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8 Attorneys for Plaintiff
9 JOSE URISTA, on behalf of himself
10 and all others similarly situated,

11 **UNITED STATES DISTRICT COURT**
12 **SOUTHERN DISTRICT OF CALIFORNIA**

13 JOSE URISTA, on behalf of himself
14 and all others similarly situated,

15 Plaintiffs,

16 v.

17 WELLS FARGO & COMPANY and
18 WELLS FARGO BANK, N.A.,

19 Defendants.

Case No. **'20CV1689 H AHG**

CLASS ACTION COMPLAINT FOR VIOLATIONS OF:

- 1. Cal. Civ. Code § 1785 et. seq.
- 2. Cal. Civ. Code § 1788 et seq.
- 3. Cal. Bus. & Prof. C. § 17200
- 4. Request for Declaratory Relief
- 5. Request for Injunctive Relief
- 6. Unjust Enrichment

20 JOSE URISTA (“Plaintiff”) individually and on behalf of the proposed class of
21 all those similarly situated, brings this class action lawsuit for damages and injunctive
22 relief resulting from the unlawful actions committed by Defendants, Wells Fargo &
23 Company, and Wells Fargo Bank, N.A. (collectively referred to hereafter as: “Wells
24 Fargo” or the “Defendants”), as described herein.

25 **INTRODUCTION**

- 26 1. Wells Fargo is, among other things, a mortgage servicing company

1 operating throughout the United States.

2 2. As part of its mortgage servicing operations, Wells Fargo collects the
3 monthly mortgage payments of borrowers (like Plaintiff and the putative class
4 members), and those funds are, in turn, applied to principal and interest, taxes and
5 insurance as well as any other fees and charges that may have been assessed.

6 3. Wells Fargo earns revenue from mortgage loan servicing in several
7 ways. For instance, Wells Fargo earns a per-loan servicing fee established by its
8 servicing agreements with the owners of the loans that are entitled to payment of the
9 principal and interest payments set forth in the mortgage loan instruments.

10 4. Wells Fargo also earns “float” income on unapplied funds, which
11 accrues for the time between when consumers pay and when funds are remitted to
12 the loans’ owners.

13 5. Additionally, Wells Fargo (as the loan servicer) retains all or part of
14 certain fees it collects from borrowers, such as late charges, and for loans owned by
15 various government sponsored enterprises (“GSEs”), like Ginnie Mae, Fannie Mae,
16 and Freddie Mac, Wells Fargo earns fees for, among other things, filing incentive
17 payments after loans are placed in forbearance.

18 6. Following the worldwide outbreak of COVID-19, Congress passed
19 the Coronavirus Aid, Relief and Economic Security (“CARES”) Act in order to,
20 among many other things, provide some relief to millions of American homeowners
21 struggling to make their mortgage payments as a result of the economic difficulties
22 caused by the pandemic.

23 7. The CARES Act instructed mortgagees and servicers to create
24 mortgage forbearance provisions for all federally-backed mortgages, which includes
25 loans serviced by Defendants on behalf of GSEs that acquire, securitize and insure
26 repayment of the majority of consumer mortgage loans in America.

27 8. The CARES Act makes it abundantly clear that participation in a
28 COVID-19 mortgage forbearance program is entirely voluntary; that is, a mortgagor

1 must be informed of the various terms and conditions of the program and then make
2 a conscious decision to enter the program.

3 9. According to the Consumer Financial Protection Bureau (“CFPB”),
4 before a bank servicing a loan can grant forbearance, it is supposed to request and to
5 receive an attestation of a COVID-19-related financial hardship from the borrower:

6 REQUIREMENTS FOR SERVICERS.— (1) IN
7 GENERAL.—*Upon receiving a request for*
8 *forbearance from a borrower under subsection (b), the*
9 *servicer shall with no additional documentation*
10 *required other than the borrower’s attestation to a*
11 *financial hardship caused by the COVID–19*
12 *emergency* and with no fees, penalties, or interest
13 (beyond the amounts scheduled or calculated as if the
14 borrower made all contractual payments on time and in
15 full under the terms of the mortgage contract) charged to
16 the borrower in connection with the forbearance, provide
17 the forbearance for up to 180 days, which may be
18 extended for an additional period of up to 180 days at
19 the request of the borrower, provided that, the
20 borrower’s request for an extension is made during the
21 covered period, and, at the borrower’s request, either the
22 initial or extended period of forbearance may be
23 shortened.¹

19 10. As detailed herein, Wells Fargo unilaterally and without consent, and
20 certainly without requesting or receiving any financial hardship attestation, opted
21 unwitting clients into its COVID-19 mortgage forbearance program.

22 11. In addition, Wells Fargo put through secondary requests for
23 forbearance on behalf of homeowners who had asked to participate in the program
24 initially but who did not ask for extensions and no longer wanted to be in the
25 forbearance program.

26 12. Numerous media reports suggest that these practices, including the

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28 ¹ <https://www.congress.gov/116/bills/hr748/BILLS-116hr748enr.pdf> (last visited
August 14, 2020) (emphasis added).

1 complete lack of documentation, is not limited to a few persons.

2 13. Since the advent of COVID-19, approximately 5.5 million
3 homeowners have participated in a mortgage forbearance program, either knowingly
4 or unknowingly. Upon information and belief, Wells Fargo has deferred
5 approximately 2.5 million payments and it is not clear whether *any* of those affected
6 supplied such documents to Wells Fargo.²

7 14. The requirement of a volitional act on the part of mortgagor
8 participants is intentional as mortgage forbearance has serious consequences for
9 homeowners, including an inability to obtain additional credit and/or to refinance
10 any existing loans.

11 15. As a result, those homeowners, including Plaintiff, suffered damages,
12 including, but not limited to, an inability to access credit, to refinance to lower
13 interest rates (and away from particular mortgage servicers like Wells Fargo – which
14 is especially egregious during a period in time in which mortgage interest refinance
15 rates are at historically low rates), and in dealing with the difficult situation of
16 removing their mortgages from a program they did not want.

17 16. Defendants benefit by unilaterally opting unwitting homeowners into
18 its forbearance program in a number of ways, including retaining borrowers who
19 might otherwise refinance their mortgages with other institutions.

20 17. Interest rates are at all-time lows and many homeowners are seeking
21 to take advantage of these historically low rates by refinancing; if an account is
22 placed into a forbearance program, those borrowers cannot typically refinance for
23 many months, if not years, even after bringing the account current.

24 18. Defendants' actions are, unfortunately, yet another example of Wells
25 Fargo opportunistic and illegal actions that seem to only benefit it financially

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28 ² See, e.g., <https://www.nbcnews.com/business/personal-finance/more-wells-fargo-customers-say-bank-decided-pause-their-mortgage-n1234610> (last visited August 14, 2020).

1 without any regard for the needs of its customers *even in the throes of a catastrophic*
2 *pandemic.*

3 19. Wells Fargo recently agreed to pay \$3 Billion to resolve their
4 potential criminal and civil liability stemming from their practice of pressuring
5 employees to meet unrealistic sales goal that led thousands of employees to provide
6 millions of accounts or products to customers under false pretenses or without
7 consent, often by creating false records or misusing customers' identities.³

8 20. The recent revelations regarding Defendants' practice of involuntary
9 and without proper documentation putting homeowners' in unwanted forbearance
10 program prompted the following statement from Senator Sherrod Brown of Ohio,
11 the ranking Democrat on the Banking Committee:

12 Once again it seems that Wells Fargo's sloppy service
13 and shoddy management are hurting consumers. Wells
14 Fargo should immediately address each of these
15 complaints and make changes to ensure that no borrower
16 finds themselves worse off from actions that their
servicer takes without their consent or notice.⁴

17 21. In addition to Senator Brown's public statement, Senators Elizabeth
18 Warren of Massachusetts and Brian Schatz of Hawaii recently wrote a letter to the
19 Chief Executive Officer of Wells Fargo seeking information regarding its now well-
20 documented practice of putting mortgagors into forbearance programs without their
21 consent.⁵

22 22. The senators' July 29, 2020 letter stated that Wells Fargo "appears to
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24 ³ <https://www.justice.gov/opa/pr/wells-fargo-agrees-pay-3-billion-resolve-criminal-and-civil-investigations-sales-practices> (last visited August 14, 2020).

25 ⁴ <https://www.nbcnews.com/business/personal-finance/more-wells-fargo-customers-say-bank-decided-pause-their-mortgage-n1234610> (last visited August 14, 2020).

26 ⁵ <https://www.warren.senate.gov/imo/media/doc/2020.07.29%20Letter%20to%20Wells%20Fargo%20on%20Forbearance%20Filings.pdf> (last visited August 14, 2020).

1 be incapable of self-governance,” and noted that reports of borrowers being placed
2 in forbearance programs they did not want “raise even more questions about the
3 inability of Wells Fargo and its leadership team to comply with the law and the
4 needs of its customers.”

5 23. The letter, which called for a response by August 12, 2020,
6 proclaimed that “if these reports are true, they represent one more addition to a long
7 list of inexcusable actions by Wells Fargo at customers’ expense” because such
8 conduct can affect borrowers’ credit by suggesting that they are not making
9 payments even when they are and can prevent them from refinancing their home
10 loans to take advantage of rock-bottom interest rates.

11 24. Wells Fargo, for its part, has not denied these allegations; through its
12 spokesperson Tom Goyda, Wells Fargo states that “[i]n the spirit of providing
13 assistance, [it] may have misinterpreted customers’ intentions in a small number of
14 cases.”⁶

15 25. Plaintiff alleges as follows upon personal knowledge as to themselves
16 and their own experiences and, as to all other matters, upon information and belief
17 including due investigation conducted by their attorneys.

18
19 **PARTIES**

20 26. Plaintiff Jose Urista is an individual who, at all relevant times, resided
21 in San Diego County, California.

22 27. Defendant Wells Fargo & Company is a Delaware corporation
23 headquartered in San Francisco, California.

24 28. Defendant Wells Fargo & Company is a diversified financial services
25 company that provides banking, insurance, investments, mortgage banking and other
26 products and services to consumers, businesses and other institutions.

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28 ⁶ <https://www.bankingdive.com/news/wells-fargo-forbearance-mortgage-payments/582284/> (last visited August 14, 2020).

1 are satisfied, and this Court therefore has subject matter jurisdiction.

