentations to customers in order to induce them into opening new accounts. These included:

- a. Telling customers that they would incur monthly fees on their checking accounts if they did not add savings accounts;
- b. Informing customers that they would be sent a credit card, but that they could simply destroy the card if it was unwanted. Customers were led to believe that this was sufficient to terminate the account - it was not;
- c. Misrepresenting that accounts did not have fees when in fact they did;
- d. Obtaining customer signatures on forms that employees represented were related to existing accounts but in fact were used to open additional accounts without customers’ knowledge or consent.

26. These illegal practices were pervasive. It was initially revealed that Wells Fargo opened as many as 2.1 million accounts without customer authorization since 2011. However, in a regulatory filing with the SEC on August 4, 2017, Wells Fargo stated that there could be a “**significant increase in the identified number of potentially unauthorized accounts**” as it expands its review period. On August 31, 2017, Wells Fargo announced that a third-party review

examining records back to 2009 had turned up an additional 1.4 million potentially fake accounts, increasing the total to 3.5 million. The third-party review also determined that 528,000 Wells Fargo customers had been enrolled in online bill pay without their consent.

B. September 2016 CFPB Consent Order

27. On September 8, 2016, the CFPB entered into a Consent Order finding that Wells Fargo Bank, N.A. had violated the Consumer Financial Protection Act of 2010 (“CFPA”) by:

- a. Opening unauthorized deposit accounts for existing customers and transferring funds to those accounts from the customers’ other accounts;
- b. Submitting applications for credit cards in customers’ names using customers’ information without their knowledge or consent;
- c. Enrolling customers in online-banking services that they did not request; and
- d. Ordering and activating debit cards using customers’ information without their knowledge or consent.

28. According to the Consent Order, Wells Fargo’s analysis concluded that Wells Fargo employees had opened 1,534,280 deposit accounts that may not have been authorized and that may have been funded through simulated funding. Roughly 85,000 of those accounts incurred about \$2 million in fees. Wells Fargo employees also submitted applications for 565,443 credit card accounts that may not have been authorized, and 14,000 of those accounts incurred more than \$400,000 in fees.

29. The CFPB found that Wells Fargo Bank, N.A.’s practices violated the CFPA’s ban on unfair, deceptive, or abusive acts or practices, *see* 12 U.S.C. § 5536(a)(1). Based on these

findings, the CFPB ordered Wells Fargo to retain an independent consultant to conduct a review of its sales practices (the “Independent Consultant’s Review”) and issue a report (the “Independent Consultant’s Report”). The CFPB also ordered Wells Fargo to develop a plan (the “Compliance Plan”) to correct any deficiencies identified by the Independent Consultant’s Report and to implement any recommendations from that report. Wells Fargo is required to submit the Compliance Plan to the CFPB for approval.

30. The CFPB also levied a \$100 million civil penalty on Wells Fargo for its unlawful sales practices and ordered it to segregate \$5 million for redressing consumers affected by those sales practices. The Consent Order requires Wells Fargo to develop and implement a comprehensive written plan for redress (the “Redress Plan”). The Redress Plan is required to identify all affected consumers and any fees or charges those consumers were issued. On information and belief, the Redress Plan demonstrates that members of the Navajo Nation are among those affected by Wells Fargo’s unlawful sales practices and have incurred fees and charges due to those practices—contrary to Wells Fargo’s explicit representations to the Navajo Nation.

C. Wells Fargo’s Internal Report

31. Due to the widespread public pressure regarding the sales misconduct, in April 2017, Wells Fargo & Company’s Board of Directors received a Sales Practice Investigation Report (the “Sales Report”) that analyzed the severity of the unlawful sales practices.

32. The Sales Report substantiated many of the reported claims about Wells Fargo’s unfair practices. It found that Wells Fargo leaders set sales goals that were unattainable by design and then pushed those goals down to retail branches, creating intense pressure to perform and

incentivizing local and regional managers to impose excessive pressure on their subordinates. Because good performance for Wells Fargo employees was “deemed in large part to mean meeting or exceeding sales goals, and poor performance in many instances led to shaming or worse, many employees believed that their future at Wells Fargo depended on how many products they sold.”

33. According to Wells Fargo’s own report, specific Wells Fargo practices that incentivized sales misconduct included:

a. “Motivator” reports

Wells Fargo issued daily and monthly “Motivator” reports that included sales rankings down to the retail bank district level. So much emphasis was placed on sales rankings and “Motivator” reports that managers “lived and died” by the reports. The reports perpetuated a culture of shaming and sales pressure and had to be discontinued in 2014.

b. Retail scorecards

Wells Fargo generated “retail scorecards” that measured how an employee or manager was performing compared to the sales plan. These reports were updated on a daily basis, and employees were actively encouraged to check them often. Managers made meeting scorecard requirements their sole objective—a tactic called “managing to the scorecard.” Employees reporting to those managers were constantly pressured to meet scorecard goals.

c. Sales campaigns

The Sales Report found that regional bank-wide sales campaigns—like a program called “Jump into January”—were “closely associated with increasing misconduct

over time.” “Jump into January” in particular became a “breeding ground for bad behavior that helped cement the sales culture’s negative characteristics”; employees were encouraged to make lists of family and friends who might be potential “Jump into January” sales targets and would “sandbag” (temporarily withhold) December account openings until January to meet objectives. Although Wells Fargo ultimately replaced “Jump into January” with a new campaign—“Accelerate”—the Sales Report described some witnesses as feeling that “Accelerate” was a “mere ‘name change’ from the Jump into January campaign.”

34. Incentivized to pad sales numbers, Wells Fargo managers often affirmatively directed misconduct on the part of individual employees. Branch managers were “frequently cited” as “actively directing misconduct or offering inappropriate guidance to subordinates on what constituted acceptable conduct.” As a result, individual employees resorted to unlawful or otherwise improper sales practices, including:

- a. Simulated funding, where an employee transferred funds from one account to another, sometimes unauthorized, account to make it appear that the second account had been “funded” by a customer;
- b. Falsifying customer identification or contact information;
- c. Forging customer signatures;
- d. Opening unauthorized personal checking or savings accounts for existing customers; and
- e. Creating unnecessary accounts that served no customer financial need.

35. The Sales Report noted that these improper sales practices “tended to disproportionately cluster” in Los Angeles and Arizona, where senior bankers were associated with “extreme pressure,” sometimes calling subordinates several times a day to check in on sales performance and chastising those who failed to meet sales objectives.

36. Simulated funding in particular was clustered in Arizona and California—the two “epicenters” of the practice. The Sales Report determined that Arizona had one of the two highest volumes of potential simulated funding accounts, and the third highest volume of simulated funding accounts on a per-employee basis.

37. Wells Fargo subsequently determined that regional banking managers in Southern California and Arizona had “encouraged and deployed especially improper and excessive sales practices” in an effort to inflate Wells Fargo’s sales figures.

38. One of those individuals was Pam Conboy, Arizona Regional Banking’s leader from 2007 to 2017. Ms. Conboy drove Arizona from last place to first in regional sales performance within two years of taking her position by employing intense sales pressure and a very heavy emphasis on rankings and sales performance. In Arizona, branches, including those on the Navajo Nation, would hold daily “morning huddles;” the “Jump into January” rally program was extended into other months (hence, “Fly into February,” “March into March,” etc.); and district managers would call to check on branches multiple times a day. Conboy was held up as a model for success, and other regional leaders were sent to study her leadership techniques. Conboy was an involved executive and told the *Arizona Republic* that she had “visited every [Wells Fargo] store in Arizona, sometimes two or three times” during her tenure.

39. According to the Sales Report, Wells Fargo associated sales practice violations with perverse sales incentives as early as 2004, but the problems continued growing. Leadership was “unwilling to make fundamental changes” to Wells Fargo’s sales model, and there was widespread “insufficient appreciation of the impact of, or harm caused by, sales practice misconduct.” Very little attention was paid to whether Wells Fargo’s sales practices were hurting *customers*; instead, the focus remained on Wells Fargo’s bottom line. This failure led to Wells Fargo management’s remarkable view that “firing 1% of the Community Bank workforce every year for sales integrity violations was acceptable.”

40. This nonchalance extended to others in Wells Fargo’s management. Even after Wells Fargo was sued by the Los Angeles City Attorney, its Law Department remained focused on Wells Fargo’s bottom line—likely damages, fines, penalties, and restitution. It “did not appreciate that sales integrity issues reflected a systemic breakdown in Wells Fargo’s culture and values and an ongoing failure to correct the widespread breaches of trust in the misuse of customers’ personal data and financial information.” Wells Fargo consistently put its own interests ahead of customers’ in an effort to contain or minimize the sales practices scandal.

