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1
2 **UNITED STATES DISTRICT COURT FOR**
3 **THE CENTRAL DISTRICT OF CALIFORNIA**

4 **JESSICA L. STOCK, SOFIA**
5 **SIORIS, LUKE HARTSOCK,**
6 **JERRY WINIARSKI, and**
7 **TRACY VINCENT, Individually**
8 **and On Behalf of All Others**
9 **Similarly Situated,**

10 **Plaintiffs,**

11 **v.**

12 **WELLS FARGO & COMPANY;**
13 **WELLS FARGO BANK, N.A.;**
14 **and EARLY WARNING**
15 **SERVICES, LLC D/B/A**
16 **ZELLEPAY.COM,**

17 **Defendants.**

Case No.: 8:22-cv-00763-DOC-ADS

FIRST AMENDED CLASS ACTION COMPLAINT:

- 1) **VIOLATIONS OF THE ELECTRONIC FUND TRANSFER ACT (“EFTA”), 15 U.S.C §§ 1693, *ET SEQ.*;**
- 2) **VIOLATIONS OF THE CALIFORNIA’S UNFAIR COMPETITION LAW (“UCL”), CAL. BUS. & PROF. CODE §§ 17200, *ET SEQ.*;**
- 3) **VIOLATIONS OF THE WASHINGTON CONSUMER PROTECTION ACT, RCW § 49.30 *ET SEQ.*;**
- 4) **VIOLATIONS OF THE ARIZONA CONSUMER FRAUD ACT, ARIZ. REV. STAT. §§ 44-1521;**
- 5) **VIOLATIONS OF THE FLORIDA UNFAIR AND DECEPTIVE TRADE PRACTICES ACT, FLA. STAT. §§ 501.201;**
- 6) **NEGLIGENCE; and**
- 7) **UNJUST ENRICHMENT.**

JURY TRIAL DEMANDED

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27 The plaintiffs Jessica L. Stock (“Ms. Stock” or “Plaintiff Stock”), Sofia Sioris
28 (“Ms. Sioris” or “Plaintiff Sioris”), Luke Hartsock (“Mr. Hartsock” or “Plaintiff

1 Hartsock”), Jerry Winiarski (“Mr. Winiarski” or “Plaintiff Winiarski”), and Tracy
2 Vincent (“Ms. Vincent” or “Plaintiff Vincent”) bring this complaint, by and through
3 their attorneys and on behalf of all others similarly situated, against Defendants
4 Wells Fargo & Company (“WFC”); Wells Fargo Bank, N.A. (“Wells Fargo Bank”);
5 and Early Warning Services, LLC d/b/a Zellepay.com (“Zelle”) (collectively,
6 “Defendants”) and allege upon information and belief as follows:

7 **INTRODUCTION**

8 1. Plaintiffs are victims of scams targeting individual customers of Wells Fargo
9 Bank in connection with the Wells Fargo/Zelle mobile application, resulting in
10 money being debited from Plaintiffs’ respective bank accounts without Plaintiffs’
11 authorization, in the amounts of \$1,000 (Ms. Stock), \$1,000 (Ms. Sioris), \$7,500
12 (Mr. Hartsock), \$1,500 (Mr. Winiarski), and \$440 (Ms. Vincent).

13 2. The Zelle scam is well-known to Defendants. Indeed, Wells Fargo Bank
14 partially owns Zelle. However, Defendants have not taken appropriate steps to
15 protect consumers from such scams which often results in losses of thousands of
16 dollars to individual consumers and customers of Wells Fargo Bank.

17 3. Plaintiffs make these allegations on information and belief, with the exception
18 of those allegations that pertain to an individual Plaintiff, or to Plaintiffs’ counsel,
19 which Plaintiffs allege on personal knowledge.

20 4. While many violations are described below with specificity, the Complaint
21 alleges violations of each statute cited in its entirety.

22 5. Unless otherwise indicated, the use of Defendants’ names in this Complaint
23 includes all agents, employees, officers, members, directors, heirs, successors,
24 assigns, principals, trustees, sureties, subrogees, representatives, and insurers of the
25 Defendants, respectively.