2 38. This Court has personal jurisdiction over Defendant Wells Fargo &
3 Company which has its principal place of business in San Francisco, California and
4 is authorized to do business in California, transacts business in California and
5 maintains sufficient minimum contacts in California.

6 39. This Court has personal jurisdiction over Defendants Wells Fargo
7 Bank, N.A., because it is authorized to do business in California, transacts business
8 in California and maintains sufficient minimum contacts in California.

9 40. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and
10 (c) because a substantial part of the events giving rise to these claims occurred San
11 Diego, CA which is in this District, and Defendants regularly conduct business in
12 this District.

13
14 **FACTUAL ALLEGATIONS**

15 **I. The Federal Government Passed the CARES Act to Help with the**
16 **Economic Harm Caused by the COVID-19 Pandemic**

17 41. On March 11, 2020, the World Health Organization (“WHO”)
18 declared the COVID-19 outbreak a global pandemic.

19 42. On March 13, 2020, the President issued the Coronavirus Disease
20 2019 (COVID-19) Emergency Declaration, which declared that the COVID-19
21 pandemic was of “sufficient severity and magnitude to warrant an emergency
22 declaration for all states, territories and therg District of Columbia.”

23 43. The economic fallout from COVID-19 was immediate and continues
24 to be considerable.

25 44. On March 25, 2020, in response to the economic damage beginning
26 to be felt by Americans throughout the country, the United States Senate passed the
27 Coronavirus Aid, Relief and Economic Security (“CARES”) Act.

28 45. The CARES Act was passed by the House of Representatives the

1 following day and signed into law on March 27, 2020. (See generally CARES Act,
2 Public Law No. 116-136).

3 46. The CARES Act is the single-largest economic stimulus bill in
4 United States' history, allocating approximately \$2.2 trillion of support to
5 individuals and business affected by the COVID-19 pandemic.
6

7 **II. The CARES Act Provides Relief to American Homeowners with**
8 **Government-backed Mortgages.**

9 47. A substantial part of the coronavirus aid package was designed to
10 assist American homeowners with federally backed mortgages who were in distress
11 as a result of the COVID-19 pandemic.

12 48. First, the CARES Act assisted American homeowners with
13 Government Sponsored Enterprise ("GSE") backed mortgages by prohibiting their
14 lenders and mortgage services from beginning a judicial or non-judicial foreclosure
15 or from finalizing a foreclosure judgment or sale through at least August 31, 2020.

16 49. Second, and most relevant to this action, the CARES Act provided
17 homeowners with GSE-backed loans experiencing financial hardships because of
18 COVID-19 with the option to request up to 180 days of forbearance on their
19 mortgage.

20 50. Specifically, Section 4022(b) provides, in relevant part, that:

21 (1) IN GENERAL.—During the covered period [beginning
22 February 15, 2020 and ending on June 30, 2020], a
23 borrower with a Federally backed mortgage loan
24 experiencing a financial hardship due, directly or indirectly,
25 to the COVID-19 emergency *may request* forbearance on
the Federally backed mortgage loan, regardless of
delinquency status, by—

26 (A) submitting a request to the borrower's
27 servicer and

28 (B) affirming that the borrower is experiencing a
financial hardship during the COVID-19 emergency.

1
2 (2) DURATION OF FORBEARANCE.—*Upon a*
3 *request by a borrower for forbearance* under paragraph (1),
4 such forbearance shall be granted for up to 180 days, and shall
5 be extended for an additional period of up to 180 days *at the*
6 *request of the borrower*, provided that, *at the borrower’s*
7 *request*, either the initial or extended period of forbearance may
8 be shortened.

9 *See* CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT, PL 116-
10 136, March 27, 2020, 134 Stat. 281, § 4022(b) (emphasis added).

11 51. Section 4022(c) provides, in relevant part, that:

12 *Upon receiving a request for forbearance from a borrower*
13 *under subsection (b)*, the servicer shall *with no additional*
14 *documentation required other than the borrower’s*
15 *attestation to a financial hardship caused by the COVID-*
16 *19 emergency* and with no fees, penalties, or interest
17 (beyond the amounts scheduled or calculated as if the
18 borrower made all contractual payments on time and in full
19 under the terms of the mortgage contract) charged to the
20 borrower in connection with the forbearance, provided the
21 forbearance up to 180 days, which may be extended for an
22 additional period of up to 180 days *at the request of the*
23 *borrower*, provided that, *the borrower’s request for an*
24 *extension* is made during the covered period, and, *at the*
25 *borrower’s request*, either the initial or extended period of
26 forbearance may be shortened.

27 *Id.*, § 4022(c) (emphasis added).

28 52. These provisions make it abundantly clear that participation in a
mortgagee’s or servicer’s mortgage COVID-19 forbearance program is voluntary
and to be initiated only at the request of the mortgagor clients.

53. As explained by the CFPB, a forbearance is “when [] mortgage
servicer[s] or lender[s] allow [mortgagors] to pause (suspend), or reduce [their]

1 mortgage payments for a limited period of time while [they] regain [their] financial
2 footing.”⁷

3 54. Notably, while “the CARES Act provides many homeowners with the
4 right to have all mortgage payments completely paused for a period of time,”
5 “[f]orbearance doesn’t mean [mortgagors’] payments are forgiven or erased.
6 [Rather, mortgagors] are still required to repay any missed or reduced payments in
7 the future, which in most cases may be repaid over time.”⁸

8 55. The CARES Act provided for an extension of the forbearance period
9 (for a total of up to 360 days) for homeowners that continued to experience
10 difficulty in paying their mortgages once their initial 180-day term expired.⁹

11 56. In order for mortgagors to avail themselves of the COVID-19 mortgage
12 forbearance option, they were instructed to contact their loan servicer to obtain
13 information and, if appropriate, request forbearance.¹⁰

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15
16 **III. The Implementation of the CARES Act is Met with Confusion &
17 Uncertainty.**

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19
20 ⁷ [https://www.consumerfinance.gov/coronavirus/mortgage-and-housing-
21 assistance/mortgage-relief/](https://www.consumerfinance.gov/coronavirus/mortgage-and-housing-assistance/mortgage-relief/) (last visited August 14, 2020).

22 ⁸ *Id.*

23 ⁹ [https://www.consumerfinance.gov/coronavirus/mortgage-and-housing-
24 assistance/after-you-receive-relief/](https://www.consumerfinance.gov/coronavirus/mortgage-and-housing-assistance/after-you-receive-relief/) (stating that “[i]f you still face financial hardship,
25 you can request a forbearance extension. Under the CARES Act, if you have a
26 federally or GSE-backed mortgage, you also can request and obtain an extension of
the forbearance for up to an additional 180 days) (last visited August 14, 2020).

27 ¹⁰ *See* [https://www.consumerfinance.gov/coronavirus/mortgage-and-housing-
28 assistance/request-forbearance-or-mortgage-relief/](https://www.consumerfinance.gov/coronavirus/mortgage-and-housing-assistance/request-forbearance-or-mortgage-relief/) (last visited August 14, 2020).

1 57. While the CARES Act was passed quickly and with laudable
2 intentions, there has been a tremendous amount of consumer confusion around many
3 aspects of the Act including the forbearance program.

4 58. Some of the terms are relatively straightforward in that lenders are not
5 permitted to report forborne payments to the credit bureaus, which means that
6 borrowers who request forbearance are not supposed to see any impact on their
7 credit scores as a result of their participation in forbearance programs.

8 59. Additionally, the initial term of the mortgage forbearance program was
9 designed to be 180 days and, after that term expires, lenders were instructed to work
10 with borrowers to—upon request by the homeowners—extend the forbearance or
11 establish a repayment plan.¹¹

12 60. Leaving aside the issue of whether mortgagors are even aware that they
13 are in a mortgage forbearance program, the provision that has caused the most
14 confusion is that participating mortgagors often do not know if they have to get their
15 mortgage current at the conclusion of the forbearance period or how their lender
16 and/or servicer will treat the deferred payments.

17 61. Fannie Mae and Freddie Mac attempted to address the confusion
18 attendant to the post-CARES Act forbearance loss mitigation landscape when they
19 introduced the “COVID-19 Payment Deferral” option with Lender Letter (LL-2020-
20
21

22
23 ¹¹ See [https://benefits.va.gov/homeloans/cares-act-frequently-asked-
24 questions.asp#FAQ5](https://benefits.va.gov/homeloans/cares-act-frequently-asked-questions.asp#FAQ5) (stating that “[f]orbearance in the CARES Act is broken down
25 into two pieces; an *initial* period and an *additional* period. For the initial period, you
26 may notify your mortgage servicer that you are financially affected by the COVID-19
27 emergency and request up to 180 days of forbearance. For the additional period, you
28 may notify your mortgage servicer that you are still financially affected by the
COVID-19 emergency and request up to 180 additional days of forbearance.”) (last
visited August 14, 2020).

1 07) and Bulletin 2020-15.¹²

2 62. The COVID-19 Payment Deferral instructs that all forborne payments
3 (up to 12 months) are to be placed into a non-interest-bearing balance to be paid
4 back at the end of the loan term.

5 63. The COVID-19 Payment Deferral brought Fannie Mae and Freddie
6 Mac in line with the United States Department of Housing and Urban
7 Development's ("HUD") COVID-19 National Emergency Standalone Partial Claim
8 option, which provides borrowers with a junior mortgage (zero additional interest,
9 no fees) not payable until the mortgage is paid off, comprised of the total amount of
10 payments missed during a CARES Act forbearance period.¹³

11 64. Although various government entities attempted to clarify the law, the
12 mortgagees and servicers fail to comply as evidenced by, among other things, a
13 report published (in late April) by HUD's Office of Inspector General ("OIG"),
14 which conducted a study of the top 30 mortgage servicers 22 days after the CARES
15 Act was enacted.

16 65. That study, entitled Some Mortgage Loan Servicers' Websites Offer
17 Information about CARES Act Loan Forbearance That Is Incomplete, Inconsistent,
18 Dated, and Unclear, analyzed the information that mortgagees and servicers were
19 providing to borrowers regarding forbearance.¹⁴

20 _____
21 ¹² Lender Letter 2020-07 is available here:
22 <https://singlefamily.fanniemae.com/media/22916/display> and Bulletin 2020-15 is
23 available here: <https://guide.freddiemac.com/app/guide/bulletin/2020-15> (last visited
24 August 14, 2020).

