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15 UNITED STATES DISTRICT COURT  
16 CENTRAL DISTRICT OF CALIFORNIA

17 NATIONAL ASSOCIATION FOR  
18 THE ADVANCEMENT OF  
19 COLORED PEOPLE (NAACP), on  
20 Behalf of Itself and All Others  
21 Similarly Situated, as well as on  
22 Behalf of the General Public and  
23 Acting in the Public Interest,

24 Plaintiff,

25 vs.

26 Wells Fargo Bank, N.A., and  
27 Wells Fargo Home Mortgage, Inc.

28 Defendants.

**CASE NO. SACV 07-0794**

**ORIGINAL CLASS ACTION  
COMPLAINT FOR:**

1. **VIOLATIONS OF THE FAIR HOUSING ACT;**
2. **VIOLATION OF THE EQUAL CREDIT OPPORTUNITY ACT;**
3. **VIOLATIONS OF THE CIVIL RIGHTS ACT, 42 U.S.C. §§ 1981, 1982**

**JURY TRIAL DEMANDED**

1 Plaintiff, on behalf of itself and a Class consisting of all its members and based  
2 upon information and belief, states as follows:

### 3 4 INTRODUCTION

5 1. The National Association for the Advancement of Colored People (the  
6 “NAACP”) brings this action in its representative capacity and as a class action seeking  
7 injunctive and other relief against numerous mortgage lenders who are engaged in  
8 institutionalized, systematic racism in connection with its members’ purchase of  
9 residential mortgage loans. The pervasiveness of this discrimination has been  
10 documented in numerous empirical studies that all confirm that African-Americans are  
11 substantially more likely to receive higher-rate residential mortgage loans than  
12 Caucasian borrowers *with the same qualifications*.

13 2. Defendants Wells Fargo Bank, N.A. and Wells Fargo Home Mortgage, Inc.  
14 have engaged in disparate treatment of African Americans, and have adopted facially  
15 neutral policies and practices that have a disparate discriminatory impact on African  
16 Americans in residential mortgage lending.

17 3. With respect to the Defendant lenders, the Class is comprised of African  
18 Americans: (a) who received subprime mortgage loans even though they qualified for  
19 more favorable conventional mortgage loans in the prime market or (b) whose loans  
20 were approved based upon the low initial interest rate but who would not qualify based  
21 upon the interest rate that would be charged when the rate was scheduled to adjust  
22 upward within the first four years of the loan.

23 4. It is beyond dispute that the African American community has long been  
24 the victim of discriminatory banking practices. Generations of African Americans have  
25 been deprived the opportunity to participate in the American dream by banks that  
26 refused to give them mortgage loans simply because of the color of their skin, or placed  
27 them in unfavorable loans that decimate them financially.

1           5.       Wells Fargo Bank, N.A. and Wells Fargo Home Mortgage, Inc. target the  
2 African American community by capitalizing on their relative lack of experience in  
3 dealing with banking institutions and mortgage loans. Upon information and belief,  
4 Wells Fargo Bank, N.A. and Wells Fargo Home Mortgage, Inc. are aware of the African  
5 American community's susceptibility to predatory lending practices, but nonetheless  
6 engage in policies and procedures that they know will result in African Americans being  
7 steered toward less favorable loans.

8           6.       Indeed, in 2006, the Center for Responsible Lending, a non-profit research  
9 organization, found that even when income and credit risk were accounted for, African  
10 Americans were *still* 31% to 34% more likely to receive higher rate subprime loans, and  
11 that the disparities between them and Caucasians with the same risk factors were "large  
12 and statistically significant."

13          7.       In another study, the National Community Reinvestment Coalition  
14 determined that lending institutions in six major metropolitan areas engaged in  
15 "pervasive discriminatory and predatory practices", including making high cost  
16 subprime loans to higher-qualified African-Americans 54% of the time, compared to  
17 23% of the time for Caucasians, even when Caucasian applicants were similarly, and  
18 often *less*, qualified.