26 6. In enacting the Electronic Fund Transfer Act (“EFTA”), Congress found that
27 the use of electronic systems to transfer funds provides the potential for substantial
28 benefits to consumers. 15 U.S.C. § 1693(a). However, due to the unique

1 characteristics of such systems, the application of existing consumer protection
2 legislation was unclear during the time of its enactment, which left the rights and
3 liabilities of consumers, financial institutions, and intermediaries in electronic fund
4 transfers undefined. *Id.*

5 7. That said, Congress’s purpose in enacting the EFTA was to “provide a basic
6 framework establishing the rights, liabilities, and responsibilities of participants in
7 electronic fund and remittance transfer systems.” *Id.* § 1693(b). However, “[t]he
8 primary objective of [the EFTA] is the provision of individual consumer rights.” *Id.*

9 8. Plaintiffs file this lawsuit on behalf of themselves and other consumers to
10 vindicate their rights, and because Plaintiffs should not be left “holding the bag” for
11 unauthorized transactions Defendants are obligated to prevent and remedy.

12 **JURISDICTION AND VENUE**

13 9. Original subject matter jurisdiction is valid in the U.S. District Court pursuant
14 to 28 U.S.C. § 1331 because this case arises out of violations of federal law under
15 the EFTA, 15 U.S.C. §§ 1693, *et seq.* Jurisdiction of this Court arises pursuant to
16 28 U.S.C. §§ 1331 and 1367 for supplemental jurisdiction over the statutory and
17 common law claims arising from the same or substantially similar transactions that
18 form the basis of the EFTA claim.

19 10. Moreover, the Court has jurisdiction pursuant to the Class Action Fairness
20 Act, 28 U.S.C. § 1332(d)(2) because (i) there is minimal diversity; (ii) Defendants
21 are not government entities against whom the District Court may be foreclosed from
22 ordering relief; (iii) there are more than one hundred (100) people in the putative
23 classes; and (iv) the amount in controversy exceeds \$5,000,000, exclusive of interest
24 and costs.

25 11. This Court has personal jurisdiction over the Defendants because they do
26 business in this District and intentionally availed themselves of the privilege of doing
27 business within this District, and in doing so injured Plaintiff Stock and Plaintiff
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1 Sioris, residents of this District, so as to render the exercise of jurisdiction by this
2 Court just and proper.

3 12. Venue is proper pursuant to 28 U.S.C. § 1391(b) because: (1) Defendants
4 transact business within this judicial district and because Plaintiff Stock was a
5 resident of Orange County, California at all times relevant to these claims and
6 Plaintiff Sioris was a resident of the County of Los Angeles, California at all times
7 relevant to these claims, such that a substantial part of the events giving rise to their
8 causes of action against Defendants occurred while residing in this judicial district.

9 **PARTIES**

10 13. Plaintiff Stock is a natural person, individual citizen and resident of
11 California, County of Orange, in this judicial district.

12 14. Plaintiff Sioris is a natural person, individual citizen and resident of
13 California, County of Los Angeles, in this judicial district.

14 15. Plaintiff Hartsock is a natural person, individual citizen and resident of
15 Seattle, Washington.

16 16. Plaintiff Winiarski is a natural person, individual citizen and resident of Mesa,
17 Arizona.

18 17. Plaintiff Vincent is a natural person, individual citizen and resident of West
19 Palm Beach, Florida.

20 18. Upon information and belief, WFC is a diversified financial services company
21 headquartered in San Francisco, California that provides banking, insurance,
22 investments, mortgage banking, and consumer finance through banking stores, the
23 internet, and other distribution channels to customers, businesses, and other
24 institutions in all 50 states and in foreign countries.

25 19. Upon information and belief, WFC exercises specific and financial control
26 over the operations of Defendant Wells Fargo Bank, dictates the policies,
27 procedures, and practices of Wells Fargo Bank, exercises power and control over the
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1 specific activities upon which the claims herein are based, and is the ultimate
2 recipient of the unreimbursed transactions described herein.

3 20. Plaintiffs are informed and believe, and thereon allege, that Wells Fargo Bank
4 is, and at all times mentioned herein was, a national bank association chartered under
5 the laws of the United States. Wells Fargo Bank provides WFC personal and
6 commercial banking services and is WFC's principal subsidiary.