25 ¹³ HUD's Mortgagee Letter 2020-06 is available here:
26 <https://www.hud.gov/sites/dfiles/OCHCO/documents/20-06hsngml.pdf> (last visited
27 August 14, 2020).

28 ¹⁴ The report is available here: <https://www.hudoig.gov/sites/default/files/2020-04/Single%20Family%20Mortgage%20Forbearance%20Brief.pdf> (last visited
August 14, 2020).

1 66. HUD’s OIG ultimately concluded that information from mortgagees
2 and servicers was “incomplete, inconsistent, dated, and unclear” because, among
3 other things, not all mortgage servicer websites provided readily accessible
4 information, the information about the duration of forbearance was inconsistent; the
5 information was not brought up to date to meet the mandates of the final CARES
6 Act; and/or the servicer “gave the impression” that a lump sum payment was
7 necessary at the end of the forbearance.

8 67. The CFPB’s May 2020 Complaint Bulletin, covering complaints
9 mentioning coronavirus keywords, echoed HUD OIG findings and the House
10 Financial Services Committee’s criticisms, observing, among common complaints,
11 that consumers were unable to reach customer service representatives and faced long
12 hold times, and were informed by their mortgage servicers that they would have to
13 repay 90-day forbearances in a lump sum at the end of the 90-day period.¹⁵
14

15 **III. Approximately 4.58 Million Homeowners with Federally-backed Loans**
16 **Are in a Forbearance Program, Many of them Unwittingly.**

17 68. As of June 30, 4.58 million homeowners are in COVID-19 related
18 forbearance plans, representing 8.6% of all active mortgages.¹⁶

19 69. Some 6.8% of all GSE-backed loans and 12.3% of all FHA/VA loans
20
21

22 ¹⁵ The CFPB’s May Bulletin is accessible here:
23 [https://www.consumerfinance.gov/about-us/newsroom/cfpb-issues-consumer-](https://www.consumerfinance.gov/about-us/newsroom/cfpb-issues-consumer-complaint-bulletin/)
24 [complaint-bulletin/](https://www.consumerfinance.gov/about-us/newsroom/cfpb-issues-consumer-complaint-bulletin/) and the Report, entitled *Complaint Bulletin, Complaints*
25 *Mentioning Coronavirus Keywords*, is accessible here:
26 [https://files.consumerfinance.gov/f/documents/cfpb_complaint-bulletin_coronavirus-](https://files.consumerfinance.gov/f/documents/cfpb_complaint-bulletin_coronavirus-complaints.pdf)
[complaints.pdf](https://files.consumerfinance.gov/f/documents/cfpb_complaint-bulletin_coronavirus-complaints.pdf) (last visited August 14, 2020).

27 ¹⁶ See [https://www.cnbc.com/2020/07/03/loans-in-coronavirus-mortgage-](https://www.cnbc.com/2020/07/03/loans-in-coronavirus-mortgage-bailouts-see-largest-weekly-decline-yet.html)
28 [bailouts-see-largest-weekly-decline-yet.html](https://www.cnbc.com/2020/07/03/loans-in-coronavirus-mortgage-bailouts-see-largest-weekly-decline-yet.html) (last visited August 14, 2020).

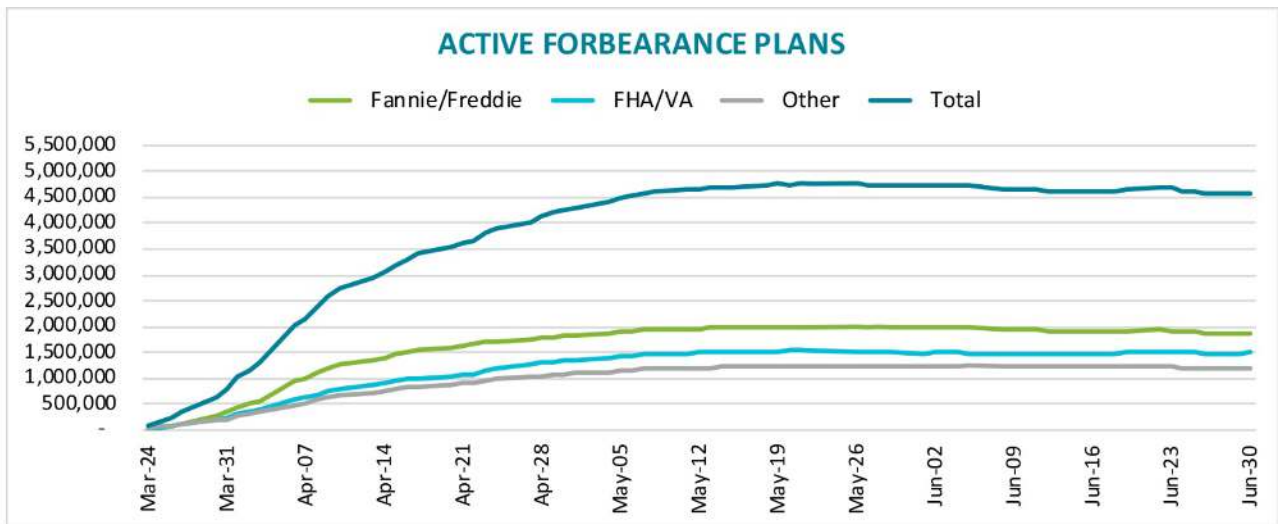
1 are currently in forbearance plans.¹⁷

2 70. Federally backed mortgages (including GSEs Freddie Mac and Fannie
3 Mae) constitute 62 percent of all first lien mortgages.¹⁸

4 71. Mortgages owned by private lenders, such as banks, are not included in
5 the relief proscribed by the CARES Act.

6 72. About 30%, or roughly 14.5 million U.S. mortgages, are privately
7 owned and not backed by any federal agency.¹⁹

8 73. Approximately 11% of these privately-held mortgages remain in some
9 type of forbearance or deferment program.



19 74. Wells Fargo has stated publicly that it has deferred 2.5 million
20 payments for consumer and small business customers since the start of the
21

23 ¹⁷ See <https://www.blackknightinc.com/blog-posts/forbearance-volumes-reverse-course-for-largest-decline-yet/> (last visited August 14, 2020).

25 ¹⁸ See <https://www.americanactionforum.org/insight/the-cares-act-and-mortgage-servicers/#ixzz6SxUvL79W> (last visited August 14, 2020).

27 ¹⁹ See <https://www.cnbc.com/2020/07/15/privately-held-mortgage-forbearance-may-be-difficult-for-americans-to-navigate.html> (last visited August 14, 2020).

1 pandemic.²⁰

2 **IV. Wells Fargo Unilaterally Opted Homeowners into Forbearance Program**
3 **and Extended Homeowners' Forbearance Without Their Consent**

4 75. Since the passage of the CARES Act in late March, millions of
5 homeowners across the country have attempted to obtain information from their
6 mortgage servicers and lenders as to the specifics of their COVID-19 forbearance
7 program.²¹

8 76. As numerous media reports have detailed, many servicers unilaterally
9 put borrowers into their mortgage forbearance program despite no clear indication
10 of consent.²²

11 77. Thousands of homeowners were put into mortgage forbearance
12 programs they did not request or had their forbearance period extended for an
13 additional period of time without their consent, causing substantial problems for
14 those homeowners.

15 78. Being in forbearance prevents those homeowners from taking out new
16 home loans or refinancing their existing mortgages (not to mention obtaining any
17 additional credit).

18 79. As told by a Wells Fargo mortgage servicer client, it is virtually
19 impossible to obtain any form of credit for up to a year after a forbearance program
20 has concluded:

21 the note on his credit report saying the loan is in
22 forbearance makes it impossible for him to refinance.

23
24 ²⁰ See <https://www.bankingdive.com/news/wells-fargo-forbearance-mortgage-payments/582284/> (last visited August 14, 2020).

25 ²¹ *Homeowners are getting mortgage relief they didn't want*, Anna Bahney, May
26 2020 (<https://www.cnn.com/2020/05/20/success/mortgage-forbearance-homeowner-complaints-coronavirus/index.html>) (last visited August 14, 2020).

27
28 ²² See <https://www.cnbc.com/2020/05/12/coronavirus-some-homeowners-getting-mortgage-bailouts-by-mistake.html> (last visited August 14, 2020).

1 Fannie Mae and Freddie Mac, which, along with the
2 Federal Housing Administration and the Department of
3 Veterans Affairs, fund or insure the vast majority of
4 mortgages from lenders, do not allow borrowers with a
5 loan in forbearance to either refinance or obtain a new
6 loan until one year after the loan payments are up to date
7 again.²³

8 80. When reached for comment, Wells Fargo stated: “[w]e encourage
9 customers to continue making their payments if they can but are granting an
10 immediate three-month payment suspension for any Wells Fargo Home Lending
11 mortgage or home equity customer who requests assistance. For customers who
12 contact us to take advantage of a payment suspension, we won’t report past-due
13 status to the consumer reporting agencies or charge late fees during the suspension
14 period.”²⁴

15 81. Wells Fargo continued by stating that “[c]ustomers who reach us by
16 telephone will get an immediate verbal confirmation of their three-month payment
17 suspension. Because our contact centers are experiencing significant call volumes,
18 we encourage mortgage customers to log into their account on WellsFargo.com and
19 click on the banner in the mortgage account, follow the easy steps to submit request
20 for payment relief, and receive immediate confirmation. In either case, customers

21
22 ²³ See <https://www.cnbc.com/2020/05/12/coronavirus-some-homeowners-getting-mortgage-bailouts-by-mistake.html> (last visited August 14, 2020) (stating that “It also puts barriers in front of homeowners who could really benefit now from refinancing and saving on their monthly payments. Servicers are swamped with those requests as well. Applications to refinance a home loan are currently up more than 200% from a year ago”).

26
27 ²⁴ See <https://www.forbes.com/sites/dimawilliams/2020/04/03/borrowers-seeking-mortgage-forbearance-hit-ambiguity-snafus/#7e6d2be8edc5> (last visited
28 August 14, 2020).

1 will receive a confirmation letter within 7-10 days after our initial response.”²⁵

2 82. Wells Fargo has acknowledged that merely inquiring about
3 forbearance options should not result in a borrower’s unwitting entry into the
4 program.