41. Ultimately the Sales Report determined that the sales practices failures were a consequence of the combination of (1) a distorted sales culture and performance management system and (2) aggressive sales management.

42. Alarming, the problems were worsened by Wells Fargo leaders who resisted and impeded outside scrutiny or oversight and minimized the scale and nature of the problem. Wells Fargo & Company’s CEO and Chairman, John Stumpf, was the “principal proponent and champion” of Wells Fargo’s cross-sell and sales culture; he “spoke frequently on [cross-selling’s]

importance.” Stumpf’s devotion to those practices led him—and Wells Fargo & Company—to “stand back” and “minimize problems” with Wells Fargo’s sales practices, even in the face of “growing indications that the situation was worsening and threatened substantial reputational harm to Wells Fargo.” Stumpf publicly supported Wells Fargo’s sales goals and pushed lower managers to “work to increase cross-sell when strong growth proved more elusive.” Stumpf ultimately acknowledged to Congress that Wells Fargo employees had provided customers with products they did not want or need, and he accepted full responsibility for all unethical sales practices in Wells Fargo & Company’s retail banking business. Stumpf resigned in the wake of the scandal, forfeiting more than \$40 million in compensation. (Once the misconduct came to light, Wells Fargo subsequently moved to claw back more than \$28 million more it had paid Stumpf.) Wells Fargo & Company’s Board of Directors also terminated five senior executives.

D. Wells Fargo’s Unlawful Sales Practices on the Navajo Nation and Targeting of Navajo Elders

43. Former Wells Fargo employees have confirmed that many of the unlawful practices described above occurred on the Navajo Nation. Discovery in this action is likely to confirm that Navajo people were subjected to each of the broader set of practices described above, and that Navajo people were targeted because of their race or age. On information and belief, members of the Navajo Nation were harmed by those practices.

44. Wells Fargo is often the only banking choice for Navajo people living on the Navajo Nation. For this reason, the Navajo Nation’s citizens are particularly vulnerable to Wells Fargo’s unlawful sales practices. Additionally, some Navajo customers do not have the financial

sophistication to fully comprehend the services and products being offered. Wells Fargo sales personnel knew this and failed to obtain the legitimate, meaningful consumer consent that is necessary to open accounts and enroll consumers in products or services.

45. According to former Wells Fargo employees, employees at branches on or near the Navajo Nation were subject to the same high-pressure sales environment that led to dishonest practices elsewhere. Sales quotas for the branches in or around the Navajo Nation were just as high as those in large market branches in cities such as Flagstaff that have much larger populations and economies. In an effort to meet unrealistic goals, managers at those branches held “huddles” each morning and evening where sales personnel received and reviewed daily sales goals. Pressure on individual employees to meet or exceed sales goals was extremely intense, and employees understood that their employment with Wells Fargo was in jeopardy if they did not aggressively push additional products on consumers—whether or not those products were necessary. This threat was particularly potent due to high rates of unemployment on the Navajo Nation.

46. Pressure on individual Wells Fargo employees was also heightened by regional managers’, district managers’, branch managers’ and lead tellers’ actions. District managers had twice-daily teleconferences with branch managers to discuss sales goals, and branches competed against each other and were ranked on a statewide basis. Thus, branch managers were under pressure to not only meet sales goals, but to surpass them, so that their branch could be ranked at the top. This immense pressure trickled down to other bank employees. Lead tellers would frequently stand behind tellers during customer interactions to ensure that a teller was marketing Wells Fargo’s products sufficiently aggressively. Employees were also subject to “pack goals,” meaning that they were required to cross-sell a certain number of products to each customer;

products that qualified for meeting “pack goals” included multiple checking and savings accounts, debit cards, and online banking. On information and belief, if employees did not meet the pack goals, they were required to develop a plan to do so and follow-up with the customer. Furthermore, tellers who failed to sell debit cards, credit cards, or mortgage loans received marks against them.

47. Employees’ sales performance was tracked, continuously monitored, scrutinized and reviewed. Employees who did not meet their sales quotas were placed on “counseling” and subject to a review plan. If an employee did not show improvement, a corrective action plan was implemented and ultimately, the employee was subject to termination.

48. Unsurprisingly, given the extraordinary pressure Wells Fargo exerted on its sales personnel, those personnel engaged in the same unlawful and fraudulent sales practices that were rampant elsewhere. They routinely opened unauthorized accounts, misled customers into opening unnecessary accounts, and signed consumers up for online banking without proper consent. Sales personnel would frequently wait until after customers had left the store to open new accounts for them, and would then do so in the customers’ absence.

49. On information and belief, these tactics were particularly effective at branches on or near the Navajo Nation because Wells Fargo’s sales personnel were able to focus their unlawful sales practices on elderly members (“elders”) of the Navajo Nation and those who do not speak English and/or are unfamiliar with banking services. These individuals were unlikely to understand the difference between multiple accounts, making them prime targets for Wells Fargo’s unlawful sales tactics. Elders were also among the least likely customers to have any legitimate financial need for multiple Wells Fargo accounts, as they often had a fixed income and did not have computer access to manage different accounts. As elders visited the bank primarily to cash

their checks, they were not typically interested in establishing bank accounts; the Navajo Nation operates largely as a cash-carrying society and elders do not have a need for traditional banking products. Seizing on Navajo elders' relative lack of financial sophistication, Wells Fargo sales employees often insisted that elders open different savings accounts for car payments, utility payments, food, and other routine expenses. On information and belief, this practice multiplied the incidence of unlawful fees, as elders who did not understand their money was divided among several accounts would empty or overdraw a single account, not comprehending why so much of their money appeared unavailable to them.

50. Wells Fargo sales personnel also took advantage of the fact that many Navajo elders could not speak English or write their names. Sales personnel who could speak Navajo used their language skills to build camaraderie with elders and other non-English speakers. On information and belief, Navajo elders and native speakers traveled—sometimes significant distances—to branches such as Kayenta and Chinle where they knew the sales personnel could speak Navajo. Employees built this camaraderie in an effort to ultimately open as many accounts as possible, inflate their branches' sales figures, and keep their jobs. They also capitalized on Navajo elders' confusion or uncertainty when it came to complicated financial documents. On information and belief, sales personnel would refuse to release elders' money to them unless the elders signed up for additional accounts. Many elders were unable to sign their names in English, so Wells Fargo sales personnel would have the elders apply a thumbprint—with the teller acting as a witness—to open new accounts. Elders were commonly asked to sign documents they did not understand to open accounts they did not need.

51. On information and belief, when elders came into Wells Fargo branches on or near the Navajo Nation (including at branches in Kayenta, Chinle, and Window Rock) and wanted to withdraw money or cash a check quickly, Wells Fargo sales personnel would sometimes use the customers' haste as an opportunity to sell solutions. Sales personnel would, in effect, hold the elders' money hostage until the sales personnel were able to sell unnecessary financial products. On information and belief, when sales personnel were rushing to sell products quickly, they would frequently forego adequately explaining the nature of the product or the effect of the customer's consent, instead reassuring customers—especially elders—they had already received the necessary explanations, even though those explanations had never been provided. Once again, Wells Fargo sales personnel would use their familiarity with the Navajo language to gain—and then abuse—the trust of Navajo elders.

52. Alarming, the pressure to meet sales quotas was so great that Wells Fargo sales personnel were encouraged to take advantage of their own Navajo family members, opening multiple accounts for them without obtaining proper consent or misrepresenting the nature of forms to them in order to obtain signatures. On information and belief, when Wells Fargo sales personnel were “behind” on their sales, they would furiously attempt to identify family members who could be easily duped into opening unnecessary accounts. If family members questioned the need for multiple savings accounts, sales personnel assured them that the accounts could be closed at any time, while in reality, tellers were not authorized to close accounts, and whenever a request to close an account was received, it was escalated to a different Wells Fargo employee tasked with persuading the consumer to leave the unnecessary account open. Navajo customers relied on these misrepresentations, to their detriment.

53. Wells Fargo sales personnel at branches on or near the Navajo Nation also targeted Navajo youth. When Navajo high schoolers obtained summer jobs and brought paychecks in to Wells Fargo to be cashed, Wells Fargo sales personnel would insist that the youths open multiple accounts, all under the guise of “learning money management.” In fact, on information and belief, sales personnel’s impetus for pressuring young Navajo citizens into opening unnecessary accounts was to meet or exceed unreasonable sales quotas imposed by Wells Fargo. Appallingly, Wells Fargo internal records show that sales personnel at branches on or near the Navajo Nation opened unauthorized accounts for minors without consent in order to make sales quotas. On information and belief, sales personnel went to such extremes as to falsify a minors’ dates of birth in order to open an account without requisite parental consent.