19          8.       Similarly, the Federal Reserve Board concluded that African Americans  
20 were more likely to pay higher prices for mortgages than their Caucasian counterparts.  
21 The United States Inspector General cited that report as showing "significant"  
22 differences, making it "clear" that African Americans were "much more likely to get  
23 higher-priced loans" than Caucasians. For example, a 2006 study by ACORN showed  
24 that African Americans were 3.6 times more likely than whites to be put into a subprime  
25 purchase loan and 6.1 times more likely to be refinanced into such a loan.

26          9.       These statistical disparities are not mere happenstance, but instead result  
27 from the systematic and predatory targeting of African Americans, as well as facially

1 neutral lending policies and practices that have a disparate adverse impact on African  
2 Americans.

3 10. As described below, Wells Fargo Bank, N.A. and Wells Fargo Home  
4 Mortgage, Inc. have engaged in disparate treatment by issuing the Class mortgage loans  
5 under less favorable terms than equally situated Caucasians. In addition, Defendants  
6 have instituted specific, identifiable policies and practices that have a disparate adverse  
7 impact on African Americans.

8 11. The NAACP brings this class action seeking declaratory, monetary and  
9 injunctive relief based upon the Fair Housing Act, the Equal Credit Opportunity Act and  
10 the Civil Rights Act.

11 **THE PARTIES**

12 12. Plaintiff National Association for the Advancement of Colored People  
13 (“NAACP”) is the nation’s oldest civil rights organization. Its history and  
14 accomplishments are well known. Its mission includes ensuring economic equality and  
15 eliminating racial hatred and discrimination, including racial discrimination in housing.  
16 The NAACP is a non-profit and non-partisan organization, headquartered in Baltimore,  
17 Maryland.

18 13. The NAACP, individually and on behalf of its members, has been injured  
19 by the Defendants complained of herein. The NAACP has representational standing to  
20 pursue this claim as a class action on behalf of its members. Its request for injunctive  
21 and declaratory relief does not require participation of the members, even though the  
22 members have standing to seek this same relief in their own right. In fact, the members,  
23 or any one of them, are in real and imminent danger of suffering immediate or threatened  
24 injury as a result of these predatory lending policies, which said members could directly  
25 pursue. Also, the interests the NAACP seeks to protect are germane to its stated purpose  
26 of ensuring economic equality and eliminating racial hatred and discrimination,  
27 including racial discrimination in housing. Finally, although seeking injunctive and

1 declaratory relief for a class of its members, the NAACP also has standing to sue in its  
2 own right because Defendants' discriminatory mortgage lending policies and practices  
3 tend to frustrate the association's mission, reduce contributions and divert its resources,  
4 including through investigation, advocacy and counseling, and litigation costs.

5 14. Members of the NAACP have been injured in fact by Defendant as  
6 complained herein.

7 15. Defendant Wells Fargo Bank, N.A. is legally chartered in Sioux Falls,  
8 South Dakota, with its principal place of business in San Francisco, California. Wells  
9 Fargo Home Mortgage, Inc. is a subsidiary of Wells Fargo Bank, N.A., with its principal  
10 place of business in Des Moines, Iowa. Wells Fargo Bank, N.A. and Wells Fargo Home  
11 Mortgage, Inc., which do business throughout California and the United States, are  
12 herein referred to as "WELLS FARGO" or "Defendants".

### 13 **JURISDICTION AND VENUE**

14 16. This is an action for violation of 42 U.S.C. § 3601 *et seq.* (Fair Housing  
15 Act), 15 U.S.C. § 1691 *et seq.* (Equal Credit Opportunity Act) and 42 U.S.C. § 1981 *et*  
16 *seq.* (Civil Rights Act). This Court has original jurisdiction over this action pursuant to  
17 28 U.S.C. § 1331 (federal question).

18 17. Venue is proper in the Central District of California pursuant to 28 U.S.C.  
19 § 1391(b) and (c) because Defendants are corporations subject to personal jurisdiction in  
20 this district.

### 21 **CLASS ACTION ALLEGATIONS**

22 18. The NAACP brings this action as a class action pursuant to Federal Rule of  
23 Civil Procedure 23(a) and (b)(2) on behalf of the NAACP, its members and the members  
24 of the Class described below.