5 83. Specifically, Tom Goyda, a Wells Fargo consumer lending
6 spokesperson admitted that, “[j]ust asking about a forbearance should not result in a
7 forbearance being applied.”²⁶

8 84. Despite these public statements, Wells Fargo has publicly
9 acknowledged unilaterally opting Chapter 13 debtors into its COVID-19 mortgage
10 forbearance program.

11 85. According to a recent media report, Wells Fargo monitored the
12 Chapter 13 bankruptcy dockets of its debtor clients and unilaterally opted them into
13 its mortgage forbearance program.²⁷

14 86. That article, entitled *Troy Harlow has always made sure to pay his*
15 *mortgage on time Wells Fargo had other plans for him*, details the plight of
16 numerous borrowers who had been unwittingly enrolled in Wells Fargo’s mortgage
17 forbearance program:

18 None of the borrowers in the lawsuit who were contacted
19 by NBC News told the bank that they’d been affected by
20 COVID-19, and ***none had requested the bank’s assistance***
21 ***because of it. Nor had they requested loan modifications***

22 ²⁵ See [https://www.forbes.com/sites/dimawilliams/2020/04/03/borrowers-](https://www.forbes.com/sites/dimawilliams/2020/04/03/borrowers-seeking-mortgage-forbearance-hit-ambiguity-snafus/#7e6d2be8edc5)
23 [seeking-mortgage-forbearance-hit-ambiguity-snafus/#7e6d2be8edc5](https://www.forbes.com/sites/dimawilliams/2020/04/03/borrowers-seeking-mortgage-forbearance-hit-ambiguity-snafus/#7e6d2be8edc5) (last visited
24 August 14, 2020).

25 ²⁶ See [https://www.cnn.com/2020/05/20/success/mortgage-forbearance-](https://www.cnn.com/2020/05/20/success/mortgage-forbearance-homeowner-complaints-coronavirus/index.html)
26 [homeowner-complaints-coronavirus/index.html](https://www.cnn.com/2020/05/20/success/mortgage-forbearance-homeowner-complaints-coronavirus/index.html) (last visited August 14, 2020).

27 ²⁷ See [https://www.nbcnews.com/business/personal-finance/troy-harlow-has-always-](https://www.nbcnews.com/business/personal-finance/troy-harlow-has-always-made-sure-pay-his-mortgage-time-n1233635)
28 [made-sure-pay-his-mortgage-time-n1233635](https://www.nbcnews.com/business/personal-finance/troy-harlow-has-always-made-sure-pay-his-mortgage-time-n1233635) (last visited August 14, 2020).

1 *when Wells Fargo claimed they wanted forbearance.* In
2 addition, none of the borrowers or their attorneys say they
3 were contacted by Wells Fargo.

4 Asked about the discrepancies, Wells Fargo said that
5 because it had seen references to COVID-19 in the
6 borrowers' court filings, it provided forbearance.²⁸

7 87. When reached for comment, Wells Fargo did not deny the practice of
8 unilaterally enrolling unwitting persons to its mortgage forbearance program:

9 During this unprecedented time, we've focused on ensuring
10 that our customers who need assistance receive the benefits
11 of available relief programs, the statement said.

12 In the early days of the pandemic, we provided immediate
13 payment relief to customers in bankruptcy if a review of
14 their court filings indicated they were impacted by COVID-
15 19 or if they had a loan modification review in process.

16 In those cases, we notified the customers or their attorneys
17 and filed a notice with the court. We followed up with
18 customers in these circumstances after some raised
19 questions and, in the majority of cases, those we have
20 contacted wanted the payment relief. If a customer does not
21 want a forbearance, we remove it and notify the bankruptcy
22 courts.²⁹

23 88. The Wells Fargo spokeswoman declined to say whether the bank has
24 benefited financially from making unrequested forbearance filings.³⁰

25 89. But, upon information and belief, Wells Fargo is compensated

26 ²⁸ See <https://www.nbcnews.com/business/personal-finance/troy-harlow-has-always-made-sure-pay-his-mortgage-time-n1233635> (last visited August 14, 2020)
(emphasis added).

27 ²⁹ *Id.* (emphasis added).

28 ³⁰ *Id.*

1 financially by the various federal agencies on whose behalf it services borrowers’
2 loans when it files forbearance notices and when it completes loan retention workout
3 options with borrowers whose loans have been placed into forbearance pursuant to
4 the CARES Act.

5 90. Upon information and belief, for each loan placed into forbearance that
6 Wells Fargo subsequently modifies in accordance with Fannie Mae and Freddie
7 Mac’s matrix for loan retention workout options, Wells Fargo receives an incentive
8 fee of up to \$1,500.00.³¹

9 91. Upon information and belief, for each loan placed into forbearance for
10 which Wells Fargo subsequently defers repayment of some or all of the forborne
11 payments until loan maturity in accordance with Fannie Mae and Freddie Mac’s
12 matrix for loan retention workout options, Wells Fargo receives an incentive fee of
13 \$500.

14 92. Upon information and belief, for each loan placed into forbearance for
15 which Wells Fargo enters into a completed repayment plan in accordance with Fannie
16 Mae and Freddie Mac’s matrix for loan retention options, Wells Fargo receives an
17 incentive fee of \$500.³²

18 93. Upon information and belief, Wells Fargo also receives servicing
19 income for the loans it services, and Plaintiff is informed and believes and therefore
20 allege that Wells Fargo is incentivized to modify its customers’ mortgage loans
21 following a CARES Act forbearance in a way that extends the loan’s term and lowers
22 the borrower’s monthly mortgage payment in order to prevent “run off” of loan
23 servicing rights, which occurs when borrowers sell their homes or refinance their
24

25 ³¹ See [https://www.forbes.com/sites/dimawilliams/2020/04/03/borrowers-](https://www.forbes.com/sites/dimawilliams/2020/04/03/borrowers-seeking-mortgage-forbearance-hit-ambiguity-snafus/#73c99373edc5)
26 [seeking-mortgage-forbearance-hit-ambiguity-snafus/#73c99373edc5](https://www.forbes.com/sites/dimawilliams/2020/04/03/borrowers-seeking-mortgage-forbearance-hit-ambiguity-snafus/#73c99373edc5) (last visited
27 August 14, 2020).

28 ³² *Id.*

1 mortgages.

2 94. Implementing forbearance plans without customer approval is
3 reminiscent of other troubling practices at Wells Fargo in recent years.³³

4 95. Starting next month, Fannie Mae has new rules benefiting loan servicers
5 like Wells Fargo whose customers are in forbearance.³⁴ Normally, banks handling
6 home loans held by Fannie Mae must continue forwarding borrowers' mortgage
7 payments to the government entity, even when they stop paying.³⁵

8 96. But under the new rules, banks can stop advancing Fannie Mae
9 borrowers' mortgage payments after four months if the borrowers have stopped
10 paying because they are in forbearance programs.³⁶

11

12 **V. Impacts of Unwanted Forbearance on Consumers**

13 97. Wells Fargo's practice of unilaterally opting mortgagors into unwanted
14 forbearance program is not limited to its Chapter 13 debtor clients.

15 98. Rather, as detailed extensively herein, many homeowners were put into
16 forbearance programs they did not want which has caused injury to those
17 homeowners.³⁷

18 99. Even if mortgagees do not report forborne accounts as delinquent, there
19

20

21

³³ See <https://www.nbcnews.com/news/all/wells-fargo-pay-3-billion-over-fake-account-scandal-n1140541> (last visited August 14, 2020).

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³⁴ <https://www.nbcnews.com/business/personal-finance/troy-harlow-has-always-made-sure-pay-his-mortgage-time-n1233635> (last visited August 14, 2020).

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³⁵ *Id.*

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³⁶ *Id.*

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³⁷ See <https://www.cnn.com/2020/05/20/success/mortgage-forbearance-homeowner-complaints-coronavirus/index.html> (last visited August 14, 2020).

28

1 are nonetheless many practical and immediate impacts of participating in a mortgage
2 forbearance program; chief among them is that participation in a forbearance program
3 prohibits homeowners from taking out new loans or refinancing their existing
4 mortgages.³⁸

5 100. Wells Fargo has made note on the reports they send to credit reporting
6 agencies that the homeowners who they have placed in forbearance—including those
7 who never requested it—have suspended their mortgage payments.³⁹

8 101. Fannie Mae and Freddie Mac, which, along with the Federal Housing
9 Administration and the Department of Veterans Affairs, fund or insure the vast
10 majority of mortgages from lenders, do not allow borrowers with a loan in
11 forbearance to either refinance or to obtain a new loan until one year after the loan
12 payments are up to date again.⁴⁰

13
14 **VI. Wells Fargo’s Practice of Unilaterally Opting Consumers Into a**
15 **Forbearance Program Prompts Hundreds of Consumer Complaints**

16 102. The lack of clarity around Wells Fargo’s mortgage forbearance programs
17 has caused great stress to thousands of homeowners and led to many consumer
18 complaints.

19 103. Frustration seeps through long threads on social media channels
20 populated with mortgage borrowers unnerved by, among other things, their inability
21 to reach lenders over the phone and upset with the forbearance assistance they are

22 _____
23 ³⁸ The Cares Act is clear that participation in a forbearance program should not
24 negatively impact mortgagee’s credit scores. According to the CARES Act, if a
25 mortgagee is in forbearance because of the pandemic, their loan status is to be
reported as current on payments.

26 ³⁹ See [https://www.cnbc.com/2020/05/12/coronavirus-some-homeowners-getting-](https://www.cnbc.com/2020/05/12/coronavirus-some-homeowners-getting-mortgage-bailouts-by-mistake.html)
27 [mortgage-bailouts-by-mistake.html](https://www.cnbc.com/2020/05/12/coronavirus-some-homeowners-getting-mortgage-bailouts-by-mistake.html) (last visited August 14, 2020).

28 ⁴⁰ *Id.*

1 offered once someone answers their calls.⁴¹

2 104. Complaints filed with the CFPB have risen dramatically since the
3 beginning of the COVID-19 outbreak, and many of those come from homeowners
4 who complain that they were placed in forbearance without requesting it.⁴²

5 105. Oversight of the forbearance program is woefully inadequate, so it's
6 unsurprising that the biggest coronavirus problems are related to mortgages," said
7 Mike Litt, the consumer campaign director at U.S. PIRG.⁴³

8 106. A representative complaint of a person who filed a complaint with the
9 CFPB noted that Wells Fargo unilaterally opted her into a mortgage forbearance
10 program without her consent:

11 I contacted my mortgage servicer . . . for informational
12 purposes only, to see what programs they were offering
13 during the COVID-19 pandemic . . . I stated I did NOT
14 want to be on a forbearance plan.