54. On information and belief, Wells Fargo sales personnel also targeted proprietors of Navajo small businesses. Sales personnel would go to flea markets to encourage vendors to open unnecessary accounts. Elderly women selling Navajo products or crafts were particularly promising targets; because many could not read, they could be easily conned into opening accounts that they did not need or understand.

55. Sales personnel were also encouraged to go offsite to solicit customers. Sales personnel went to places where Navajo citizens were likely to congregate—like local basketball games—to obtain batches of signatures for new accounts. On information and belief, during these offsite campaigns to obtain signed account applications, sales personnel issued PINs at the offsite location and with those PINs, subsequently enrolled customers in online banking without their consent.

56. On information and belief, between at least 2009 and 2016, specific unlawful sales practices that occurred at branches on or near the Navajo Nation (such as Kayenta and Chinle) included opening unnecessary and/or unauthorized debit card accounts, “bundling,” misrepresenting the nature or amount of fees, misrepresenting the meaning or effect of particular forms, misleading customers to believe that checks could not be cashed without opening an account, misleading consumers about how to terminate accounts, and enrolling consumers in online banking without their permission. Issuing unauthorized debit cards and enrolling customers in online banking without their permission were particularly straightforward and, on information and belief, were widespread. Sales personnel, including bankers and tellers, even creating email addresses for Navajo elders in order to sign them up for online banking, something that they did not need and would not be able to access going forward.

57. The limited internal records that Wells Fargo produced to the Navajo Nation confirm the information provided to the Navajo Nation by former Wells Fargo employees. Unlawful practices revealed in the documents include sales personnel: (1) fabricating email addresses, falsifying information, and assigning PINs to customer accounts, outside of the customer’s presence, in order to enroll customers in online banking without their knowledge; (2) opening hundreds of accounts without customer signatures, contrary to Wells Fargo policy; (3) opening accounts for individuals without their consent; and (4) opening credit card accounts that went unused and were later closed, indicating that credit cards were either issued without consent or were issued to those who did not need or want them. The documents show that these unlawful practices occurred between (at least) 2011 and 2016 and happened at branch locations in or around the Navajo Nation, such as Kayenta, Arizona and Gallup, New Mexico. In addition,

Wells Fargo's records show that it was difficult to reach customers on the Navajo Nation during an investigation, as Navajo people living on the Navajo Nation may change their phone numbers often. On information and belief, rather than attempting to reach these customers in another manner, Wells Fargo closed internal investigations after speaking to only a handful of customers, allowing bad behavior to go unreported.

58. Wells Fargo employees' attention remained unfailingly focused on meeting Wells Fargo's unreasonable sales goals, not on meeting their customers' legitimate financial needs.

59. Wells Fargo's sales practices worked significant injury to Navajo people, and those people were not able to reasonably avoid that injury—often because Wells Fargo employees worked to conceal their wrongdoing. In addition, Wells Fargo's tactics produced no benefits to consumers or to competition that outweigh the many harms they worked to Navajo people. Navajo consumers who had virtually no other banking options trusted and relied on Wells Fargo to act in their interests and deal fairly with them. Wells Fargo betrayed that trust to advance its bottom line.

E. Targeting of Native Americans

60. The Navajo Nation is not the only place where Native Americans were targeted by Wells Fargo's unlawful sales tactics. Indeed, former Wells Fargo employees have stated in sworn statements that they were told to target Native Americans.

61. Ricky Hansen Jr., a former Wells Fargo branch manager in Arizona, said in his declaration that was filed as a part of the *In Re Wells Fargo & Company Derivative Litigation*, that the bank pushed credit card accounts on local Native Americans who went to Wells Fargo branches

to cash tribal checks. He “witnessed employees taking advantage of our local Native Indian Community.” Among the things that Hansen witnessed:

- “Bankers and tellers began to promise to waive the check-cashing fees if the Indian Community members opened a new account. Once the employees opened the new account, they would turn that one account into the 8 required by the ‘Great Eight’ program. . . . This tactic of capitalizing on the Indian Community members’ check cashing resulted in almost 400 new accounts for the store each day they came into [sic] cash their checks.”
- “[I]n the weeks following each check-cashing day, the Indian community members would flood the store with complaints about unwanted accounts, debit and credit cards they did not order, over-drafted accounts and account fees for accounts they never requested.”

62. On information and belief, and as set forth above, members of the Navajo Nation were similarly subjected to Wells Fargo’s illegal, unfair and deceptive practices.

F. Wells Fargo’s Knowledge of Illegal Practices and Inadequate Monitoring or Internal Controls

63. Wells Fargo knew, or should have known, that its employees were opening unauthorized accounts and engaging in the unlawful business practices described herein.

64. The CFPB and OCC Consent Orders reached with Wells Fargo revealed a massive and pervasive scheme of illegal sales practices and a far-reaching, systemic breakdown in Wells

Fargo's corporate governance. Wells Fargo's senior managers incentivized illegal behavior that permeated not only the retail banking division but also the consumer lending division.

65. Despite Wells Fargo's knowledge of these widespread illegal practices, it did little, if anything, to terminate these practices. Instead, it maintained an aggressive sales environment that fostered such practices. In fact, some employees who raised concerns regarding the illegal and fraudulent sales practices were fired.

66. The Navajo Nation has learned, through interviews of former employees at Wells Fargo branches on the Navajo Nation, that unethical and unlawful activities were reported to Wells Fargo's ethics line. According to these former employees, they were never contacted after making an initial call to the ethics line. Even when Wells Fargo's internal investigations group followed up on a complaint, that group's practice was to call the customer associated with the complaint in order to substantiate the claim. However, Wells Fargo acknowledged in its own internal records that phone numbers used on the Navajo Nation are changed frequently and thus, it was difficult, if not impossible, to substantiate many of the complaints originating on the Nation. Wells Fargo used this inability to reach customers as an excuse for not pursuing the complaints, and complaints were often written off as unsubstantiated. Without customer substantiation, which Wells Fargo knew would be difficult to obtain on the Navajo Nation, Wells Fargo in effect allowed its employees to continue their unlawful activities to the detriment of Navajo consumers.

67. Only in the aftermath of the scandal that erupted in 2016 did Wells Fargo take substantial corrective actions and terminate approximately 5,300 employees.

G. Wells Fargo’s Misrepresentations To The Navajo Nation To Lull The Navajo Nation Into Thinking Neither It Nor The Navajo People Were Impacted

68. Upon hearing of the widespread unlawful sales practices occurring at Wells Fargo, the Navajo Nation reached out to Wells Fargo with concerns about how those practices may have affected members of the Navajo Nation.

69. On January 3, 2017, Aaron Lemke, a Vice President at Wells Fargo, delivered a letter to the Navajo Nation’s Budget and Finance Committee (“BFC”). Mr. Lemke’s letter, which is attached as Exhibit 1, indicated that Wells Fargo “values its relationship” with the Navajo Nation and was endeavoring to “rebuild the trust of Native American Peoples.”

70. As to the improper sales practices at issue, Mr. Lemke wrote,

First, let me assure you that there has been no impact from Wells Fargo’s improper sales practices, as outlined by the Consumer Finance [sic] Protection Bureau, to the Navajo Nation community. No Tribal community members in Arizona or New Mexico were harmed, and no Wells Fargo team members who worked at bank branches located on Navajo Nation lands were terminated.

71. As the Navajo Nation subsequently discovered, this representation was false. Wells Fargo’s internal investigation records reveal that unlawful sales practices occurred at branches on the Navajo Nation. On information and belief, Wells Fargo’s unlawful sales practices spread to its branches on the Navajo Nation, and Mr. Lemke lied to the Navajo Nation in an effort to cover it up. Recently, in the clearest indication that Wells Fargo lied to the Navajo Nation about the extent of its unlawful sales practices, Wells Fargo has begun sending notices of a pending nationwide class action to affected Navajo citizens.

72. Wells Fargo made the foregoing misrepresentations in an effort to lull the Navajo Nation into not investigating Wells Fargo's conduct as to the Navajo Nation's citizens or pursuing claims against Wells Fargo. Due to Wells Fargo's deliberate misrepresentations, and its inducement of the Navajo Nation's reliance, the Navajo Nation still has not been able to fully investigate the scope of Wells Fargo's wrongdoing on or near the Navajo Nation. The Navajo Nation has diligently investigated Wells Fargo's wrongdoing to the extent of its capabilities, but its efforts have been thwarted by Wells Fargo's fraudulent concealment of its unlawful sales practices. Given Wells Fargo's misrepresentations and intransigence, no additional amount of reasonable diligence on the Navajo Nation's part would have uncovered the breadth and details of Wells Fargo's unlawful practices on or near the Navajo Nation.