7 21. Plaintiffs are informed and believe, and thereon allege, that Zelle is a limited
8 liability company established under the laws of Delaware with its principal place of
9 business in the State of Arizona.

10 22. Upon information and belief, Zelle is a money payment platform ("MPP")
11 that facilitates peer-to-peer ("P2P") instant payment services. Zelle is owned by
12 seven large banks in the United States, which includes WFC. Zelle saves
13 participating banks money by minimizing the fees the banks are charged for
14 competitor P2P payment transactions.

15 23. Plaintiffs are informed and believe, and thereon allege, that Zelle makes
16 money by facilitating payments with participating banks.

17 **BACKGROUND ON ZELLE SCAMS**

18 24. Created in 2017 by America's largest banks¹ to enable digital money transfers,
19 Zelle comes embedded in banking apps and is now America's most widely used
20 money transfer service, outpacing its closest rival (Venmo) by \$260 billion in
21 transfers in 2021.²

22 25. During 2020, an estimated 18 million Americans were defrauded through P2P
23 payment apps, including Zelle.³

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25 _____
26 ¹ Bank of America, Capital One, JPMorgan Chase, PNC, Trust, U.S. Bank and Wells
Fargo.

27 ² <https://www.nytimes.com/2022/03/06/business/payments-fraud-zelle-banks.html>
28 (last visited March 30, 2022).

³ *Ibid.*

1 26. It is free to sign up with Zelle, and Zelle is integrated into the websites and
2 mobile app of Wells Fargo Bank.

3 27. While Zelle provides an online link to what it calls a “User Agreement” on its
4 website, at no time were the Plaintiffs made aware of this agreement.⁴

5 28. Zelle users can send money to other registered Zelle users. They can also
6 attempt to send money to unregistered recipients, in which case the unregistered
7 recipient will receive an invitation to sign up for the service in order to complete the
8 transaction. Users can access the Zelle network within Wells Fargo’s website,
9 through its mobile app, or through apps of other Zelle-participating financial
10 institutions.

11 29. Zelle advertises its money transfer services to consumers by claiming that it
12 is “a fast, safe and easy way to send and receive money.” It also urges consumers to
13 use Zelle “to send money to friends and family, even if they bank somewhere
14 different than you do.”⁵

15 30. Wells Fargo advertises Zelle as being “fast, safe, and convenient,” and that
16 “[a]ll you need to send money is an enrolled email address or U.S. mobile phone
17 number and enrollment with Zelle® through Wells Fargo Online®.”⁶ For existing
18 Wells Fargo customers who “use Wells Fargo Online or the Wells Fargo Mobile
19 app[,]” per Wells Fargo, “[y]ou already have access to Zelle . . . at your fingertips.”⁷

20 31. The immediacy of Zelle’s service has made it a favorite among consumers,
21 but that immediacy has also made it a favorite among criminals, who can access
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23 _____
24 ⁴ Zelle encourages consumers to “pay it safe” by “look[ing] for Zelle in your
25 banking app[.]” “How to Pay it Safe with Zelle,”
<https://www.zellepay.com/financial-education/pay-it-safe> (last accessed June 28,
26 2022).

27 ⁵ “Safely send money to friends and family, no matter where they bank.”
<https://www.zellepay.com/how-it-works> (last accessed July 5, 2022).

28 ⁶ See <https://www.wellsfargo.com/online-banking/zelle/> (last visited July 5, 2022).

⁷ *Ibid.*

1 bank accounts directly, which they cannot do with similar P2P platforms.⁸ Once
2 scammers can scare or trick their victims into sending money via Zelle, “they can
3 siphon away thousands of dollars in seconds.”⁹

4 32. Zelle and Banks, including Wells Fargo, are aware of the widespread fraud
5 through Zelle but are doing virtually nothing to stop it and doing little to nothing to
6 help consumers get their money back.¹⁰

7 33. Nowhere in Defendants’ marketing do they warn potential Zelle users of the
8 risks of being scammed by persons impersonating their banks. Consumers are not
9 aware that transactions with Wells Fargo/Zelle differ from other similar platforms.