25 19. Excluded from the Class are Defendants, their officers, directors and  
26 employees, members of their immediate families and each of their legal representatives,  
27 heirs, successors or assigns, and any entity in which Defendants have or have had a

1 controlling interest; members of the Plaintiff organization who are not African-  
2 American; and any judge, justice, or judicial officer presiding over this matter and the  
3 members of their immediate families and judicial staff.

4 20. This class action is comprised of the following: African Americans who  
5 were sold subprime mortgage loans from WELLS FARGO even though they qualified  
6 for more favorable conventional mortgage loans from WELLS FARGO, and African  
7 Americans who would not qualify under WELLS FARGO's loan guidelines if WELLS  
8 FARGO had evaluated the loan under the anticipated adjusted rates during the first four  
9 years of the loan, rather than the low initial or "teaser" interest rate.

10 21. This action is properly maintainable as a class action as to each Class  
11 member because:

12 22. Numerosity: The members of the Class for whose benefit this action is  
13 brought are dispersed throughout the state and nationwide, and are so numerous that  
14 joinder of each members of the Class is impracticable.

15 23. Typicality: The NAACP has representative standing to bring the class  
16 action for the relief requested, its interests do not conflict with the interests of any  
17 members of the Class, and was subject to the same discriminatory treatment and policies  
18 and procedures that resulted in a disparate and discriminatory impact on the members of  
19 the Class.

20 24. Common Questions of Law and Fact Predominate: The questions of law  
21 and fact common to the members of the Class predominate over any questions affecting  
22 individual members of the Class. Among the questions of law and fact common to the  
23 Class are:

- 24 a. The nature and scope of Defendants' policies and procedures  
25 relating to the marketing of subprime residential mortgage  
26 products to consumers;

- 1                   b. Whether Defendants have subjected their African American  
2                   consumers and members of the NAACP to disparate adverse  
3                   treatment by imposing terms and conditions for residential  
4                   mortgage loans that resulted in their paying more for their loans  
5                   than similarly situated Caucasian customers;
- 6                   c. Whether Defendants marketed and/or determined the type of loan,  
7                   interest rate, duration or other terms of a loan based in whole or in  
8                   part on the race of the applicants;
- 9                   d. Whether Defendants unlawfully steered applicants to less  
10                  favorable credit products than they qualified for on the basis of  
11                  race;
- 12                 e. Whether Defendants' policies and practices of providing financial  
13                  incentives to mortgage brokers to steer consumers to subprime  
14                  residential mortgage products in lieu of prime residential mortgage  
15                  products, while at the same time having a policy and practice of  
16                  not providing a meaningful review of residential mortgage loan  
17                  applications to determine if the applicant qualifies for prime  
18                  residential mortgage products, constitutes facially neutral policies  
19                  that create a disparate discriminatory impact against African  
20                  Americans;
- 21                 f. Whether Defendants discriminated against the Class by providing  
22                  them with subprime residential mortgage loans when they qualify  
23                  for prime residential mortgage loans offered by the Defendants or  
24                  one of their related entities;
- 25                 g. Whether Defendants have a statutory obligation to evaluate the  
26                  ability of each applicant to repay the loan based on the interest rate  
27

1 during the life of the loan and not only on the initial or “teaser”  
2 rate;

- 3 h. Whether Defendants’ policies and practices of evaluating each  
4 applicant’s ability to repay a loan based *only* on the initial rate and  
5 not the rate that will be adjusted upward constitutes facially neutral  
6 policies that create a disparate discriminatory impact against  
7 African Americans;
- 8 i. Whether Defendants have any legitimate business reason for the  
9 aforementioned policies and practices that can be achieved by  
10 alternative means that have a less discriminatory impact against  
11 African Americans;
- 12 j. Whether Defendants’ intent in their discriminatory policies and  
13 procedures was racially motivated; and
- 14 k. Whether Defendants’ policies and practices have proximately  
15 caused damages and injury to Plaintiff and the Classes entitling  
16 them to injunctive and declaratory relief, and the measure of that  
17 relief.

18 25. Adequacy of Representation: The NAACP will fairly and adequately  
19 protect the interests of the Class and have retained counsel competent and experienced in  
20 class action litigation, including class actions within the Central District of California.  
21 The NAACP has no interests antagonistic to, or in conflict with, the Class that the  
22 NAACP seeks to represent.