73. Indeed, Wells Fargo's January 2017 misrepresentations to the Navajo Nation were only the latest episode in a years-long campaign by Wells Fargo to conceal its unlawful sales practices—and the harm those practices were causing to Navajo people. The Navajo Nation could not have uncovered Wells Fargo's misconduct prior to Wells Fargo's affirmative misrepresentations regarding Wells Fargo's sales practices.

H. Wells Fargo's Illegal and Fraudulent Practices Caused Harm to the Navajo Nation and its Members

74. The Navajo Nation and its members have been harmed in numerous ways by Wells Fargo's practices. On information and belief, Wells Fargo's Navajo customers have suffered from: (a) monthly service charges on unauthorized accounts, (b) unauthorized accounts being placed into

collection, and (c) damage to their credit reports. Additionally, Navajo consumers were not aware of these unauthorized accounts and did not receive the disclosures required by Federal law.

75. The harm to the Navajo people from Wells Fargo's unlawful and unfair practices is particularly acute because Wells Fargo is the only national bank that services the Navajo Nation's geographic area. Navajo people cannot easily switch banking options to avoid Wells Fargo's unfair sales tactics; indeed, many members of the Navajo Nation are required to travel considerable distances even to bank at the nearest Wells Fargo branch. Members of the Navajo Nation are therefore especially exposed and vulnerable to predatory sales tactics like those undertaken by Defendants, and those sales tactics have worked harm not just to a significant number of Navajo people, but to the Navajo Nation as an independent whole. The Navajo Nation's own interest in the economic welfare of its people has been jeopardized by Defendants' practices described herein, and the Navajo Nation has been forced to expend significant funds to investigate Wells Fargo's wrongdoing and protect its citizens.

76. On information and belief, members of the Navajo Nation have repeatedly been exposed to unlawful and unmerited fees assessed on accounts they did not open or otherwise authorize. These fees have enriched Wells Fargo at the expense of individuals who were targeted by opportunistic sales personnel because of their race, age, or lack of financial sophistication.

ENFORCEMENT AUTHORITY

77. Title X of the Dodd Frank Wall Street Reform and Consumer Protection Act, or the CFPA, 12 U.S.C. § 5481 *et seq.*, vests States with the power to enforce federal consumer protection law.

78. The Navajo Nation is a “State” under the CFPA. 12 U.S.C. § 5481(27).

79. The Navajo Nation is empowered to enforce the provisions of the CFPA, other federal consumer protection laws, and certain regulations prescribed by the CFPB. 12 U.S.C. § 5552.

CLAIMS BROUGHT BY THE NAVAJO NATION

FIRST CLAIM FOR RELIEF

(VIOLATIONS OF 12 U.S.C. § 5536(a)(1)(B) AGAINST WELLS FARGO & COMPANY
AND DOES 1-10, BY THE NAVAJO NATION IN ITS OWN CAPACITY)
(UNFAIR ACTS AND PRACTICES)

80. The Navajo Nation incorporates by reference the allegations in all preceding paragraphs of this Complaint as though fully set forth herein.

81. Defendants all engage in offering or providing consumer financial products and services and are therefore “covered persons” under the meaning of the CFPA. 12 U.S.C. § 5481(6)(A); 12 U.S.C. § 5536(a)(1).

82. The CFPA prohibits a covered person from committing or engaging in any “unfair . . . act or practice” in connection with any transaction with a consumer for a consumer financial product or service or with the offering of a consumer financial product or service. 12 U.S.C. § 5531; 12 U.S.C. § 5536.

83. An act or practice is “unfair” if it causes, or is likely to cause, substantial injury to consumers which is not reasonably avoidable by consumers and which injury is not outweighed by countervailing benefits to consumers or to competition. 12 U.S.C. § 5531(c).

84. Defendants committed unfair acts and practices, in violation of 12 U.S.C. § 5536(a)(1)(B). As set forth above, these practices have included:

- a. opening deposit accounts without proper customer authorization;
- b. issuing debit cards and PINs without proper customer authorization;
- c. enrolling customers in online banking without authorization, and creating fake email addresses in order to do so.

85. Each of these practices has caused, and is likely to continue to cause, substantial injury to Navajo consumers that was not reasonably avoidable by those consumers, including monthly fees, late fees, debt collection, and negative credit reporting. Such injuries are not outweighed by any countervailing benefits to consumers or to competition.

SECOND CLAIM FOR RELIEF

(VIOLATIONS OF 12 U.S.C. § 5536(a)(1)(B) AGAINST WELLS FARGO & COMPANY
AND DOES 1-10, BY THE NAVAJO NATION IN ITS OWN CAPACITY)
(ABUSIVE ACTS AND PRACTICES)

86. The Navajo Nation incorporates by reference the allegations in all preceding paragraphs of this Complaint as though fully set forth herein.

87. The CFPA prohibits a covered person from committing or engaging in any “abusive . . . act or practice” in connection with any transaction with a consumer for a consumer financial product or service or with the offering of a consumer financial product or service. 12 U.S.C. § 5531; 12 U.S.C. § 5536.

88. An act or practice is “abusive” if it materially interferes with the ability of a consumer to understand a term or condition of a consumer financial product or service, or takes unreasonable advantage of a consumer’s (a) lack of understanding of the material risks, costs, or conditions of the product or service, (b) inability to protect his or her own interests in selecting or

using a consumer financial product or service, or (c) reasonable reliance on a covered person to act in the consumer's interests. 12 U.S.C. § 5531(d).

89. Defendants committed abusive acts and practices, in violation of 12 U.S.C. § 5536(a)(1)(B). As set forth above, these practices have included:

- a. targeting unsophisticated Navajo consumers with unfair sales practices, including elders, craftswomen, and young people;
- b. stalking local events to sign up Navajo consumers for batches of accounts *en masse*;
- c. strong-arming Wells Fargo employees' family members into signing up for unnecessary accounts, or taking advantage of family relationships to create those accounts without authorization;
- d. taking advantage of Navajo consumers' lack of English language ability and unfamiliarity with financial products and services to sell unnecessary products; and
- e. using the Navajo language to build a false camaraderie with Navajo consumers, all for the purpose of cross-selling additional products.

90. Each of the above sales practices materially interfered with the ability of Navajo consumers to understand the terms and conditions of Defendants' consumer financial products and services. The practices also took unreasonable advantage of Navajo consumers' lack of understanding of the material risks, costs, or conditions of Defendants' products and services, those consumers' inability to protect their own interests in selecting financial products and services, and those consumers' reasonable reliance on Wells Fargo & Company to act in their interests. On information and belief, Navajo consumers were harmed by these practices, including

by being assessed with unmerited fees, suffering harm to their credit reports, and becoming subject to debt collection procedures.

THIRD CLAIM FOR RELIEF

(VIOLATIONS OF 12 U.S.C. § 5536(a)(1)(B) AGAINST WELLS FARGO & COMPANY
AND DOES 1-10, BY THE NAVAJO NATION IN ITS OWN CAPACITY)
(DECEPTIVE ACTS AND PRACTICES)

91. The Navajo Nation incorporates by reference the allegations in all preceding paragraphs of this Complaint as though fully set forth herein.

92. The CFPA prohibits a covered person from committing or engaging in any “deceptive . . . act or practice” in connection with any transaction with a consumer for a consumer financial product or service or with the offering of a consumer financial product or service. 12 U.S.C. § 5531; 12 U.S.C. § 5536.

93. Defendants committed deceptive acts and practices, in violation of 12 U.S.C. § 5536(a)(1)(B).

94. As set forth above, between at least 2009 and 2016, Defendants undertook the following deceptive acts and practices:

- a. materially misrepresenting to consumers whether an account was fee-bearing;
- b. falsely telling consumers that they were required to sign up for new accounts in order to avoid fees on existing accounts;
- c. lying to consumers about whether they were required to open additional accounts in order to cash checks;
- d. “bundling,” or informing consumers that certain products could only be acquired together, when in fact they were available separately;

- e. “sandbagging,” or delaying account openings into time periods that were more advantageous for a Wells Fargo employee;
 - f. misrepresenting to consumers how credit card accounts could be closed, including telling those consumers that merely destroying an unwanted card closed an account or that tellers were themselves authorized to close accounts;
 - g. misrepresenting whether authorization forms were for new accounts or existing accounts;
 - h. creating fake email accounts for consumers to enroll them in online banking; and
 - i. falsifying birthdates of consumers to enroll them in unnecessary accounts.
95. Navajo consumers reasonably relied on these misrepresentations, to their detriment.

On information and belief, these deceptive practices caused those consumers damages, in the form of fees, negative credit reporting, and debt collection procedures.