10 34. In one instance involving a consumer who called Wells Fargo’s customer
11 service line to report losing \$500.00 because of a Zelle scam, the customer service
12 representative indicated that “[a] lot of people are getting scammed on Zelle this
13 way” and that “[g]etting ripped off for \$500 was ‘actually really good,’ . . . because
14 ‘many people were getting hit for thousands of dollars.’”¹¹

15 35. Zelle and the banks that own Zelle are aware of the widespread fraud through
16 Zelle but are doing virtually nothing to stop it and doing little to help consumers get
17 their money back.¹²

18 36. Defendants are keenly aware of these scams, but have not done little to
19 educate consumers about the risks of using Zelle,¹³ a payment service in which
20 Defendants have a financial interest.

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23 ⁸ See Footnote 4, *supra*.

24 ⁹ Stacey Cowley and Lananh Nguyen, “Fraud is Flourishing on Zelle. The Banks
25 Say It’s Not Their Problem.” N.Y. Times (March 6, 2022)
26 [https://www.nytimes.com/2022/03/06/
business/payments-fraud-zelle-banks.html](https://www.nytimes.com/2022/03/06/business/payments-fraud-zelle-banks.html).

27 ¹⁰ *Ibid.*

28 ¹¹ *Ibid.*

¹² *Ibid.*

¹³ *Ibid.*

1 37. On information and belief, Wells Fargo Bank and WFC use Zelle, which they
2 own, to insulate themselves from financial liability for unauthorized transactions.

3 38. Recent Consumer Financial Protection Bureau guidance on unauthorized
4 Electronic Funds Transfers (“EFTs”) indicates P2P payments are EFTs, such as
5 transactions made with Zelle, and trigger “error resolution obligations” to consumers
6 to protect them from situations where they are fraudulently induced and requested
7 by a third party to provide their account information that results in authorized debits
8 from their accounts.¹⁴

9 39. Additionally, the Federal Deposit Insurance Corporation (“FDIC”) issued a
10 report in March 2022 finding that Regulation E’s “liability protections for
11 unauthorized transfers apply even if a consumer is deceived into giving someone
12 their authorization credentials.”¹⁵ Further, the FDIC stated that “[c]onsumer account
13 disclosures cannot limit protections provided for in the regulation.”¹⁶ The FDIC
14 stated that both the banks and MPPs are considered “financial institutions” under
15 Regulation E, and as such have investigative and error resolution obligations under
16 Regulation E.¹⁷

17 40. Even so, Defendants have not reversed or refunded all funds of Plaintiffs’
18 disputed and unauthorized transactions (including any related overdraft fees or
19 account charges that were incurred as a result of these unauthorized transactions),
20 though obligated to do so.

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22 ¹⁴ “Electronic Fund Transfers FAQs,” Consumer Financial Protection Bureau,
23 [https://www.consumerfinance.gov/compliance/compliance-resources/deposit-](https://www.consumerfinance.gov/compliance/compliance-resources/deposit-accounts-resources/electronic-fund-transfers/electronic-fund-transfers-faqs/#financial-institutions-2)
24 [accounts-resources/electronic-fund-transfers/electronic-fund-transfers-](https://www.consumerfinance.gov/compliance/compliance-resources/deposit-accounts-resources/electronic-fund-transfers/electronic-fund-transfers-faqs/#financial-institutions-2)
25 [faqs/#financial-institutions-2](https://www.consumerfinance.gov/compliance/compliance-resources/deposit-accounts-resources/electronic-fund-transfers/electronic-fund-transfers-faqs/#financial-institutions-2) (last updated December 13, 2021).

26 ¹⁵ “Consumer Compliance Supervisory Highlights Federal Deposit Insurance
27 Corporation,” (March 2022),
28 [https://www.fdic.gov/regulations/examinations/consumer-compliance-](https://www.fdic.gov/regulations/examinations/consumer-compliance-supervisory-highlights/documents/ccs-highlights-march2022.pdf)
[supervisory-highlights/documents/ccs-highlights-march2022.pdf](https://www.fdic.gov/regulations/examinations/consumer-compliance-supervisory-highlights/documents/ccs-highlights-march2022.pdf).

¹⁶ *Id.*

¹⁷ *Id.*

1 41. On information and belief, Wells Fargo Bank does not reimburse consumers
2 for losses from unauthorized EFTs due to fraud, even where the losses are timely
3 reported by consumers to Wells Fargo Bank.