23 26. Injunctive/Declaratory Class: Defendants have acted or refused to act on  
24 grounds generally applicable to the Class, thereby making final injunctive relief proper  
25 with respect to the Class. Fed. R. Civ. P. 23(b)(2).

26 27. WELLS FARGO has engaged, and continues to engage, in disparate  
27 treatment by issuing residential mortgage loans to African Americans under less

1 favorable terms than equally situated Caucasians. In addition, WELLS FARGO has  
2 instituted specific, identifiable policies and practices that have a disparate adverse impact  
3 on African Americans. The statistical evidence identified herein is sufficiently  
4 supportive of both claims.

5 28. The majority of African-Americans who took out purchase mortgages in  
6 2005 were put into higher-cost subprime loans, compared with about 17% of  
7 Caucasians, according to Federal Reserve data. As just two examples, the South Side of  
8 Chicago, with a large concentration of minority borrowers, has a high concentration of  
9 subprime loans and the state's highest foreclosure rate. And in Boston, where defaults  
10 are rising primarily in minority neighborhoods, 73% of high-income African-Americans  
11 (those making \$92,000 to \$152,000) received subprime loans in 2005, compared with  
12 17% of Caucasians.

13 29. This is consistent with the Association of Community Organizations for  
14 Reform Now (ACORN) finding in 2001 that among upper-income African-Americans  
15 nationally, 18.05 percent of conventional refinance loans received were from subprime  
16 lenders, whereas for upper-income Caucasian homeowners it was only 4.81 percent. In  
17 fact, *upper-income* African-American homeowners are more likely to receive a subprime  
18 loan while refinancing even when compared to *lower-income* Caucasian homeowners.

19 30. While some borrowers in the subprime market are genuine credit risks,  
20 African-American borrowers have been targeted and illegally steered into subprime  
21 residential mortgage loans. WELLS FARGO is reluctant or refuses to offer these  
22 borrowers the prime loans that are offered to Caucasian borrowers with the same  
23 qualifications. Instead, WELLS FARGO engages in predatory subprime lending,  
24 knowingly making loans with high loan-to-value ratios, in this case to borrowers who  
25 qualify for lower-cost or prime loans, in what amounts to a kind of “reverse redlining”.  
26 Studies by Freddie Mac and Standard & Poor’s have found that 20% to 30% of  
27 borrowers who receive subprime mortgages could have qualified for traditional

1 mortgages at the lower rates offered by banks to prime borrowers. This effectively  
2 dilutes the equity from the property, places the borrower in jeopardy of default, and puts  
3 the borrower in the position of spending years paying off additional loan balances  
4 without developing any equity.

5 31. In September 2005, the Federal Reserve Board concluded that African-  
6 Americans were more likely to pay higher prices for these mortgages. The United States  
7 Inspector General then cited that report as showing “significant” differences that made it  
8 “clear” that African-Americans were “much more likely to get higher-priced loans” than  
9 Caucasians, and the FDIC has stated that it does not believe that these significant  
10 disparities can be explained away by risk-based pricing, as the lending industry has  
11 repeatedly tried to do.

12 32. Further, the U.S. Department of Housing and Urban Development found  
13 that in neighborhoods where at least 80 percent of the population is African-American,  
14 borrowers were 2.2 times more likely than borrowers in the nation as a whole to  
15 refinance with a subprime lender. In fact, *upper-income* borrowers living in  
16 predominately African-American neighborhoods are twice as likely as *lower-income*  
17 Caucasian borrowers to have subprime loans.

18 33. WELLS FARGO has subjected its African American consumers and  
19 members of the NAACP to disparate adverse treatment by imposing terms and  
20 conditions for residential mortgage loans that resulted in their paying more for their  
21 loans than similarly situated Caucasian customers.

22 34. WELLS FARGO unlawfully steered applicants to less favorable credit  
23 products than they qualified for on the basis of race.

24 35. WELLS FARGO had engaged in a policy and practice of actively  
25 marketing subprime residential mortgage loan products directly to consumers, without  
26 providing them with sufficient information on how to purchase prime residential  
27 mortgage products from WELLS FARGO or one of its related entities.