FOURTH CLAIM FOR RELIEF

(VIOLATIONS OF 12 U.S.C. § 5536(a)(1)(A) AGAINST WELLS FARGO & COMPANY
AND DOES 1-10, BY THE NAVAJO NATION IN ITS OWN CAPACITY)

96. The Navajo Nation incorporates by reference the allegations in all preceding paragraphs of this Complaint as though fully set forth herein.

97. Defendants all engage in offering or providing consumer financial products and services and are therefore “covered persons” under the meaning of the CFPA. 12 U.S.C. § 5481(6)(A); 12 U.S.C. § 5536(a)(1).

98. It is unlawful under the CFPA for a covered person to “offer or provide to a consumer any financial product or service not in conformity with Federal consumer financial law,

or to otherwise commit any act or omission in violation of a Federal consumer financial law[.]”

12 U.S.C. § 5536(a)(1)(A).

99. The CFPA defines “Federal consumer financial law” as meaning:

- a. the provisions of the CFPA;
- b. any of eighteen so-called “enumerated consumer laws,” including: the Equal Credit Opportunity Act, 15 U.S.C. § 1691 *et seq.*; the Electronic Fund Transfer Act, 15 U.S.C. § 1693 *et seq.*; the Truth in Lending Act, 15 U.S.C. § 1601 *et seq.*; the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.*; and the Truth in Savings Act, 12 U.S.C. § 4301 *et seq.*;
- c. certain other laws for which authority was transferred to the CFPB;
- d. rules implementing the CFPA;
- e. rules implementing the enumerated consumer laws; and
- f. rules implementing the other laws for which authority was transferred to the CFPB.

12 U.S.C. § 5481(14).

100. On information and belief, Defendants violated Federal consumer financial law, and therefore 12 U.S.C. § 5536(a)(1)(A), by violating the enumerated consumer laws and certain of those laws’ implementing regulations, as follows:

Equal Credit Opportunity Act and Regulation B

101. The Equal Credit Opportunity Act (“ECOA”) makes it “unlawful for any creditor to discriminate against any applicant, with respect to any aspect of a credit transaction . . . on the

basis of race, color, religion, national origin, sex or marital status, or age[.]” 15 U.S.C. § 1691(a)(1).

102. ECOA is implemented by 12 C.F.R. Part 1002 (“Regulation B”). ECOA and Regulation B are both “Federal consumer financial law[s]” for the purposes of the CFPA. 12 U.S.C. § 5481(14); 12 U.S.C. § 5536(a)(1)(A).

103. Regulation B prohibits creditors from discriminating “against an applicant on a prohibited basis regarding any aspect of a credit transaction.” 12 C.F.R. § 1002.4.

104. Defendants qualify as “creditors” pursuant to 12 C.F.R. § 1002.2(l).

105. Members of the Navajo Nation’s status as Native Americans is a “prohibited basis” pursuant to 12 C.F.R. § 1002.2(z).

106. Age is a “prohibited basis” pursuant to 12 C.F.R. § 1002.2(z).

107. On information and belief, and as set forth above, Defendants did discriminate against members of the Navajo Nation based on their race, regarding an aspect of a credit transaction. They did so by targeting Native Americans, because of their race, with unauthorized credit card accounts. These actions violated ECOA and Regulation B. 15 U.S.C. § 1691(a)(1); 12 C.F.R. § 1002.4.

108. On information and belief, and as set forth above, Defendants did discriminate against members of the Navajo Nation based on their age, regarding an aspect of a credit transaction, in violation of 12 C.F.R. § 1002.4. They did so by targeting elderly and young Navajo people, because of their age, for unauthorized credit card accounts. These actions violated ECOA and Regulation B. 15 U.S.C. § 1691(a)(1); 12 C.F.R. § 1002.4.

109. These violations of ECOA and Regulation B constitute violations of the CFPA, 12 U.S.C. § 5536(a)(1)(A), for which the Nation can recover against Wells Fargo & Company and the Doe Defendants pursuant to 12 U.S.C. § 5552(a)(1).

Electronic Funds Transfer Act and Regulation E

110. The Electronic Funds Transfer Act (“EFTA”) provides that “[n]o person may issue to a consumer any card, code, or other means of access to such consumer’s account for the purpose of initiating an electronic fund transfer other than” “in response to a request or application therefor” or “as a renewal of” or “substitution for” “an accepted card, code, or other means of access[.]” 15 U.S.C. § 1693i(a). Only when (1) such means of access are “not validated,” (2) certain disclosures are made to a consumer, and (3) the means of access is subsequently validated with upon verification of the consumer’s identity, may a person issue a means of access absent a consumer request. 15 U.S.C. § 1693i(b).

111. EFTA is implemented by 12 C.F.R. Part 1005 (“Regulation E”). EFTA and Regulation E are both “Federal consumer financial law[s]” for the purposes of the CFPA. 12 U.S.C. § 5481(14); 12 U.S.C. § 5536(a)(1)(A).

112. Regulation E similarly provides that financial institutions may only issue an “access device” to a consumer in response to “an oral or written request for the device” or as a “renewal of, or in substitution for, an accepted access device.” 12 C.F.R. § 1005.5(a). Regulation E defines “access device” as meaning “a card, code, or other means of access to a consumer’s account, or any combination thereof, that may be used by the consumer to initiate electronic fund transfers.” 12 C.F.R. § 1005.2(a)(1).

113. Defendants qualify as “financial institutions” under Regulation E. 12 C.F.R. § 1005.2(i).

114. On information and belief, Defendants issued validated access devices, including debit cards and PINs, to one or more members of the Navajo Nation without those individuals having submitted an oral or written request for the devices, and without those devices constituting renewals of, or substitutions for, accepted access devices, in violation of 15 U.S.C. § 1693i(b) and 12 C.F.R. § 1005.5(a).

115. These violations of EFTA and Regulation E constitute violations of the CFPA, 12 U.S.C. § 5536(a)(1)(A), for which the Nation can recover against Wells Fargo & Company and the Doe Defendants pursuant to 12 U.S.C. § 5552(a)(1).

Truth in Lending Act and Regulation Z

116. The Truth in Lending Act (“TILA”) provides that “[n]o credit card shall be issued except in response to a request or application therefor.” 15 U.S.C. § 1642.

117. TILA is implemented by 12 C.F.R. Part 1026 (“Regulation Z”). TILA and Regulation Z are both “Federal consumer financial law[s]” for the purposes of the CFPA. 12 U.S.C. § 5481(14); 12 U.S.C. § 5536(a)(1)(A).

118. Regulation Z provides that “no credit card shall be issued to any person except” in response to “an oral or written request or application for the card,” or as a “renewal of, or substitute for, an accepted credit card.” 12 C.F.R. § 1026.12(a).

119. On information and belief, Defendants did issue credit cards to members of the Navajo Nation without those individuals having submitted an oral or written request or application

for the cards, and without those cards constituting renewals of, or substitutes for, an accepted credit card, in violation of 15 U.S.C. § 1642 and 12 C.F.R. § 1026.12(a).

120. These violations of TILA and Regulation Z constitute violations of the CFPA, 12 U.S.C. § 5536(a)(1)(A), for which the Nation can recover against Wells Fargo & Company and the Doe Defendants pursuant to 12 U.S.C. § 5552(a)(1).

Fair Credit Reporting Act

121. The Fair Credit Reporting Act (“FCRA”) defines the circumstances in which a consumer reporting agency may furnish a consumer credit report. 15 U.S.C. § 1681b(a).

122. Each time that Defendants open a new credit card account, they obtain, review, and use a consumer credit report about the consumer for whom the account is opened in order to assess the consumer’s creditworthiness for a new credit product.

123. Wells Fargo agreed and represented to the consumer reporting agencies from which it obtains consumer credit reports that it would obtain and use consumer reports which were procured from said agencies only for purposes which are lawful under the Fair Credit Reporting Act as defined under 15 U.S.C. § 1681b.

124. Defendants were required by 15 U.S.C. §§ 1681b and 1681q to refrain from obtaining or using consumer credit reports from CRAs under false pretenses, and without proper authorization from the consumer who is the subject of the report.

125. Defendants have an affirmative duty to follow reasonable procedures, including those that would prevent the impermissible accessing of consumer credit reports. 15 U.S.C. § 1681b(f).

126. On information and belief, despite these clear and unambiguous requirements of the FCRA, Defendants regularly pull consumer credit reports regarding Navajo consumers without their knowledge or consent in order to open new credit card accounts as part of its cross-selling practices, in violation of FCRA.

127. These violations of the FCRA constitute violations of the CFPA, 12 U.S.C. § 5536(a)(1)(A), for which the Nation can recover against Wells Fargo & Company and the Doe Defendants pursuant to 12 U.S.C. § 5552(a)(1).