4 42. On information and belief, as part of its normal business practice, Wells
5 Fargo Bank informs Zelle of disputed customer transactions involving the Zelle
6 mobile application and the Zelle feature on Wells Fargo Bank's mobile banking
7 application.

8 43. On information and belief, Wells Fargo Bank has notified Zelle of each loss
9 sustained by each of the plaintiffs and the putative class members. Plaintiff Vincent
10 notified Zelle of her loss. On information and belief, Zelle has not investigated any
11 of the unauthorized EFTs, has not complied with its "error resolution" obligations,
12 and has failed to reimburse any of the unauthorized EFTs.

13 **PLAINTIFFS' FACTUAL ALLEGATIONS**

14 44. Plaintiffs are victims of sophisticated scams where scammers mimicked
15 Wells Fargo Bank's identity, as well as the means of communication typically used
16 by Wells Fargo Bank to communicate with customers in the event of actual fraud.

17 45. Plaintiffs' cellular telephone numbers and use of Wells Fargo Bank and WFC
18 banking services and Zelle are nonpublic personal information.

19 ***Plaintiff Stock***

20 46. On or about December 28, 2021, Plaintiff Stock received a call on her cellular
21 telephone from a phone number with a Caller ID from Wells Fargo.

22 47. When Plaintiff Stock answered the phone, a man purporting to be one of
23 Wells Fargo's customer service representatives indicated that he was calling
24 Plaintiff to review suspicious transactions on Plaintiff's account.

25 48. Since all the transactions that the purported representative reviewed with
26 Plaintiff Stock were made in retail locations located in Florida, they were
27 unrecognizable to Plaintiff Stock, who resides in Orange County, California.

28 49. As such, Plaintiff Stock told the purported representative that she did not

1 recognize any of those transactions.

2 50. In response, the purported Wells Fargo representative instructed Plaintiff
3 Stock to login to her online account so that he could assist Plaintiff with the
4 suspicious transactions.

5 51. After Plaintiff Stock logged into her Wells Fargo account, she discovered
6 that none of the charges mentioned by the purported representative were appearing
7 on her account.

8 52. After Plaintiff Stock had indicated that the suspicious transactions were not
9 appearing on her account, the purported representative told Plaintiff that he had
10 already removed those transactions from her account.

11 53. The purported representative informed Plaintiff Stock that someone had used
12 the Zelle function in the Wells Fargo smartphone application to conduct the
13 suspicious transactions on Plaintiff's account. At that point, the purported
14 representative instructed Plaintiff to set up the Zelle function on Plaintiff Stock's
15 Wells Fargo smartphone application to intercept any funds that were susceptible of
16 being lost as a result of the suspicious transactions on Plaintiff Stock's account.

17 54. After Plaintiff Stock raised some concerns, the purported representative
18 reassured Plaintiff Stock that the only way for her to retrieve her funds instantly
19 was to set up the Zelle function and follow the purported representative's
20 instructions.

21 55. After receiving the purported representative's reassurance, Plaintiff Stock set
22 up the Zelle function on her Wells Fargo smartphone application. As part of the
23 process in setting up this function, Plaintiff Stock was required to send the purported
24 Wells Fargo representative a code.

25 56. Once Plaintiff Stock sent the purported representative the above-mentioned
26 code, Plaintiff Stock was informed that she would see any missing funds back in
27 her account within a few hours.

28 57. The actual Wells Fargo Bank sent to Plaintiff Stock's cellular telephone via

1 text message, a “Verification code” that Plaintiff Stock was directed to use to sign
2 into her Wells Fargo account to verify her mobile number within 24 hours, which
3 text message did not provide any caution to Plaintiff Stock not to share the code
4 with others.

5 58. Plaintiff Stock’s transaction with the purported Wells Fargo representative
6 resulted in \$1,000.00¹⁸ being taken from Plaintiff’s checking account with Wells
7 Fargo.

8 59. Plaintiff Stock informed the purported representative that she was going to
9 change her Wells Fargo online banking account password as soon as she ended the
10 call. In response to this assertion, the purported representative told Plaintiff Stock
11 that he would call back within a few days to assist Plaintiff Stock in changing her
12 password.