1           36.     WELLS FARGO has engaged in policies and practices that provide greater  
2 financial compensation for mortgage brokers to steer consumers to subprime residential  
3 mortgage products in lieu of prime residential mortgage products from the defendants or  
4 one of its related entities. In fact, for 2006, 71 percent of all subprime loans were  
5 originated through brokers.

6           37.     The adverse impact of these policies and practices is felt disproportionately  
7 by African American consumers and members of the NAACP, compared to similarly  
8 situated Caucasians, as reflected in the substantially higher relative rate at which African  
9 Americans receive subprime residential mortgage loans despite the fact that they qualify  
10 for prime or “A” paper residential mortgage loans.

11          38.     Based upon the foregoing, WELLS FARGO was aware or should have  
12 been aware that applications for subprime residential mortgage loans include those made  
13 by individuals who would qualify for prime or “A” paper residential mortgage loans.

14          39.     Nonetheless, WELLS FARGO had the policy and practice of not providing  
15 meaningful review of loan applications to determine whether the applicant qualifies for a  
16 prime residential mortgage product offered by the defendant or one of its affiliated  
17 entities. While WELLS FARGO might review loan applications to determine whether  
18 they qualify for the subprime residential mortgage product, WELLS FARGO had  
19 policies and practices of not reviewing the application to determine if the applicant  
20 would qualify for a prime residential mortgage product offered by Ameriquest or one of  
21 its affiliated entities. The adverse effect of this policy was felt disproportionately by  
22 African American consumers and members of the NAACP, compared to similarly  
23 situated Caucasians, as reflected in their subprime rates.

24          40.     WELLS FARGO subjects its individual African American borrowers to  
25 terms and conditions for home mortgage loans that resulted in those borrowers paying  
26 more for their loans than similarly situated Caucasian borrowers.

1           41.     The foregoing policies and practices are facially neutral in that WELLS  
2 FARGO applies the same policies and practices to all residential mortgage loans.

3           42.     The foregoing policies and practices have a disproportionately adverse  
4 effect on African Americans compared with similarly situated Caucasian applicants  
5 because African Americans are subject to a significantly higher likelihood of receiving a  
6 subprime residential mortgage loan than Caucasian borrowers when they nonetheless  
7 qualify for a prime residential mortgage loan. Statistical analysis confirms that African  
8 Americans are more likely to be placed in subprime loans when they qualify for prime  
9 loans, than similarly situated Caucasians.

10          43.     This statistical analysis goes beyond the data recently required under the  
11 Home Mortgage Disclosure Act, and demonstrates a clear pattern of discrimination  
12 unexplainable on grounds other than race.

13          44.     The 2004 HMDA reporting requirements first directed lenders to identify  
14 higher-rate loans. That year, staff to the Board of Governors of the Federal Reserve  
15 System analyzed the distribution of these higher-rate loans. They reported pricing  
16 disparities between different racial and ethnic groups even after controlling for a  
17 borrower's income, gender, property location, and the loan amount. For example, after  
18 accounting for these differences, African-Americans who took a loan to purchase a home  
19 were 3.1 times more likely than Caucasian borrowers to receive a higher-rate home loan.  
20 While this Federal Reserve analysis confirmed that African-American borrowers were  
21 more likely to receive higher-rate loans than white borrowers, the researchers were  
22 unable to broadly explore how these disparities were affected by risk factors such as  
23 borrowers' credit score, down payment, or ability to document income. Then last year,  
24 the Center for Responsible Lending produced the first full research report that addresses  
25 this limitation.

26          45.     Specifically, the Center developed a database of 177,000 subprime loans  
27 by matching loans in HMDA to a private database of subprime mortgages. This step

1 enabled them to bring together detailed information on mortgage pricing, loan terms, and  
2 borrower risk characteristics into a single dataset. As a result, that study was able to  
3 account for those factors and isolate the effects of race and ethnicity in influencing  
4 whether a borrower receives a higher-rate loan in the subprime market.