Regulation DD

128. The Truth in Savings Act (“TISA”) is implemented by 12 C.F.R. Part 1030 (“Regulation DD”). Regulation DD is a “Federal consumer financial law” for the purposes of the CFPA. 12 U.S.C. § 5481(14); 12 U.S.C. § 5536(a)(1)(A).

129. Regulation DD requires that depository institutions “provide account disclosures to a consumer before an account is opened or a service is provided, whichever is earlier.” 12 C.F.R. § 1030.4(a)(1)(i).

130. Defendant Wells Fargo & Company, and on information and belief, the Doe Defendants, qualify as “depository institutions” pursuant to 12 C.F.R. § 1030.2(j).

131. On information and belief, Defendant Wells Fargo & Company and the Doe Defendants failed to provide account disclosures to members of the Navajo Nation before accounts were opened or services were provided on behalf of those individuals, in violation of 12 C.F.R. § 1030.4(a)(1)(i).

132. These violations of Regulation DD constitute violations of the CFPA, 12 U.S.C. § 5536(a)(1)(A), for which the Nation can recover against Wells Fargo & Company and the Doe Defendants pursuant to 12 U.S.C. § 5552(a)(1).

FIFTH CLAIM FOR RELIEF

(VIOLATIONS OF 12 U.S.C. § 5536(a)(3) AGAINST WELLS FARGO & COMPANY AND DOES 1-10, BY THE NAVAJO NATION IN ITS OWN CAPACITY)
(SUBSTANTIAL ASSISTANCE TO A COVERED PERSON'S VIOLATIONS OF FEDERAL CONSUMER FINANCIAL LAW AND UNFAIR, ABUSIVE, AND DECEPTIVE ACTS AND PRACTICES)

133. The Navajo Nation incorporates by reference the allegations in all preceding paragraphs of this Complaint as though fully set forth herein, with specific reference to paragraphs 9, 19, and 31-42.

134. Wells Fargo Bank, N.A. engages in offering or providing consumer financial products and services and is therefore a “covered person” under the meaning of the CFPA. 12 U.S.C. § 5481(6)(A); 12 U.S.C. § 5536(a)(1).

135. The CFPA prohibits any person from knowingly or recklessly providing substantial assistance to any covered person in violation of the CFPA, and provides that “the provider of such substantial assistance shall be deemed to be in violation . . . to the same extent as the person to whom such assistance is provided.” 12 U.S.C. § 5536(a)(3).

136. Defendant Wells Fargo Bank, N.A. violated Federal consumer financial law, and thereby violated the CFPA, as set forth in paragraphs 16-62, 96-132, and 138-66. Wells Fargo Bank, N.A. also violated the CFPA by committing those same unfair, abusive, and deceptive acts or practices that are described in paragraphs 77-95.

137. Wells Fargo & Company provided substantial assistance to Wells Fargo Bank, N.A. in Wells Fargo Bank, N.A.’s violations of Federal consumer financial law and unfair, abusive, and deceptive acts or practices. On information and belief, Wells Fargo & Company controlled, directed, and promoted Wells Fargo Bank, N.A.’s sales practices, and ignored warning signs regarding those practices’ effects on consumers. Wells Fargo & Company touted cross-selling practices, both in public filings and in other public statements, and subsequently accepted responsibility for those practices before Congress and in internal reports. On information and belief, Wells Fargo & Company’s substantial assistance to Wells Fargo Bank, N.A. was knowing or reckless.

SIXTH CLAIM FOR RELIEF

(VIOLATIONS OF THE EQUAL CREDIT OPPORTUNITY ACT, 15 U.S.C. § 1691 *ET SEQ.*
AND REGULATION B, 12 C.F.R. PART 1002, AGAINST ALL DEFENDANTS, BY THE
NAVAJO NATION IN ITS CAPACITY AS *PARENS PATRIAE*)

138. The Navajo Nation incorporates by reference the allegations in all preceding paragraphs of this Complaint as though fully set forth herein.

139. ECOA makes it “unlawful for any creditor to discriminate against any applicant, with respect to any aspect of a credit transaction . . . on the basis of race, color, religion, national origin, sex or marital status, or age[.]” 15 U.S.C. § 1691(a)(1).

140. Regulation B likewise prohibits creditors from discriminating “against an applicant on a prohibited basis regarding any aspect of a credit transaction.” 12 C.F.R. § 1002.4.

141. Defendants qualify as “creditors” pursuant to 12 C.F.R. § 1002.2(l).

142. Members of the Navajo Nation’s status as Native Americans is a “prohibited basis” pursuant to 12 C.F.R. § 1002.2(z).

143. On information and belief, as set forth above, Defendants did discriminate against members of the Navajo Nation based on their race, regarding an aspect of a credit transaction, in violation of 12 C.F.R. § 1002.4 and 15 U.S.C. § 1691(a)(1). Defendants did so by targeting Navajo people, because of their race, for unauthorized credit card accounts.

144. Age is a “prohibited basis” pursuant to 12 C.F.R. § 1002.2(z).

145. On information and belief, and as set forth above, Defendants did discriminate against members of the Navajo Nation based on their age, regarding an aspect of a credit transaction, in violation of 12 C.F.R. § 1002.4 and 15 U.S.C. § 1691(a)(1). Wells Fargo Bank, N.A. did so by targeting elderly and young Navajo people, because of their age, for unauthorized credit card accounts

146. On information and belief, members of the Navajo Nation were damaged by Defendants’ unlawful discrimination in the amount of the fees assessed on the unauthorized credit cards issued by Defendants to members of the Navajo Nation and in the amount of damage suffered to those individuals’ credit reports. Members of the Navajo Nation also suffered emotional distress due to Defendants’ violations of ECOA and Regulation B.

147. On information and belief, the foregoing violations’ frequency and persistence, combined with Defendants’ willful ignorance of their extent, justifies an award of punitive damages.

SEVENTH CLAIM FOR RELIEF

(VIOLATIONS OF THE ELECTRONIC FUNDS TRANSFER ACT, 15 U.S.C. § 1693 *et seq.*,
AND REGULATION E, 12 C.F.R. PART 1005, AGAINST ALL DEFENDANTS, BY THE
NAVAJO NATION IN ITS CAPACITY AS *PARENS PATRIAE*)

148. The Navajo Nation incorporates by reference the allegations in all preceding paragraphs of this Complaint as though fully set forth herein.

149. EFTA provides that “[n]o person may issue to a consumer any card, code, or other means of access to such consumer’s account for the purpose of initiating an electronic fund transfer other than” “in response to a request or application therefor” or “as a renewal of” or “substitution for” “an accepted card, code, or other means of access[.]” 15 U.S.C. § 1693i(a). Only when such means of access are “not validated” and certain disclosures are made to a consumer may a person issue a means of access absent a request. 15 U.S.C. § 1693i(b).

150. Regulation E likewise provides that financial institutions may only issue an “access device” to a consumer in response to “an oral or written request for the device” or as a “renewal of, or in substitution for, an accepted access device.” 12 C.F.R. § 1005.5(a).

151. The only exception to this rule is that a financial institution may issue an access device to a consumer “on an unsolicited basis” if the access device is “not validated,” is accompanied by clear explanations regarding validation, and is ultimately validated only upon verification of the consumer’s identity. 12 C.F.R. § 1005.5(b).

152. Defendants qualify as “financial institutions” under Regulation E. 12 C.F.R. § 1005.2(i).

153. Regulation E defines “access device” as meaning “a card, code, or other means of access to a consumer’s account, or any combination thereof, that may be used by the consumer to initiate electronic fund transfers.” 12 C.F.R. § 1005.2(a)(1).

154. On information and belief, Defendants issued validated access devices, including debit cards and PINs, to one or more members of the Navajo Nation without those individuals having submitted an oral or written request for the devices, and without those devices constituting renewals of, or substitutions for, accepted access devices, in violation of 12 C.F.R. § 1005.5(a) and 15 U.S.C. § 1693i(b). On information and belief, these access devices were either validated at the time they were issued to consumers or were subsequently validated without “verification of the consumer’s identity” or the disclosures mandated by 15 U.S.C. § 1693i(b).

EIGHTH CLAIM FOR RELIEF

(VIOLATIONS OF THE TRUTH IN LENDING ACT, 15 U.S.C. § 1601 *et seq.*, AND REGULATION Z, 12 C.F.R. PART 1026, AGAINST ALL DEFENDANTS, BY THE NAVAJO NATION IN ITS CAPACITY AS *PARENS PATRIAE*)

155. The Navajo Nation incorporates by reference the allegations in all preceding paragraphs of this Complaint as though fully set forth herein.

156. TILA provides that “[n]o credit card shall be issued except in response to a request or application therefor.” 15 U.S.C. § 1642.