13 60. At this point, Plaintiff Stock immediately hung up the phone and proceeded
14 to change her Wells Fargo online banking password because she realized that she
15 had just been scammed and that the purported Wells Fargo representative was in
16 fact a scammer.

17 61. Immediately after realizing that she had been scammed that same day,
18 Plaintiff Stock disputed the Zelle transaction with Wells Fargo whereby the
19 \$1,000.00 was withdrawn as a result of the scam.

20 62. In disputing the transaction, an actual Wells Fargo representative informed
21 Plaintiff Stock that she had been scammed and that several other customers had
22 called Wells Fargo that day about a similar scam. When she asked about the
23 likelihood of the transaction being reversed due to the scam, the Wells Fargo
24 representative told Plaintiff Stock that the likelihood was “high.”

25 63. A few days after her first phone call with the purported Wells Fargo
26

27 ¹⁸ Initially, an attempt was made to transfer \$2,000 through the Zelle mobile
28 application, but only \$1,000 was ultimately transferred because there were
insufficient funds to transfer \$2,000.

1 representative, Plaintiff Stock received yet another call from the same purported
2 Wells Fargo representative with the same Caller ID, who indicated that he was
3 calling from Wells Fargo. This time, the purported representative indicating that he
4 was calling Plaintiff Stock in order to assist her in setting up a new password for
5 her Wells Fargo online banking account.

6 64. Fearful of being scammed once again, and not knowing for certain whether
7 the caller was from Wells Fargo Bank, Plaintiff Stock hung up the telephone call.

8 65. On December 31, 2021, Wells Fargo Bank issued a provisional credit on
9 Plaintiff's account for the disputed amount.

10 66. However, a letter dated February 10, 2022 that was sent to Plaintiff Stock at
11 her residential address at the time in Orange County, California, from Wells Fargo's
12 Online Fraud Claims department, indicated that the bank had completed its
13 investigation into Plaintiff Stock's dispute and concluded that it would reverse the
14 provisional credit within ten (10) days because the disputed transaction was "made
15 by [Plaintiff] or someone who had [Plaintiff's] permission to perform transactions
16 on [her] account."

17 67. On February 24, 2022, Wells Fargo Bank reversed the provisional credit in
18 the amount of \$1,000, despite having been aware of the Zelle scam months prior to
19 the unauthorized transaction affecting Plaintiff.

20 68. On March 7, 2022, which was after Plaintiff Stock filed the Complaint in this
21 action, Wells Fargo Bank charged Plaintiff Stock a monthly service fee of \$10.00,
22 since Plaintiff Stock did not have \$1,000 in her account when Wells Fargo Bank
23 reversed the provisional credit.

24 69. Thereafter, Plaintiff Stock received another written correspondence dated
25 April 6, 2022, from Wells Fargo's Online Fraud Claims department to Plaintiff
26 Stock at her then residential address in Orange County, California, indicating that
27 Plaintiff Stock's Zelle claim had been reviewed again, and "as a courtesy to you,
28 we have credited \$1,000.00 to your account . . . Please consider your claim closed."

1 70. On or about April 7, 2022, which was also after Plaintiff Stock filed the
2 Complaint in this action, Wells Fargo Bank credited Plaintiff Stock \$1,000 to her
3 account. However, that same day, Plaintiff Stock was charged a second a \$10.00
4 monthly service fee.

5 71. A few days later, Plaintiff Stock received three separate written
6 correspondences to her current residential address in Orange County, California
7 dated April 13, 2022.

8 72. One of the April 13, 2022 letters indicated that Wells Fargo Bank has
9 “determined that [the disputed Zelle] payment was processed as requested” and
10 another letter stated that Wells Fargo Bank will be “debiting the provisional credit
11 in the amount of \$1,000.00 that was provided to you.”

12 73. These conflicting correspondences from Wells Fargo Bank during April of
13 2022 left Plaintiff Stock confused and unsure if the \$1,000 credit would again be
14 reversed by Wells Fargo Bank.

15 74. Upon information and belief, all Defendants were well-aware of the Zelle
16 scam of Plaintiff Stock prior to December 28, 2021, yet took virtually no steps to
17 protect Plaintiff Stock or other similarly situated consumers, due in part to
18 Defendants’ own financial interests.