15 The stress of the situation has affected my physical and
16 mental well-being, strained my personal relationships as
17 well as the ability to do my job. I have spent hours on
18 the phone, and writing letters . . . I wonder, how many
19 others this is happening to?⁴⁴

20 107. A recent article in Forbes details the experience of Morgan Davis, a
21 furloughed clothing designer, who called Wells Fargo to ask for help with her FHA

21 ⁴¹ [https://www.forbes.com/sites/dimawilliams/2020/04/03/borrowers-seeking-](https://www.forbes.com/sites/dimawilliams/2020/04/03/borrowers-seeking-mortgage-forgbearance-hit-ambiguity-snafus/#7e6d2be8edc5)
22 [mortgage-forgbearance-hit-ambiguity-snafus/#7e6d2be8edc5](https://www.forbes.com/sites/dimawilliams/2020/04/03/borrowers-seeking-mortgage-forgbearance-hit-ambiguity-snafus/#7e6d2be8edc5) (last visited August 14,
23 2020).

24 ⁴² [https://www.cnn.com/2020/05/20/success/mortgage-forgbearance-homeowner-](https://www.cnn.com/2020/05/20/success/mortgage-forgbearance-homeowner-complaints-coronavirus/index.html)
25 [complaints-coronavirus/index.html](https://www.cnn.com/2020/05/20/success/mortgage-forgbearance-homeowner-complaints-coronavirus/index.html) (last visited August 14, 2020).

26 ⁴³ *Id.*

27 ⁴⁴ [https://www.cnn.com/2020/05/20/success/mortgage-forgbearance-homeowner-](https://www.cnn.com/2020/05/20/success/mortgage-forgbearance-homeowner-complaints-coronavirus/index.html)
28 [complaints-coronavirus/index.html](https://www.cnn.com/2020/05/20/success/mortgage-forgbearance-homeowner-complaints-coronavirus/index.html) (last visited August 14, 2020).

1 loan.⁴⁵

2 108. According to the borrower, Wells Fargo offered to suspend her mortgage
3 for three payments without penalty, but Ms. Davis declined because “at the end of
4 those three months, all my mortgage payments would be due at once.”⁴⁶

5 109. Unbeknownst to Ms. David and against her wishes, Wells Fargo
6 unilaterally opted her into a mortgage forbearance program.

7 110. Ms. Davis only found out that she was entered into the program when
8 she attempted to pay her next month’s mortgage and was informed that her “Wells
9 Fargo checking and savings accounts are ineligible to pay [her] Wells Fargo
10 mortgage.”

11 111. According to the Forbes article, Ms. Davis also received a letter
12 confirming the receipt of her loan modification request, a request she says she never
13 made.⁴⁷

14 112. Similarly, another Wells Fargo customer, Tammi Wilson, claims her
15 mortgage was placed in forbearance after she clicked a link to coronavirus relief
16 information on the bank’s website and provided her contact information to receive
17 related program materials.⁴⁸

18 113. According to a recent article, *Wells Fargo says it ‘misinterpreted*
19
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21 ⁴⁵ [https://www.forbes.com/sites/dimawilliams/2020/04/03/borrowers-seeking-](https://www.forbes.com/sites/dimawilliams/2020/04/03/borrowers-seeking-mortgage-forbearance-hit-ambiguity-snafus/#7e6d2be8edc5)
22 [mortgage-forbearance-hit-ambiguity-snafus/#7e6d2be8edc5](https://www.forbes.com/sites/dimawilliams/2020/04/03/borrowers-seeking-mortgage-forbearance-hit-ambiguity-snafus/#7e6d2be8edc5) (last visited August 14,
23 2020).

24 ⁴⁶ [https://www.forbes.com/sites/dimawilliams/2020/04/03/borrowers-seeking-](https://www.forbes.com/sites/dimawilliams/2020/04/03/borrowers-seeking-mortgage-forbearance-hit-ambiguity-snafus/#7e6d2be8edc5)
25 [mortgage-forbearance-hit-ambiguity-snafus/#7e6d2be8edc5](https://www.forbes.com/sites/dimawilliams/2020/04/03/borrowers-seeking-mortgage-forbearance-hit-ambiguity-snafus/#7e6d2be8edc5) (last visited August 14,
26 2020).

27 ⁴⁷ *Id.*

28 ⁴⁸ [https://www.bankingdive.com/news/wells-fargo-forbearance-mortgage-](https://www.bankingdive.com/news/wells-fargo-forbearance-mortgage-payments/582284/)
[payments/582284/](https://www.bankingdive.com/news/wells-fargo-forbearance-mortgage-payments/582284/) (last visited August 14, 2020).

1 *customers' intentions' in some forbearance cases*, when Ms. Wilson later discovered
2 that she no longer had an active account when she logged on to make a payment on
3 her loan:

4 I click this button and next thing I know, I'm getting a
5 thing that says I'm deferred and I can't reverse something
6 I didn't even want. If you're going to help people, there
7 is a super simple first step — just ask, 'Do you need our
8 help?'⁴⁹

8 114. Another mortgagor similarly called Wells Fargo to get information and
9 later found out his mortgage was in forbearance.⁵⁰

10 115. The borrower said he sent an email to Wells Fargo, which services his
11 loan, because he “was asking to be educated on what [his] options were but someone
12 put me in this and never told me what it was.”

13 116. As with Ms. Davis and Ms. Wilson, when this Wells Fargo servicer
14 client went to make his next payment, he was informed that he could not because
15 there was no “eligible account to make the payment on.”⁵¹

16 117. When this Wells Fargo customer attempted to refinance (in order to take
17 advantage of record low mortgage rates), his mortgage broker informed him that the
18 loan was in forbearance, and he was therefore unable to refinance.

19 118. The borrower again contacted Wells Fargo and asked to be removed
20 from forbearance. That was April 23, and he says his loan is still listed as in
21 forbearance.

22 119. Similarly, a recent CNN.com article, entitled Homeowners are getting
23

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25 ⁴⁹ *Id.*

26 ⁵⁰ [https://www.cnbc.com/2020/05/12/coronavirus-some-homeowners-getting-
27 mortgage-bailouts-by-mistake.html](https://www.cnbc.com/2020/05/12/coronavirus-some-homeowners-getting-mortgage-bailouts-by-mistake.html)

28 ⁵¹ *Id.*

1 mortgage relief they didn't want, details additional instances of the problem:

2 'I never asked to be in the program,' said D.J.
3 Stavropoulos, a real estate agent in Atlanta who said he
4 called his mortgage servicer, Wells Fargo, in March just
5 to get information about how a forbearance would work.

6 Nonetheless, at the beginning of May, he received a letter
7 from Wells Fargo confirming that his loan was in
8 forbearance.

9 'I was alarmed they were doing this behind my back,'
10 Stavropoulos said. "I think the average person is as
11 confused as I was and may be surprised to find they are
12 in forbearance and not know it."⁵²

13 120. Unfortunately, these Wells Fargo clients' stories are not isolated
14 incidents.

15 121. Rather, the CFPB website is replete with additional instances of persons
16 who were involuntarily and unwittingly opted into a mortgage forbearance program
17 with Wells Fargo.

18 122. For instance, this anonymous Wells Fargo customer was involuntarily
19 placed into forbearance twice:

20 My account with Wells Fargo was placed in forbearance
21 or trial plan by mistake in XXXX, twice. First week of
22 XX/XX/2020, the account goes into forbearance,
23 payments are not accepted based on a problem with
24 Wells Fargo systems and then the account goes out of the
25 plan. Later, at the end of XXXX the account goes again
26 in forbearance and I had to call Wells Fargo once again
27 to get it removed. They finally did this on XXXX
28 XXXX. I spoke with several representatives, the last one
being XXXX XXXX who after several phones told me
on XX/XX/XXXX that he got approval to issue a letter
stating that the account was placed in forbearance by
mistake and that he was only waiting for the legal
department to approve the language of such letter. After
waiting for a week, I spoke again to XXXX. XXXX on
XX/XX/XXXX, who informed of the decision by Wells

52 <https://www.cnn.com/2020/05/20/success/mortgage-forbearance-homeowner-complaints-coronavirus/index.html> (last visited August 14, 2020).

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Fargo to not provide such letter. This situation has generated significant issues on my side, as other lenders are now reluctant to provide any financing until the situation gets resolved or some time goes by before they are willing to look at my applications again. The major issue here, other than the account being inadvertently placed in forbearance is that Wells Fargo continue to mislead customers telling them that accounts entering forbearance during covid19 will not impact credit scores, but they massively fail in disclosing that credit score agencies will still be informed about the situation and that a note on the report will indicate that at some point, the account was in forbearance. Even if this does not affect scores, it DOES affect customers with an impeccable record of never having missed a single payment or liability in their whole lives. Wells Fargo continue with their old practice of misleading customers. A smart lender will always look through scores and if there is anything else on the report that could be a cause for concern, then it's reasonable to believe that a note on the report such as the one Wells Fargo has now created on mine, could become a big issue to me in the future.⁵³

123. Another Wells Fargo customer called to obtain information regarding the mortgage forbearance program and was unwittingly opted into the program ultimately damaging his credit score:

⁵³ <https://www.consumerfinance.gov/data-research/consumer-complaints/search/detail/3678207> (last visited August 14, 2020).