157. Regulation Z likewise provides that “no credit card shall be issued to any person except” in response to “an oral or written request or application for the card,” or as a “renewal of, or substitute for, an accepted credit card.” 12 C.F.R. § 1026.12(a).

158. On information and belief, Defendants did issue credit cards to members of the Navajo Nation without those individuals having submitted an oral or written request or application

for the cards, and without those cards constituting renewals of, or substitutes for, an accepted credit card, in violation of 15 U.S.C. § 1642 and 12 C.F.R. § 1026.12(a).

NINTH CLAIM FOR RELIEF

(VIOLATIONS OF THE FAIR CREDIT REPORTING ACT, 15 U.S.C. § 1681 *et seq.*,
AGAINST ALL DEFENDANTS, BY THE NAVAJO NATION IN ITS CAPACITY
AS *PARENS PATRIAE*)

159. The Navajo Nation incorporates by reference the allegations in all preceding paragraphs of this Complaint as though fully set forth herein.

160. The Fair Credit Reporting Act (“FCRA”) defines the circumstances in which a consumer reporting agency (“CRA”) may furnish a consumer credit report. 15 U.S.C. § 1681b(a).

161. Each time that Defendants open a new credit card account, they obtain, review, and use a consumer credit report about the consumer for whom the account is opened in order to assess the consumer’s creditworthiness for a new credit product.

162. Wells Fargo agreed and represented to the CRAs from which it obtains consumer credit reports that it would obtain and use consumer reports which were procured from said agencies only for purposes which are lawful under the Fair Credit Reporting Act as defined under 15 U.S.C. § 1681b.

163. Defendants were required by 15 U.S.C. §§ 1681b and 1681q to refrain from obtaining or using consumer credit reports from CRAs under false pretenses, and without proper authorization from the consumer who is the subject of the report.

164. Defendants have an affirmative duty to follow reasonable procedures, including those that would prevent the impermissible accessing of consumer credit reports. 15 U.S.C. § 1681b(f).

165. On information and belief, despite these clear and unambiguous requirements of the FCRA, Defendants regularly pull consumer credit reports regarding Navajo consumers without their knowledge or consent in order to open new credit card accounts as part of their cross-selling practices, in violation of FCRA.

166. Pursuant to sections 1681n and 1681o, Defendant is liable for negligently and willfully violating the FCRA by accessing the credit reports of consumers without a permissible purpose or authorization under FCRA.

TENTH CLAIM FOR RELIEF

(VIOLATIONS OF THE NEW MEXICO UNFAIR PRACTICES ACT AGAINST ALL DEFENDANTS, BY THE NAVAJO NATION IN ITS CAPACITY AS *PARENS PATRIAE*)

167. The Navajo Nation incorporates by reference the allegations in all preceding paragraphs of this Complaint as though fully set forth herein.

168. The New Mexico Unfair Practices Act, NM Stat § 57-12-1 *et seq.*, provides that “[u]nfair or deceptive trade practices and unconscionable trade practices in the conduct of any trade or commerce are unlawful.”

169. Defendants’ foregoing actions constitute unfair, deceptive, and/or unconscionable trade practices under the meaning of New Mexico law.

170. On information and belief, Defendants’ violations of the New Mexico Unfair Practices Act were willful, so as to justify an award of treble damages.

ELEVENTH CLAIM FOR RELIEF

(VIOLATIONS OF THE ARIZONA CONSUMER FRAUD ACT AGAINST ALL DEFENDANTS, BY THE NAVAJO NATION IN ITS CAPACITY AS *PARENS PATRIAE*)

171. The Navajo Nation incorporates by reference the allegations in all preceding paragraphs of this Complaint as though fully set forth herein.

172. The Arizona Consumer Fraud Act, A.R.S. § 44-1522 *et seq.*, prohibits a variety of deceptive and fraudulent practices in connection with the sale or advertisement of merchandise or products. The Act specifically provides:

The act, use or employment by any person of any deception, deceptive or unfair act or practice, fraud, false pretense, false promise, misrepresentation, or concealment, suppression or omission of any material fact with intent that others rely on such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise whether or not any person has in fact been misled, deceived or damaged thereby, is declared to be an unlawful practice.

173. As set forth herein, Defendants violated the Arizona Consumer Fraud Act by making false and misleading statements to consumers regarding Defendants' financial products, and by failing to obtain consumers' consent to open financial accounts.

174. Wells Fargo's deceptive statements regarding its financial products were material misstatements and/or omissions that led consumers to believe that they were required to sign up for products, when in fact this was not the case. Between at least 2009 and 2016, Wells Fargo sales personnel misrepresented the nature of customers' accounts, the effect or meaning of particular forms, and/or the necessity of opening an account prior to being able to cash a check. Navajo customers relied on these misstatements and/or omissions.

175. Navajo consumers were exposed to Wells Fargo's unfair, deceptive, and/or unlawful practices of opening accounts without the consumers' knowledge and/or consent. On information and belief, between 2009 and 2016, Wells Fargo sales personnel at branches on or

near the Navajo Nation opened accounts without customer consent or customer signatures, and enrolled consumers in online banking without their permission. Wells Fargo sales personnel created fake email addresses, falsified information and assigned PINs to customer accounts in order to enroll customers in online banking without their knowledge.

176. As a result of Wells Fargo's actions, Navajo consumers have suffered monetary loss due to service charges, collections and damage to credit reports. The members of the Navajo Nation are particularly affected by Wells Fargo's deceptive and fraudulent tactics because of their lack of banking options on the Nation. Navajo members are especially vulnerable and their economic welfare has been jeopardized by these practices.

177. On information and belief, Defendants' violations of the Arizona Consumer Fraud Act were wanton or reckless, or exhibited a reckless indifference to the interests of others, so as to justify the imposition of punitive damages.

TWELFTH CLAIM FOR RELIEF

(FRAUD AGAINST ALL DEFENDANTS, BY THE NAVAJO NATION IN ITS OWN CAPACITY)

178. The Navajo Nation incorporates by reference the allegations in all preceding paragraphs of this Complaint as though fully set forth herein, with specific reference to paragraphs 4 and 68-73.

179. On information and belief, Defendants materially misrepresented whether the Wells Fargo account scandal had affected members of the Navajo Nation.

180. As discussed above, on January 3, 2017, Aaron Lemke, a Vice President at Wells Fargo, delivered a letter to the Navajo Nation's BFC. In his letter, Mr. Lemke assured the Nation that "there has been no impact from Wells Fargo's improper sales practices, as outlined by the

Consumer Finance [sic] Protection Bureau, to the Navajo Nation community. No Tribal community members in Arizona or New Mexico were harmed, and no Wells Fargo team members who worked at bank branches located on Navajo Nation lands were terminated.” The Nation subsequently discovered that Mr. Lemke’s representations regarding Wells Fargo’s improper sales practices on the Nation were false.

181. These assurances were made in an effort to dissuade the Navajo Nation from investigating the effect of Wells Fargo’s sales practices on its citizens. Despite the Navajo Nation’s diligent efforts, Wells Fargo’s fraudulent concealment of its wrongdoing has prevented the Navajo Nation from obtaining a full understanding of the nature and extent to which Wells Fargo’s unlawful sales practices affected the Navajo Nation’s citizens.

182. On information and belief, Defendants’ material misrepresentations were made with the intent to induce the Navajo Nation to rely thereon, and the Navajo Nation did in fact rely thereon. Defendants’ misrepresentations have damaged the Navajo Nation in an amount to be proven at trial.

THIRTEENTH CLAIM FOR RELIEF

(FRAUD AGAINST ALL DEFENDANTS, BY THE NAVAJO NATION IN ITS CAPACITY
AS *PARENS PATRIAE*)

183. The Navajo Nation incorporates by reference the allegations in all preceding paragraphs of this Complaint as though fully set forth herein, with specific reference to paragraphs 2, 5, 22-30, 34, 48-57, and 94-95.

184. Wells Fargo’s conduct, as described above, occurred between at least 2009-2016 in branches on or around the Navajo Nation, and included opening accounts (including debit cards and online banking) without customer consent or knowledge; opening accounts without customer

signatures; opening credit card accounts that went unused and were later closed (indicating that credit cards were either issued without consent or were issued to those who did not need or want them); and making material representations to Navajo people regarding the requirements for check cashing, the effect of opening accounts, the nature of authorization paperwork, or the procedure for closing accounts.

185. Defendants failed to inform members of the Navajo Nation that accounts and credit lines were being opened on their behalf without their authorization. Those individuals were therefore led to believe that each of their accounts with Wells Fargo was authorized, which was in fact untrue.