19 75. As of the date of filing this First Amended Complaint, Plaintiff Stock has not
20 been refunded for the two \$10.00 account fees.

21 ***Plaintiff Sioris***

22 76. On or about March 17, 2022, at approximately 3:00 p.m., Plaintiff Sioris
23 received a text message on her cellular telephone from a phone number with a Caller
24 ID appearing to come from Wells Fargo regarding a pending Zelle transaction.

25 77. Simultaneously, Plaintiff also received an email from what appeared to be
26 Wells Fargo requesting that she click a link and fill out a form to resolve the issue
27 with the Zelle transaction.

28 78. Shortly thereafter, at about 3:07 p.m., Plaintiff Sioris received an email from

1 what Plaintiff Sioris believed to be Zelle from the email address
2 zelle@servicessuport.com with the subject line “Processing your funds.”

3 79. This email stated, “We encountered a little problem while crediting your
4 Zelle account, and you have a pending payment of \$1500.00 USD but we have a
5 problem crediting your Zelle account with that amount because your Zelle account
6 reached limited and cannot receive the above \$1000.00 USD.”

7 80. The email further stated to “READ AND FOLLOW EVERY
8 INSTRUCTIONS CAREFULLY TO GET YOUR BALANCE CREDIT
9 INSTANTLY.”

10 81. Reasonably believing that the text message and email were from Wells Fargo
11 and Zelle, Plaintiff clicked the link in the email and filled out the requested
12 information.

13 82. About an hour or so later, at approximately 3:58 p.m., Plaintiff Sioris
14 received two emails from Wells Fargo Online bearing the email address
15 alerts@notify.wellsfargo.com. The first email indicated that a new recipient was
16 added to Plaintiff Sioris’ Zelle account, and the second email was a transaction
17 receipt from Wells Fargo showing that \$1,000.00 was transferred from Plaintiff
18 Sioris’ savings account to an unknown recipient.

19 83. Plaintiff Sioris did not add the unknown recipient of the \$1,000.00 transfer
20 to her Zelle account, nor did she authorize or knowingly make this transfer.

21 84. Plaintiff Sioris immediately disputed the \$1,000.00 charge that same day by
22 calling Wells Fargo to report the fraudulent Zelle transfer.

23 85. The next day, Wells Fargo closed the savings account of Plaintiff Sioris that
24 was the subject of the fraudulent charge and opened a new account savings account
25 with a new account number. This account transfer was confirmed by an email
26 correspondence from Wells Fargo that was sent to Plaintiff Sioris on March 18,
27 2022 at 2:37 a.m.

28 86. Plaintiff Sioris then received a written communication to her residential

1 address in Los Angeles, California from Wells Fargo’s Claims Assistance Center
2 for Online Fraud Claims dated March 20, 2022. This letter stated, “We have
3 researched your inquiry and determined that the unauthorized activity you reported
4 was initiated from within the online banking profile belonging to the joint signer
5 for this account. . . Based on the reason(s) stated above, we respectfully deny your
6 claim.”

7 87. Plaintiff Sioris continued to attempt to dispute the fraudulent charge, but
8 Wells Fargo denied her claim again in June of 2022.

9 88. Plaintiff Sioris received another written communication to her residential
10 address in Los Angeles, California from Wells Fargo dated June 3, 2022. This letter
11 again indicated Wells Fargo “denied [Plaintiff Sioris’] claim since the transaction
12 processed correctly.”

13 89. Upon information and belief, all Defendants were well-aware of the Zelle
14 scam of Plaintiff Sioris prior to March 17, 2022, yet took virtually no steps to protect
15 Plaintiff Sioris or other similarly situated consumers, due in part to Defendants’
16 own financial interests.

17 90. As of July 6, 2022, Plaintiff Sioris has not been refunded for the \$1,000.00
18 fraudulent charge.

19 ***Plaintiff Hartsock***

20 91. On or about December 23, 2021, Plaintiff Hartsock received a text message
21 on his mobile phone informing him that there were unauthorized transactions on his
22 Wells Fargo Bank account and that he should reply “yes” if he wanted to receive a
23 call about it from Wells Fargo Bank.

24 92. Soon after responding “yes” to that text message, Plaintiff Hartsock received
25 a phone call on his same mobile phone from a phone number identified on his Caller
26 ID as Wells Fargo Bank.