5 46. The findings were striking, yet consistent with those of the Federal Reserve  
6 and other consumer organizations. The Center found that race and ethnicity – two  
7 factors that should play no role in pricing – were significant predictors of whether a  
8 subprime loan falls into the higher-rate portion of the market. Race and ethnicity  
9 remained significant predictors even after they accounted for the major factors that  
10 lenders list on rate sheets to determine loan pricing.

11 47. Even after controlling for legitimate loan risk factors, including borrowers’  
12 credit score, loan-to-value ratio, and ability to document income, race mattered, and it  
13 mattered in a discriminatory way. African American borrowers continued to face a  
14 much greater likelihood of receiving the most expensive subprime loans – even with the  
15 same loan type and the same qualifications as their white counterparts. Across a variety  
16 of different loan types, African Americans were commonly 31% to 34% more likely to  
17 receive a higher-rate loan than Caucasian borrowers.

18 48. This data evidences and is indicative of the treatment and impact described  
19 herein.

20 49. Further, WELLS FARGO had policies and practices of marketing  
21 residential mortgage loans that have initial rates during the first few years of the loan  
22 that are substantially lower than the rates that will be charged during the remaining  
23 course of the loans. These rates are often referred to as “teaser” rates or the initial  
24 interest rates for “Option ARM” loans. WELLS FARGO knew that the initial or teaser  
25 interest rate will increase substantially during the first four years of such residential  
26 mortgage loans.

1           50. Notwithstanding the fact that WELLS FARGO had a non-delegable,  
2 statutorily obligated duty to evaluate each applicant's ability to repay the entire loan (and  
3 not just the initial or teaser rates), WELLS FARGO had policies and practices of  
4 evaluating each applicant's ability to pay based upon *only* the lower initial rate.

5           51. These policies and practices are facially neutral insofar as WELLS  
6 FARGO used the same policies and practices for all residential mortgage loan  
7 applications.

8           52. The foregoing policies and practices have a disproportionately adverse  
9 effect on African Americans compared with similarly situated Caucasian applicants.  
10 Statistically, African Americans are more likely to obtain residential mortgage loans that  
11 would not satisfy WELLS FARGO's loan guidelines if the loan had been evaluated  
12 under the anticipated adjusted rates during the first four years of the loan, rather than the  
13 low initial interest rate. This is because African Americans have a much lower mean  
14 household income than Caucasians. Census data indicates that in 2006 African  
15 Americans had a mean household income of \$31,969 compared to \$52,423 for  
16 Caucasians. A policy that evaluates the ability to repay a loan based only on an initial  
17 low rate will necessarily result in a disproportionate impact on African Americans since,  
18 due to their lower incomes, a disproportionate number will be being stuck in loans they  
19 will not be able to repay when the interest rate increases.

20           53. The consequences of these policies and procedures have resulted in  
21 African Americans being disproportionately given loans that they will not have an  
22 ability to repay when the higher rates kick in. In the event African American  
23 homeowners elect to refinance their mortgages (in the unlikely event that they are able to  
24 qualify for such refinancing), they must often pay huge pre-payment penalties pursuant  
25 to the terms and conditions of the original residential mortgage loan.

1 54. There is no legitimate business reason justifying each of the  
2 aforementioned policies and practices that could not be achieved by a policy that does  
3 not have a discriminatory impact or a greatly reduced discriminatory impact.

4 55. Even though, upon information and belief, WELLS FARGO is presently  
5 no longer issuing mortgage loans, the injunctive relief requested in this Original  
6 Complaint is required because there is a great likelihood that upon the stabilization of  
7 the mortgage market, WELLS FARGO will again market and sell mortgage loans and  
8 the injunctive relief is required to ensure that the discriminatory conduct is not repeated.

9 **FIRST CAUSE OF ACTION**

10 **(Fair Housing Act – 42 U.S.C. § 3601 *et seq.*)**

11 56. The NAACP incorporates each and every preceding paragraph stated  
12 above, inclusive, as though the same were fully set forth herein.

13 57. The Fair Housing Act prohibits mortgage lenders from imposing different  
14 terms or conditions on a loan, such as different interest rates, points or fees, on the basis  
15 of race. The rights of the Class are protected by the Act.

16 58. WELLS FARGO's policies and practices have resulted in discrimination  
17 with respect to the Class, resulting in economic injury, as particularly stated herein.