1 I called Wells Fargo for information about what to do
 2 with mortgage during covid pandemic being wife and I
 3 lost our employment during New York State pause order.
 4 I was offered a forbearance agreement or deferral that I
 5 was assured I would receive paper work on and it would
 6 not be reported to credit reporting agency during this
 7 time of national pandemic. I was reluctant to go into
 8 anything but requested information be sent to me. Credit
 9 report indicates In forbearance it also indicates last
 10 payment received was XXXX but I have paid XXXX
 11 XXXX and XXXX. This has negatively affected My
 12 credit with all credit reporting agencies. I did not sign
 13 anything to agree to forbearance and subsequent calls to
 14 them I stressed that Im paying my mortgage and dont
 15 want a forbearance. Instead they listed it on my credit
 16 without authorization. When I called them they said it
 17 was an error n they are working on it. They ruined my
 18 wife and my credit.⁵⁴

11 124. These Wells Fargo clients were likewise opted into Wells Fargo's
 12 mortgage forbearance program without their consent:

- 13 • Wells Fargo put me into CARES act forbearance
 14 without my consent. I was unable to make a payment
 15 online like I usually do. I called and was on hold for
 16 an hour but finally was able to talk to a rep, named
 17 XXXX. I told them they put me into forbearance
 18 without my consent. He apologized and said that the
 19 system is like a " hair trigger " even though I did
 20 nothing to start a forbearance, I've never missed a
 21 payment, have no reason to apply for forbearance and
 22 am able to make payments. The rep said he would
 23 reverse the forbearance but that it would take 2-3 days
 24 and took my payment over the phone. This took place
 25 on XX/XX/20. I have recently been looking into
 26 refinancing with rates so low. I get an email today
 27 from my new potential lender stating that my credit
 28 report, which they pulled XX/XX/20, showed that my
 current mortgage with Wells Fargo is in forbearance,
 labeled " payment deferred ". This may affect my
 ability to refinance my home. Also, Wells Fargo is
 contacting me about refinancing. On the XXXX
 website and under the CARES act it states: As part of
 the recently enacted Coronavirus Aid, Relief and
 Economic Security (CARES) Act, mortgage
 accounts in forbearance as a result of COVID-19
 cannot be reported negatively to the credit bureaus by
 lenders. The wrongs are in apply forbearance to my

54 <https://www.consumerfinance.gov/data-research/consumer-complaints/search/detail/3662758> (last visited August 14, 2020).

1 mortgage without verbal OR written consent and the
 2 fact that they reported this forbearance to the credit
 3 bureaus. And now on my account showing the
 4 payment I made on the phone for my XXXX payment
 5 is deemed " unapplied funds " with the description on
 6 their website : We have received funds that are not
 7 sufficient to make a full payment on your loan. If we
 8 are automatically withdrawing your payments based
 9 on a recurring weekly, bi-weekly, or semi-monthly
 10 schedule, your funds remain unapplied until we have
 11 received an amount sufficient to make a full monthly
 12 payment for you. If you are on a repayment plan and
 13 have made an agreement to make payment amounts
 14 that are different from your regular monthly payment,
 15 some funds may be unapplied. This is infuriating and
 16 could cost me ~ \$ XXXX in interest savings and a
 17 decrease in previously exceptional credit of XXXX.⁵⁵

- 10 • Due to covid19 I asked for information on the wells
 11 Fargo forbearance process on my mortgage. I was told
 12 I would receive information by mail. When I received
 13 my letter I was told that I was eligible and to go
 14 online to confirm and cancel my automatic payments.
 15 Also it stated that if I didn't need the assistance no
 16 action was needed I could disregard and nothing more
 17 will be done. XX/XX/XXXX I noticed my payment
 18 didnt get drafted. Called XX/XX/XXXX. Was told I
 19 was in the forbearance program. I never requested this
 20 to be done, only asked for information. I requested
 21 that day and twice since requested but it has not
 22 processed to be removed from the program.⁵⁶
- 23 • Due to a job loss, I reached out to Wells Fargo and
 24 asked for information on their Covid-19 mortgage
 25 relief program. To clarify, I only asked for
 26 information on the program. The representative on the
 27 phone stated that an information packet would be
 28 mailed to me. About a week later, a letter arrived from
 Wells Fargo stating that they are " confirming short
 term payment relief for the account. " This was not
 what I had requested. In addition, the letter states "
 We won't report this account to consumer reporting
 agencies. " It has now come to light that Wells Fargo
 has put a forbearance on the mortgage, preventing any
 ability to refinance. I am current on my mortgage
 payments and did not want to be part of their relief

25 ⁵⁵ [https://www.consumerfinance.gov/data-research/consumer-](https://www.consumerfinance.gov/data-research/consumer-complaints/search/detail/3663700)
 26 [complaints/search/detail/3663700](https://www.consumerfinance.gov/data-research/consumer-complaints/search/detail/3663700) (last visited August 14, 2020).

27 ⁵⁶ [https://www.consumerfinance.gov/data-research/consumer-](https://www.consumerfinance.gov/data-research/consumer-complaints/search/detail/3661535)
 28 [complaints/search/detail/3661535](https://www.consumerfinance.gov/data-research/consumer-complaints/search/detail/3661535) (last visited August 14, 2020).

1 program, but now I have a forbearance blemish on my
2 mortgage.⁵⁷

3 **PLAINTIFF JOSE URISTA**

4 125. Plaintiff Jose Urista has a mortgage serviced by Wells Fargo. Wells
5 Fargo collects payments and performs services for Mr. Urista’s mortgage secured to
6 his primary residence located in El Cajon, CA.

7 126. Mr. Urista is currently in a Chapter 13 Bankruptcy Case in the
8 Southern District of California Bankruptcy Court with case number: 19-00910-
9 LA13.

10 127. On or about mid-March of 2020, after being contacted by Wells Fargo
11 regarding Covid-19 relief offers, Mr. Urista’s spouse clicked on an informational link
12 on Wells Fargo’s website which offered only to “provide more information” about
13 possible forbearance options. However, in response Wells Fargo Bank, N.A.
14 provided a temporary suspension of mortgage payments. This short-term suspension
15 was provided for under the Coronavirus Aid, Relief, and Economic Security
16 (CARES) Act. Wells Fargo, without contacting his attorney or record, nor receiving
17 consent in writing to place Mr Urista’s mortgage in forbearance, place said
18 mortgage in the CARES Act forbearance program described above.

19 128. Mr. Urista’s spouse merely clicked an informational link, and did not
20 provide specific information, nor request a forbearance. Neither Mr. Urista, nor his
21 wife, nor their bankruptcy attorney consented in writing to put their mortgage loan in
22 forbearance.

23 129. Mr. Urista never made any request whatsoever in writing, orally, or via
24 any other means to put his mortgage into forbearance. Despite this, shortly thereafter
25 Mr. Ursita received a letter from Wells Fargo which informed him, much to his
26

27 ⁵⁷ [https://www.consumerfinance.gov/data-research/consumer-](https://www.consumerfinance.gov/data-research/consumer-complaints/search/detail/3658898)
28 [complaints/search/detail/3658898](https://www.consumerfinance.gov/data-research/consumer-complaints/search/detail/3658898) (last visited August 14, 2020).

1 surprise, that Wells Fargo had placed his mortgage into short-term payment relief—or
2 forbearance— for six months. The letter stated that his monthly mortgage obligations
3 had been suspended until October 1, 2020.

4 130. Mr. Urista did not request a forbearance of his mortgage loan
5 payment obligations; he did not contact Wells Fargo about a forbearance and did
6 not—and does not—want a forbearance of his mortgage payment obligations.

7 131. Wells Fargo placed Mr. Urista’s loan in forbearance without his
8 consent, and incorrectly reported this to credit reporting agencies such that Mr.
9 Urista now suffers from negative credit reporting, a lack of the ability to refinance at
10 historically low rates, and a loss of the interest on the payments he has been timely
11 making to Wells Fargo to pay his mortgage, which they have been not crediting to
12 his account due to the unauthorized forbearance.

13
14 **CLASS ALLEGATIONS**

15 132. Plaintiff brings this action pursuant to Fed. R. Civ. P. 23(b)(3) on
16 behalf of themselves and a class of similarly situated individuals.

17 133. Plaintiff seeks to represent the following classes:

18 **Nationwide Class:** All persons with a mortgage loan
19 serviced by Wells Fargo whose mortgage was placed into
20 Wells Fargo’s COVID-19 Mortgage Forbearance
21 Program without their request or whose forbearance term
22 was involuntarily extended without the request of the
homeowner.

23 **California Class:** All persons with California addresses
24 with a mortgage loan serviced by Wells Fargo whose
25 mortgage was placed into Wells Fargo COVID-19
26 Mortgage Forbearance Program without their request or
27
28

1 whose forbearance term was involuntarily extended
2 without the request of the homeowner.⁵⁸

3 134. Numerosity: Members of the Nationwide and California classes
4 (collectively, the “Classes”) are so numerous that joinder of all members is
5 impracticable. While the exact number of Class Members remains unknown at this
6 time, upon information and belief, there are tens of thousands of putative Class
7 Members throughout the United States who are generally ascertainable by appropriate
8 discovery. A class action is the only feasible method of adjudicating the rights of the
9 affected borrowers, and, absent allowance of a certification of a class action, a failure
10 of justice will result.

11 135. Commonality: This action involves common questions of law and fact,
12 which predominate over any questions affecting individual Class Members. These
13 common legal and factual questions include, but are not limited to, the following:
14 whether Wells Fargo engaged and engages in the practices complained of and
15 whether such actions violate the law, as alleged. Specifically, the common question
16 of law is whether Defendants’ practice of unilaterally opting its mortgagor clients into
17 its COVID-19 mortgage forbearance program so that they were unable to, among
18 other things, obtain additional credit and/or to refinance their existing mortgage
19 loans, violates the law.

20 136. Typicality: Plaintiff’s claims are typical of those of the other Class
21 Members because, inter alia, all members of the Class were injured through the
22 common misconduct described above and were subject to Wells Fargo’s unfair and
23 unlawful conduct. Plaintiff is advancing the same claims and legal theories on behalf
24 of himself and all members of the Class.

25
26
27 ⁵⁸ Plaintiff reserves the right to modify or to amend the definition of any
28 proposed class and/or subclass before the Court determines whether certification is
appropriate and as the parties engage in discovery.

1 137. Adequacy of Representation: Plaintiff will fairly and adequately
2 represent and protect the interests of the Class in that he has no disabling conflicts of
3 interest that would be antagonistic to those of the other members of the Class.
4 Plaintiff has retained counsel experienced in complex consumer class action
5 litigation, and Plaintiff intends to prosecute this action vigorously.

6 138. Superiority: Class action treatment is superior to all other available
7 methods for the fair and efficient adjudication of the controversy alleged herein; it
8 will permit a large number of Class Members to prosecute their common claims in a
9 single forum simultaneously, efficiently and without the unnecessary duplication of
10 evidence, effort and expense that hundreds of individual actions would require. Class
11 action treatment will permit the adjudication of relatively modest claims by certain
12 Class Members, who could not individually afford to litigate a complex claim against
13 large corporate defendants. Further, even for those Class Members who could afford
14 to litigate such a claim, it would still be economically impractical.