186. On information and belief, Defendants made the foregoing material representations and omissions with the intent to deceive members of the Navajo Nation and to induce them to rely on that deception. In fact, members of the Navajo Nation did rely on the deception to their detriment: because they were unaware of the unauthorized accounts, they were unable to close them and avoid fees and penalties. Due to Defendants' fraud, members of the Navajo Nation suffered damages in the amount of those fees and penalties and in an additional amount to be proven at trial, which the Nation can recover as *parens patriae*.

FOURTEENTH CLAIM FOR RELIEF

(CONVERSION AGAINST ALL DEFENDANTS, BY THE NAVAJO NATION IN ITS
CAPACITY AS *PARENS PATRIAE*)

187. The Navajo Nation incorporates by reference the allegations in all preceding paragraphs of this Complaint as though fully set forth herein.

188. By assessing fees and penalties on fraudulently opened accounts, by moving funds among accounts without authorization, and by withholding funds from members of the Nation in

order to meet time-sensitive sales targets, Defendants unlawfully exercised dominion and control over personal property belonging to members of the Navajo Nation or otherwise engaged in an unauthorized and injurious use of those members' property.

189. Defendants are accordingly liable to the Navajo Nation, as *parens patriae*, for conversion.

FIFTEENTH CLAIM FOR RELIEF

(UNJUST ENRICHMENT AGAINST ALL DEFENDANTS, BY THE NAVAJO NATION IN ITS CAPACITY AS *PARENS PATRIAE*)

190. The Navajo Nation incorporates by reference the allegations in all preceding paragraphs of this Complaint as though fully set forth herein.

191. As a result of Defendants' unlawful and deceptive actions described above, Defendants were enriched at the expense of the Navajo Nation and its members through the payment of fees, penalties, and other charges resulting from accounts, products, and services that Wells Fargo unlawfully and/or deceptively sold to or opened for customers.

192. Under these circumstances, due to Defendants' unfair, unlawful, and deceptive acts and practices, it would be against equity and good conscience to permit Defendants to retain the ill-gotten benefits that they received from members of the Navajo Nation.

SIXTEENTH CLAIM FOR RELIEF

(VIOLATIONS OF THE NAVAJO NATION UNFAIR CONSUMER PRACTICES ACT AGAINST ALL DEFENDANTS, BY THE NAVAJO NATION IN ITS CAPACITY AS *PARENS PATRIAE*)

193. The Navajo Nation incorporates by reference the allegations in all preceding paragraphs of this Complaint as though fully set forth herein.

194. The Navajo Nation Unfair Consumer Practices Act, N.N.C. § 1101 *et seq.*, provides that “[u]nfair or deceptive trade practices and unconscionable trade practices in the conduct of any trade or commerce are unlawful.”

195. The unfair, deceptive, and illegal practices described above constitute unfair, deceptive, and unconscionable trade practices under the Navajo Nation Unfair Consumer Practices Act.

196. Upon information and belief, for the purpose of calculating the Nation’s recovery, Defendants willfully engaged in the foregoing unfair, deceptive, and unconscionable acts.

SEVENTEENTH CLAIM FOR RELIEF

(DECLARATORY RELIEF AGAINST ALL DEFENDANTS)

197. The Navajo Nation incorporates by reference the allegations in all preceding paragraphs of this Complaint as though fully set forth herein.

198. The Navajo Nation is entitled to a declaration that Defendants’ practices violate Federal consumer financial law and state and tribal unfair trade practices law.

199. The Navajo Nation is entitled to a declaration that Defendants’ violations of the foregoing Federal consumer financial law and state and tribal unfair trade practices laws were reckless, willful, and/or knowing for the purpose of calculating the Nation’s recovery.

PRAYER FOR RELIEF

WHEREFORE, the Navajo Nation requests that this Court enter an order and judgment:

- 1) Against Defendants, for restitution; disgorgement; actual, treble, statutory, and punitive damages; costs; attorneys’ fees; and civil penalties, in an amount to be determined at trial;

- 2) Against Defendants, enjoining Defendants from further violations of the foregoing consumer protection laws; and
- 3) Against Defendants, declaring their conduct unlawful.

JURY DEMAND

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff demands a trial by jury.

Dated: December 12, 2017

Respectfully submitted,

NAVAJO NATION

/s/ Jana C. Werner _____

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Counsel for Plaintiff Navajo Nation

EXHIBIT 1

WELLS
FARGO

Aaron Lemke, CTP
100 W. Washington St.
25th Floor
Phoenix, AZ 85003
wellsfargo.com

Subject: Wells Fargo Sales Practices, Dakota Access Pipeline, and financial services

To the Navajo Nation:

January 3, 2017

Wells Fargo values its relationship of more than a half-century with Navajo Nation and its 110 Chapters, and we look forward to a continued discussion about your concerns. We are doing everything in our power to rebuild the trust of Native American Peoples in us and address your current needs.

First, let me assure you that there has been no impact from Wells Fargo's improper sales practices, as outlined by the Consumer Finance Protection Bureau, to the Navajo Nation community. No Tribal community members in Arizona or New Mexico were harmed, and no Wells Fargo team members who worked at bank branches located on Navajo Nation lands were terminated.

Second, we hear your concerns regarding the Dakota Access Pipeline. We recognize and respect the differing opinions being expressed in this dispute, and we hope all parties involved will work together to reach a positive resolution. Please consider:

- Wells Fargo is one of 17 financial institutions involved in financing the Dakota Access Pipeline. The loans we have provided represent less than 5 percent of the total for this project, and we are contractually obligated to fulfill our commitments under the credit agreement so long as the customer is meeting all of its terms and conditions.
- As one of the financing institutions, we met with the customer shortly after the protests had begun and urged them to engage with the Standing Rock Sioux and their supporters – through a third-party intermediary if necessary – in order to affect a more positive and productive outcome for all parties. We are also participating with other lenders in the hiring of independent human rights firm, Foley Hoag LLP, to advise the lenders to the project and to review issues related to the DAPL permitting process and consultation with the Standing Rock Sioux. We continue to monitor developments, including the decision by the U.S. Army Corps of Engineers not to grant an easement for drilling near the tribal land.

Together we'll go far



- As an Equator Principles Financial Institution, Wells Fargo required this project to be evaluated by an independent consultant in order to assess compliance with the Equator Principles Environmental and Social Risk Management Framework. What we are learning from the ongoing dispute related to this project, however, is that despite the enhanced due diligence required by the Equator Principles, additional research may be needed for future projects to help us fully understand the perspectives of and risks to indigenous communities. As such, we have enhanced our own due diligence in sectors subject to our Environmental and Social Risk Management policy to include more focused research into whether or not indigenous communities are impacted and have been properly consulted.
- As specified in our Statement on Human Rights, Wells Fargo recognizes that governments have the duty to protect human rights, and companies such as ours have a responsibility to respect human rights. To that end, we strive to respect human rights throughout our operations and our products and services, including consistent treatment among people, employee well-being and security, economic and social freedom, and environmental stewardship. We seek tangible ways to apply these principles through our actions and relationships with our team members, customers, suppliers and communities in which we do business.
- Wells Fargo is committed to the responsible development of all forms of energy, and while we maintain a large conventional energy portfolio, we are also a leader in the financing of renewable energy and clean technology. We have supported the evolution of energy markets toward cleaner forms of generation by investing more than \$52 billion in environmentally sustainable businesses since 2012. In 2015, projects owned in whole or in part by Wells Fargo produced 10 percent of all solar photovoltaic and wind energy generated in the U.S.
- We are closely following the developments around the Dakota Access Pipeline, and we remain hopeful that the concerns associated with this project will be addressed without additional conflict and in a way that allows for a full understanding of all of the issues, perspectives, and facts related to the project.

Third, Wells Fargo has been serving Native American customers and communities for more than 50 years, and today we provide capital and financial services to more than 200 tribal entities in 27 states, including tribal community development projects. Highlights of our support include:

- We have completed dozens of Low Income Housing Tax Credit projects in nine states, sponsored Affordable Housing Plan subsidies for tribal housing projects, and provided more than \$11 million in philanthropic support to hundreds of tribal nonprofit organizations nationwide in the last three years alone.
- A grant to AIGC over three years through 2018 to provide funding for tribally enrolled members and tribal descendants, benefiting many tribal students who self-identified themselves as Navajo tribal members in 2016.

Finally, Wells Fargo is working quickly to address other Native American Peoples concerns, including access to personal credit, home mortgages, and small business loans. We look forward to sharing our progress with you at our earliest opportunity.

Sincerely,

A handwritten signature in black ink, appearing to read 'Aaron Lemke', with a stylized flourish extending to the right.

Aaron Lemke
Vice President, Senior Relationship Manager
Arizona Regional Commercial Office

Wells Fargo Bank, N.A.

Aaron.k.lemke@wellsfargo.com