18 59. By selling subprime residential mortgages to African Americans who  
19 qualify for prime residential mortgages at grossly unfavorable terms compared to  
20 Caucasians who continue to receive better terms than their African American  
21 counterparts, WELLS FARGO has discriminated against The Class with respect to their  
22 ability to participate in real estate transactions under terms and conditions that violate 42  
23 U.S.C. §3605.

24 60. WELLS FARGO engaged in the following facially neutral policies and  
25 practices that have an adverse disparate impact on African Americans:

- 26 a. actively marketing subprime residential loan products directly to  
27 consumers, without providing applicants with sufficient

1 information on how to purchase prime residential mortgage  
2 products from WELLS FARGO or one of its related entities;

3 b. providing financial incentives for mortgage brokers to steer  
4 consumers to subprime residential mortgage products in lieu of  
5 prime residential mortgage products from WELLS FARGO or one  
6 of its related entities;

7 c. not providing meaningful review of loan applications to determine  
8 whether the applicant qualifies for a prime residential mortgage  
9 product offered by WELLS FARGO or one of its affiliated entities.

10 61. The foregoing facially neutral policies and practices have a  
11 disproportionately adverse effect on African Americans compared with similarly situated  
12 Caucasian applicants because African Americans are subject to a significantly higher  
13 likelihood of receiving a subprime residential mortgage loan than Caucasian borrowers  
14 when they nonetheless qualify for a prime residential mortgage loan. Statistical analysis  
15 confirms that African Americans are more likely to be placed in subprime loans when  
16 they qualify for prime loans, than comparable situated Caucasians, thus constituting a  
17 violation of the Fair Housing Act.

18 62. WELLS FARGO engaged in the following additional facially neutral  
19 policies and practices that have an adverse disparate impact on African Americans:

20 a. marketing residential mortgage loans that have “teaser” rates or the  
21 initial interest rates for “Option ARM” loans; and

22 b. evaluating each applicant’s ability to pay based upon *only* the  
23 lower initial rate, and not the subsequent adjusted higher rate that  
24 will be due under the loan.

25 63. The foregoing policies and practices have a disproportionately adverse  
26 effect on African Americans compared with similarly situated Caucasian applicants.  
27 Statistically, African Americans are more likely than Caucasians to obtain residential

1 mortgage loans that would not satisfy WELLS FARGO's loan guidelines if the loan had  
2 been evaluated under the anticipated adjusted rates during the first four years of the loan,  
3 rather than the low initial interest rate.

4 64. There is no legitimate business reason justifying each of the  
5 aforementioned policies and practices that could not be achieved by a policy that does  
6 not have a discriminatory impact or a greatly reduced discriminatory impact.

7 65. As a proximate result of WELLS FARGO's violation of this statute, the  
8 NAACP and the Class A have been actually damaged.

9 66. This cause of action arises from continuing violations of this Act.

10 67. The NAACP and the Class are entitled to injunctive and declaratory relief.

11 **SECOND CAUSE OF ACTION**

12 **(Equal Credit Opportunity Act – 15 U.S.C. § 1691 *et seq.*)**

13 68. The NAACP incorporates each and every preceding paragraph stated  
14 above, inclusive, as though the same were fully set forth herein.

15 69. The Equal Credit Opportunity Act was first enacted in 1974 as a consumer  
16 protection statute prohibiting discrimination in the issuing of credit. The Act has been  
17 broadly construed by the courts in order to make effective its provisions to protect  
18 consumers.

19 70. WELLS FARGO is a creditor within the meaning of 15 U.S.C. § 1691(e).  
20 The mortgage loans offered to NAACP members are credit transactions. The Act  
21 provides that “[i]t shall be unlawful for any creditor to discriminate against any  
22 applicant, with respect to any aspect of a credit transaction . . . on the basis of race.” 15  
23 U.S.C. § 1691(a)(1). Class members are systematically and continuously extended  
24 mortgage credit by Defendants on a discriminatory basis. The rights of the Class are  
25 protected by the Act. WELLS FARGO discriminated against the Class and they were  
26 economically injured, as particularly stated herein.