15 139. The nature of this action and the nature of laws available to Plaintiff and
16 the Class make the use of the class action device a particularly efficient and
17 appropriate procedure to afford relief to Plaintiff and the Class Members for the
18 wrongs alleged because Wells Fargo would necessarily gain an unconscionable
19 advantage since they would be able to exploit and overwhelm the limited resources of
20 each individual Class Member with superior financial and legal resources; the costs
21 of individual suits could unreasonably consume the amounts that would be recovered;
22 proof of a common course of conduct to which Plaintiff was exposed is representative
23 of that experienced by the Class and will establish the right of each member of the
24 Class to recover on the cause of action alleged; and individual actions would create a
25 risk of inconsistent results and would be unnecessary and duplicative of this
26 litigation.

27 140. The class action is superior to all other available methods for the fair and
28 efficient adjudication of this controversy. Because of the number and nature of

1 common questions of fact and law, multiple separate lawsuits would not serve the
2 interest of judicial economy.

3 141. Plaintiff does not anticipate any difficulty in the management of this
4 litigation.

5
6 **FIRST CAUSE OF ACTION**

7 **VIOLATION OF THE CALIFORNIA CONSUMER CREDIT REPORTING AGENCIES ACT**
8 **CAL. CIV. CODE § 1785.1, ET SEQ. (CCCRAA)**

9 (On Behalf of Plaintiff and the California Class)

10 142. Plaintiff re-alleges and incorporates by reference the above-numbered
11 paragraphs

12 143. Mr. Urista on behalf of himself and the California Class of similarly
13 situated individuals brings the action under the California Consumer Credit Reporting
14 Agencies Act, Cal. Civ. Code. §§ 1785, et seq. (“CCCRAA”).

15 144. Mr. Urista (and the members of the California Class) is/are a consumer
16 as that term is defined by Cal. Civ. Code § 1785.3(b).

17 145. In the regular course of its business operations, Wells Fargo routinely
18 furnishes information to credit reporting agencies pertaining to transactions between
19 Wells Fargo and its consumers, so as to provide information as to a consumer’s credit
20 worthiness, credit standing and credit capacity.

21 146. This action concerns Wells Fargo’s furnishing of false derogatory
22 information on Mr. Urista’s consumer credit report, as defined by Cal. Civ. Code §
23 1785.3(c).

24 147. Specifically, Wells Fargo furnished the information to the credit
25 reporting agencies (as defined by Cal. Civ. Code § 1788.3(d)) that Mr. Urista was in
26 forbearance, while Mr. Urista did not request to be placed in the forbearance,
27 requested to be excluded from the forbearance program and never request Wells
28 Fargo to extend a term of forbearance.

1 148. Wells Fargo’s reported information is also misleading because it implies
2 that Mr. Urista requested to be in the forbearance when the opposite is true.

3 149. Further, Wells Fargo failed to account for a number of payments Mr.
4 Urista has made since May of 2020, which should have decreased Mr. Urista’s
5 principle balance owed to Wells Fargo on his mortgage, yet instead Wells Fargo
6 falsely reported a larger amount due to Wells Fargo on Mr. Urista’s credit report.

7 150. Wells Fargo, its agents, subsidiaries, and partners are “persons” as
8 defined under the CCCRAA § 1788.3(j).

9 151. Wells Fargo furnished and continues to furnish information it knows is
10 false, incomplete, misleading, and inaccurate in violation of Cal. Civ. Code §
11 1785.25(a).

12 152. The foregoing acts and omissions constitute numerous and multiple
13 violations of the CCCRAA.

14 153. As evidenced above, Wells Fargo’s violation of the CCRAA is willful.

15 154. As a result of each and every violation of the CCCRAA, Mr. Urista and
16 California Class members are entitled to damages; attorneys’ fees and costs pursuant
17 to Cal. Civ. Code § 1785.31(a)(1) and, Cal. Civ. Code § 1785.31(d); punitive
18 damages of \$100.00 up to \$5,000.00 per willful violation of Cal. Civ. Code §
19 1785.25(a), pursuant to Cal. Civ. Code § 1785.31(a)(2)(B); and equitable and
20 injunctive relief pursuant to Cal. Civ. Code § 1785.31(b).

21
22 **SECOND CAUSE OF ACTION**

23 **VIOLATION OF THE CALIFORNIA ROSENTHAL ACT**
24 **CAL. CIV. CODE § 1788, ET SEQ. (RFDCPA)**

25 (On Behalf of Plaintiff and the California Class)

26 155. Plaintiff re-alleges and incorporates by reference the above-numbered
27 paragraphs.

28 156. Wells Fargo is a “debt collector” as defined under the Cal. Civ. Code §

1 1788.2(b) because it collects, in the ordinary course of business, on behalf of itself,
2 numerous debts and payments from consumers.

3 157. This matter involves money, property or their equivalent, due or owing
4 or alleged to be due or owing from a natural person by reason of a consumer credit
5 transaction. As such, this action arises out of a “consumer debt” and “consumer
6 credit” as those terms are defined by Cal. Civ. Code § 1788.2(e)-(f);

7 158. As discussed above, Mr. Urista entered into a consumer credit
8 transaction, involving an extension of credit pertaining to a certain Wells Fargo loan.

9 159. Wells Fargo, without authority or consent of Mr. Urista or other
10 consumers, Wells Fargo placed Mr. Urista and thousands of other California
11 consumers into forbearance.

12 160. Further, while Mr. Urista never asked to be in forbearance, Wells Fargo
13 continued to keep Mr. Urista in this program unwillingly, while collecting monthly
14 mortgage payments and failing to apply these payments towards the principal balance
15 and interest of the loan.

16 161. Wells Fargo made representations that it will not place individuals into
17 forbearance or extend the forbearance period beyond a consumer requests, and yet, it
18 did so despite having no authority to do so under the law or agreement of consumers.

19 162. As such, Wells Fargo violated 15 U.S.C. § 1692e, 1692e(5), 1692e(10),
20 1692f (all of which are incorporated in Cal. Civ. Code 1788.17) for making
21 misrepresentations regarding forbearance, placing unwilling consumers into
22 forbearance, and extending consumers’ forbearance periods without their requests or
23 authorization.

24 163. Wells Fargo also falsely *communicated* to the credit bureaus that Mr.
25 Urista and the other similarly situated California class members are in forbearance, in
26 violation of 15 U.S.C. § 1692e(8), also incorporated in Cal. Civ. Code § 1788.17.
27 Wells Fargo’s false communications with third parties regarding Mr. Urista’s
28 account, and the amount still due and owing, were also false under 1692e, 1692e(2),

1 1692e(5), and 1692e(10) (all of which are incorporated into the Rosenthal Act under
2 Cal. Civ. Code 1788.17).

3 164. Wells Fargo continued to collect the monthly mortgage fees, despite
4 placing Mr. Urista in forbearance and failing to apply these funds towards his
5 mortgage account's principle balance.

6 165. As such, by failing to decrease the principal balance and interest after
7 receiving payments from Mr. Urista, Wells Fargo collected an amount not owed in
8 violation of 15 U.S.C. §§ 1692f, and 1692f(1) (incorporated through Cal. Civ. Code
9 1788.17).

10 166. Therefore, Mr. Urista seeks statutory damages, attorneys' fees and costs,
11 pursuant to Cal. Civ. Code § 1788.30.

12
13 **THIRD CAUSE OF ACTION**

14 **CAL. BUS. PROF. CODE § 17203**

15 **PUBLIC INJUNCTIVE RELIEF**

16 (On behalf of the California Sub-Class)

17 167. Plaintiff reallege and incorporate by reference all of the above
18 paragraphs of this Complaint as though fully stated herein.

19 168. Plaintiff and Defendant are each "person(s)" as that term is defined by
20 Cal. Bus. & Prof. C. § 17201. Cal. Bus & Prof. C. § 17204 authorizes a private right
21 of action on both an individual and representative basis.

22 169. Cal. Bus. & Prof. C. § 17204, a provision of the Unfair Competition
23 Law (B & P C §§ 17200–17209), confers standing to prosecute actions for relief not
24 only on the public officials named therein, but on private individuals, i.e., "any
25 person acting for the interests of itself, its members or the general public." Thus, a
26 private Plaintiffs who have suffered a financial injury may sue to obtain relief for
27 others.

28 170. "Unfair competition" is defined by Bus. & Prof. Code § 17200 as

1 encompassing several types of business “wrongs,” including: (1) an “unlawful”
2 business act or practice, (2) an “unfair” business act or practice, (3) a “fraudulent”
3 business act or practice, and (4) “unfair, deceptive, untrue or misleading advertising.”
4 The definitions in § 17200 are drafted in the disjunctive, meaning that each of these
5 “wrongs” operates independently from the others.

6 171. An “injunction” is “the primary form of relief available under the UCL
7 to protect consumers from unfair business practices.” *In re Tobacco II Cases*, 46
8 Cal.4th 298, 319 (2009).

9 **A. Unlawful Prong**

10 172. By knowingly and intentionally placing their customers in forbearances
11 without their consent, Defendant Wells Fargo has routinely engaged in unlawful
12 business practices.

13 173. As described above, the lending practices described herein by Defendant
14 Wells Fargo violated Cal. Civ. C. § 1785 and § 1788.

15 174. Because Defendant Wells Fargo’s business entailed violations of both
16 Cal. Civ. C. §§ 1785 and 1788, Wells Fargo violated California’s Unfair Competition
17 Law, Bus. & Prof. Code §§ 17200, et seq., which provides a cause of action for an
18 “unlawful” business act or practice perpetrated on consumers.

19 175. Defendants violated Cal. Bus. & Prof. Code §§17200, et. seq. through
20 unfair, unlawful, and deceptive business practices. Defendant Wells Fargo violated
21 California’s Unfair Competition Law, Bus. & Prof. Code §§ 17200 et seq., which
22 provides a cause of action for an “unlawful” business acts or practices perpetrated on
23 consumers.

24 176. Defendant Wells Fargo had other reasonably available alternatives to
25 further its legitimate business interests, other than the conduct described herein, such
26 as continuing its massive campaign to provide loans to consumers at unreasonably
27 high interest rates designed to perpetrate default and a cycle of perpetual payments.

28 177. Plaintiff suffered actual monetary financial injury in that his payments

1 made to Defendant for his mortgage were not credited to pay down the principle
2 balance on his mortgage.

3 178. Plaintiff reserves the right to allege further conduct that constitutes other
4 unfair business acts or practices. Such conduct is ongoing and continues to this date.

5 179. Plaintiff acting as Private Attorney General pursuant to Cal. Business
6 and Professions Code § 17203 seeks public injunctive relief, to benefit the general
7 public from further future injuries to future Wells Fargo customers and victims of the
8 unlawful conduct described above, directly by enjoining Wells Fargo from
9 committing future similar injuries to the general public.

10 **B. Unfair Prong:**

11 180. Defendant Wells Fargo’s actions and representations constitute an
12 “unfair” business act or practice under § 17200 in that Defendant’s conduct is
13 substantially injurious to consumers, offends public policy, and is immoral, unethical,
14 oppressive, and unscrupulous as the gravity of the conduct outweighs any alleged
15 benefits attributable to such conduct.

16 181. Without limitation, the business practices describe herein are “unfair”
17 and shock the conscience because they offend established public policy, violate
18 California statutory protections, and are objectively immoral, unethical, oppressive,
19 unscrupulous and/or substantially injurious to consumers in that Defendant’s conduct
20 caused Plaintiff and the Class Members to incur debts and damage to their credit as a
21 result of their policies regarding forced forbearances and inaccurate credit reporting.

22 182. The conduct described above by Defendant Wells Fargo has a tendency
23 to harm the general public in that Wells Fargo is one of the largest mortgage services
24 in the United States, and any member of the general public may one day become
25 and/or involuntarily have a loan serviced by Wells Fargo, thus their unfair and
26 unlawful conduct has the ability to harm any member of the California general public
27 in the future if not stopped by this court.

28 183. At a date presently unknown to Plaintiff, but at least four years prior to

1 the filing of this action, and as set forth above, Defendant committed acts of unfair
2 competition as defined by Cal. Bus. & Prof. Code §§ 17200, et seq., as described
3 herein.

4 184. Despite Wells Fargo’s express representation on its website that it
5 complies with the laws, their conduct described above is in direct violation of
6 California law.

7 185. Defendant could and should have furthered its legitimate business
8 interests by not perpetrating fraud on the entire representative class of California
9 borrowers by placing Mr. Urista and other similarly situated class members into a
10 forbearance without their consent.

11 186. Plaintiff, members of the Class and the general public could not have
12 reasonably avoided the injury suffered by each of them.

13 187. Wells Fargo has a strong financial incentive to continue to place
14 members of the class and Plaintiff in forbearances without their consent, thus Wells
15 Fargo’s unlawful and unfair business practices pose a risk of injuring other members
16 of the general public in the future.

17 188. Plaintiff reserves the right to allege further conduct that constitutes other
18 unfair business acts or practices. Such conduct is ongoing and continues to this date,
19 and is a source of considerable revenue to Defendant Wells Fargo.

20 189. Plaintiff seeks public injunctive relief to benefit the general public
21 directly by bringing an end to Defendant Wells Fargo’s unfair business practices
22 which threaten future injury to the general public. Specifically, an injunction
23 requiring Wells Fargo to cease placing California individuals in mortgage
24 forbearances without their prior express written consent.

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1 **FOURTH CAUSE OF ACTION**

2 **REQUEST FOR INJUNCTIVE RELIEF**

3 (On Behalf of Plaintiff & the Nationwide Class)

4 190. Plaintiff re-alleges and incorporates by reference the above-numbered
5 paragraphs.

6 191. Plaintiff and the Nationwide Class are entitled to an injunction
7 permanently enjoining Defendants from engaging in the acts and practices above as
8 to any person who is a member, or could become a member, of the class of persons
9 described in this suit.

10 192. Plaintiff and the Nationwide Class are entitled to a preliminary
11 injunction, pursuant to Fed. R. Civ. P. 65, enjoining Defendants from engaging in the
12 acts and practices described herein.

13 193. Plaintiff asserts that, absent an injunction to prevent such misconduct,
14 Defendants and their attorneys, agents, vendors, and/or other representatives will
15 continue to engage in the unlawful and unfair conduct described herein.

16 194. The harm faced by the Plaintiff and the Nationwide Class outweigh any
17 “harm” that will be sustained by Defendants if the preliminary injunction were
18 granted.

19 195. These far outweigh Defendants’ interest in profiting in connection with
20 the impermissible enrolling of unwitting Wells Fargo mortgagor clients into its
21 COVID-19 mortgage forbearance program.

22 196. Issuing a preliminary injunction will not adversely affect the public
23 interest but rather will enhance it.

24 197. The posting of a bond is not a prerequisite to the issuance of a
25 preliminary injunction in this case because Defendants cannot demonstrate that
26 preserving the status quo will cause it cognizable economic harm.

27 198. Plaintiff asks the Court to set this application for preliminary injunction
28

1 for hearing if the parties are unable to agree to a preliminary injunction and, after
2 hearing the request, issue a preliminary injunction against Wells Fargo enjoining it
3 from the actions set out above.

4
5 **FIFTH CAUSE OF ACTION**

6 **UNJUST ENRICHMENT**

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8 (On Behalf of Plaintiff and the Nationwide Class)

9 199. Plaintiff re-alleges and incorporates by reference the above-numbered
10 paragraphs.

11 200. Plaintiff and members of the Nationwide Class have conferred a benefit
12 upon Wells Fargo in the following ways:

- 13 a. Wells Fargo collected mortgage payments from Plaintiff and the
14 Nationwide Class that Wells Fargo did not apply to mortgage
15 balances thus earning “float” income on unapplied funds, which
16 accrues for the time between when consumers pay and when funds
17 are remitted to the loans’ owners.
- 18 b. By placing Plaintiff and the Nationwide Class into forbearance
19 without their consent, Wells Fargo prevented Plaintiff and the
20 Nationwide Class from being able to re-finance their mortgage
21 loans with other mortgage lenders during a time of historically low
22 interest rates, thus capturing the mortgage loans of Plaintiff and
23 members of the Nationwide Class, locking them in at higher interest
24 rates while continuing to earn profit from interest payments and
25 other fees (and significantly impeding their chances of being able to
26 refinance for the foreseeable future).
- 27 c. Wells Fargo extended the lengths of the mortgages of Plaintiff and
28 members of the Nationwide Class by at least 3 months, and in many

1 cases much longer, thus accruing the benefits of continued servicing
2 of those loans, including collecting interest and fees, collecting a
3 per-loan servicing fee, and publicly reporting to investors that they
4 continued to service those mortgages’

5 d. Wells Fargo earned additional fees for, among other things, filing
6 incentive payments after loans are placed in forbearance.

7 e. Taking advantage of new rules made pursuant to the CARES Act,
8 Wells Fargo no longer forwards Fannie Mae borrowers’ mortgage
9 payments after four months if the borrowers have stopped paying
10 because they are in forbearance programs, allowing Wells Fargo to
11 continue holding those funds.

12 201. Wells Fargo’s practice of placing Plaintiff and members of the
13 Nationwide Class into forbearance without their consent resulted in
14 Plaintiff and members of the Nationwide Class being denied the benefit
15 of having their payments applied to their mortgage accounts and re-
16 financing their loans at a lower interest rate.

17 202. Wells Fargo appreciates and/or has knowledge of the benefits conferred
18 upon it by Plaintiff and the Nationwide Class.

19 203. Under principles of equity and good conscience, Wells Fargo should not
20 be permitted to retain the monies they unjustly received as a result of its
21 wrongful conduct described herein.

22 204. Accordingly, Plaintiff, on behalf of themselves and the other members of
23 the Nationwide Class, seek restitution and disgorgement of all amounts
24 by which Wells Fargo has been unjustly enriched.

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PRAYER FOR RELIEF

Wherefore, Plaintiff prays for relief and judgment against Defendants and each of them, as follows:

- A. Certifying this action as a class action;
- B. Designating Plaintiff as class representative under Federal Rule of Civil Procedure 23;
- C. Designating Plaintiff’s counsel as class counsel under Federal Rule of Civil Procedure 23;
- D. Awarding Costs of suit;
- E. Awarding damages, including compensatory, exemplary, and statutory damages, to Plaintiff and the Class in an amount to be determined at trial;
- F. Awarding Statutory damages pursuant to Cal. Civ. Code § 1785.31(a)(2)(B) to California Class;
- G. Awarding Attorney’s fees pursuant to Cal. Civ. Code § 1785.31(a)(1);
- H. Awarding statutory damages pursuant to Cal. Civ. Code § 1788.30, attorneys’ fees and costs, to California Class;
- I. Equitable and injunctive relief pursuant to Cal. Civ. Code § 1785.31(b);
- J. Awarding punitive damages, to the extent permitted by law, in an amount to be determined at trial;
- K. Awarding Plaintiff incentive awards;
- L. Awarding Plaintiff and the members of the Class any pre-judgment and post-judgment interest as may be allowed under the law and
- M. Imposing an injunction preventing Defendants from engaging in the conduct described herein and requiring Defendants to restore the Plaintiff’s

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and class members accounts to status quo ante, as though the account was never treated as being in forbearance status;

N. Public injunctive relief through the role as a Private Attorney General, pursuant to Cal. Bus. & Prof. Code §§ 17203, permanently and immediately prohibiting Defendant Wells Fargo from engaging in the unlawful conduct alleged herein, including but not limited to the placing of individual borrowers in forbearances on their mortgages, without their express written and/or verbal consent; and

O. Awarding such other and further relief as the Court may deem just and proper.

BLC LAW CENTER, APC

Dated: August 28, 2020

By: /s/ Ahren A. Tiller, Esq.
Ahren A. Tiller, Esq.
Attorneys for Plaintiff
JOSE URISTA, and all those
similarly situated.

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DEMAND FOR JURY TRIAL

Pursuant to the Seventh Amendment to the Constitution of the United States of America, Plaintiffs, individually and on behalf of all others similarly situated, are entitled to, and demand, a trial by jury on all issues triable by jury.

BLC LAW CENTER, APC

Dated: August 28, 2020

By: /s/ Ahren A. Tiller, Esq.
Ahren A. Tiller, Esq.
Attorneys for Plaintiff
JOSE URISTA, and all those
similarly situated.