1           71.     WELLS FARGO engaged in a pattern and practice of discrimination on the  
2 basis of race in the terms and interest rates charged to African American consumers and  
3 members of the NAACP.     By selling subprime residential mortgages to African  
4 Americans who qualify for prime residential mortgages at a far greater rate than  
5 Caucasians, WELLS FARGO discriminated against the Class with respect to their ability  
6 to participate in real estate transactions under terms and conditions that violate 42 U.S.C.  
7 §3605.

8           72.     WELLS FARGO engaged in the following facially neutral policies and  
9 practices that have a disproportionately adverse impact on African Americans when  
10 compared with Caucasians:

- 11                   a. actively marketing subprime residential loan products directly to  
12                   consumers, without providing applicants with sufficient  
13                   information on how to purchase prime residential mortgage  
14                   products from WELLS FARGO or one of its related entities;
- 15                   b. providing financial incentives for mortgage brokers to steer  
16                   consumers to subprime residential mortgage products in lieu of  
17                   prime residential mortgage products from WELLS FARGO or one  
18                   of its related entities; and
- 19                   c. not providing meaningful review of loan applications to determine  
20                   whether the applicant qualifies for a prime residential mortgage  
21                   product offered by WELLS FARGO or one of its affiliated entities.

22           73.     WELLS FARGO engaged in the following additional facially neutral  
23 policies and practices that have a disproportionately adverse impact on African  
24 Americans when compared with:

- 25                   a. marketing residential mortgage loans that have “teaser” rates or the  
26                   initial interest rates for “Option ARM” loans; and



1  
2 **JURY DEMAND**

3 The NAACP, individually and in a representative capacity on behalf of the Class,  
4 hereby demands a trial by jury on all claims and issues which it has a right for a jury to  
5 render judgment.  
6

7 **PRAYER**

8 WHEREFORE, the NAACP, individually and in a representative capacity on  
9 behalf of the putative Class comprised of African Americans and/or members of the  
10 NAACP, prays for entry of judgment as follows:

- 11 A. Certifying the putative Class and appointing the NAACP and its counsel to  
12 represent the Class;
- 13 B. A judgment in favor of the NAACP and the putative Class against  
14 Defendants;
- 15 C. Declaring that WELLS FARGO's practices, as described herein, violate  
16 the Fair Housing Act, the Equal Credit Opportunity Act, and the Civil  
17 Rights Act;
- 18 D. A judgment awarding the NAACP and Class Members costs and  
19 disbursements incurred in connection with this action, including reasonable  
20 attorneys' fees, expert witness fees and other costs;
- 21 E. A judgment granting extraordinary equitable and/or injunctive relief as  
22 permitted by law or equity;
- 23 F. A judgment granting declaratory and injunctive relief and all relief that  
24 flows from such injunctive and declaratory relief;
- 25 G. A judgment or other order granting such other and further relief as the  
26 Court deems just and proper; and  
27

1 H. Enjoining the complained of conduct and Ordering WELLS FARGO to  
2 modify its lending practices to comport with the law. The NAACP and the  
3 Class request that the Court exercise its equitable jurisdiction and order  
4 WELLS FARGO, its agents, subsidiaries, and affiliated companies to cease  
5 and desist from the unlawful conduct described above, and hereafter  
6 modify their lending practices to conform with statutory requirements.  
7 The NAACP and the Class further request that the Court order WELLS  
8 FARGO, its agents, subsidiaries, and affiliated companies to establish and  
9 publish informative materials and programs to fully inform African  
10 Americans about their rights to equal treatment with respect to home loans  
11 and subprime loans. The NAACP further requests that the Court retain  
12 jurisdiction on an ongoing basis in order to ensure and, where necessary,  
13 enforce compliance.

14 Dated: March \_\_\_\_, 2009

15 Respectfully submitted,

16 \_\_\_\_\_  
17 Brian S. Kabateck  
18 KABATECK BROWN KELLNER LLP

19 NAACP  
20 FEAZELL & TIGHE LLP  
21 LAW OFFICES OF GARY L. BLEDSOE  
22 WEBB, CASON & COVICH, P.C

23 *Attorneys for Plaintiff, NAACP, on*  
24 *Behalf of Itself and Its Members*