27 93. Plaintiff Hartsock answered the phone, and a person purporting to be a
28 customer service representative from the Wells Fargo Bank Fraud Department

1 indicated that she was calling Plaintiff Hartsock to confirm possible suspicious
2 transactions on Plaintiff Hartsock’s Wells Fargo Bank account.

3 94. The purported representative instructed Plaintiff Hartsock that he needed to
4 use the Wells Fargo app, and its Zelle function specifically, to delete and then re-
5 add and pay himself as a Zelle payee. By doing so, she said, this would confirm his
6 identity and lock out the scammer from accessing his Wells Fargo Bank account.

7 95. During this process, Wells Fargo Bank sent Plaintiff Hartsock’s cellphone a
8 “Verification code” text message that the purported representative fraudulently
9 induced Plaintiff Hartsock to confirm with her as a means for Plaintiff Hartsock to
10 re-add himself as a payee to his Wells Fargo Bank account. She stated that the funds
11 would “clear” and show in Plaintiff Hartsock’s account in the next 24 hours.

12 96. Plaintiff Hartsock’s telephonic interaction with the purported Wells Fargo
13 Bank representative and use of the Wells Fargo/Zelle app resulted in \$3,500 being
14 sent via Zelle “to himself.” In reality, on December 23, 2021, scammers sent money
15 from Plaintiff Hartsock’s Wells Fargo Bank account via Zelle to the scammers’
16 accounts—accounts unknown to Plaintiff Hartsock.

17 97. Plaintiff Hartsock did not authorize an EFT from his Wells Fargo Bank
18 account on December 23, 2021.

19 98. Plaintiff Hartsock was fraudulently induced by a purported Wells Fargo
20 representative to share a Wells Fargo Bank verification code, which resulted in
21 transfer of funds via Zelle out of Plaintiff Hartsock’s Wells Fargo Bank account.

22 99. On December 24, 2021, Plaintiff Hartsock was again informed by text
23 message from the same phone number from the day prior that there were additional
24 unauthorized transactions on his Wells Fargo Bank account and that he should reply
25 “yes” if he wanted to receive a call about from Wells Fargo Bank.

26 100. In a second telephonic interaction, on December 24, 2021, Plaintiff Hartsock
27 again received a call on his cellphone from a phone number identified on his Caller
28 ID as Wells Fargo Bank. Plaintiff Hartsock immediately raised concerns about the

1 identity of the purported representative from Wells Fargo Bank. The purported
2 Wells Fargo Bank representative told Plaintiff Hartsock that deleting and then re-
3 adding himself as a payee was the only means to stop the unauthorized transactions
4 and get his money back.

5 101. Plaintiff Hartsock's second telephonic interaction with the purported Wells
6 Fargo representative, again using the Wells Fargo/Zelle app, resulted in \$4,000.00
7 being sent via Zelle "to himself" in multiple transactions. In reality, on December
8 24, 2021, scammers sent money from Plaintiff Hartsock's Wells Fargo Bank
9 accounts via Zelle to the scammers' accounts—accounts unknown to Plaintiff
10 Hartsock.

11 102. Plaintiff Hartsock did not authorize EFTs from his Wells Fargo Bank
12 accounts on December 24, 2021. Plaintiff Hartsock was induced by a purported
13 Wells Fargo representative to share the Zelle verification codes, which resulted in
14 the transfer of funds via Zelle out of Plaintiff Hartsock's Wells Fargo Bank
15 accounts.

16 103. After Plaintiff Hartsock realized that he had been scammed, Plaintiff
17 Hartsock disputed the transactions with Wells Fargo Bank as soon as possible, after
18 the Christmas holiday and weekend, on December 27th and again on December
19 28th and December 30th. Plaintiff Hartsock spent multiple hours on the phone with
20 Wells Fargo Bank and was given inconsistent responses to the fraud Plaintiff
21 Hartsock was attempting to report.

22 104. In disputing the transactions, an actual Wells Fargo Bank representative
23 informed Plaintiff Hartsock that he had been scammed and confirmed that other
24 customers had called with similar concerns. The first Wells Fargo Bank
25 representative whom Plaintiff Hartsock spoke to said that the likelihood of the
26 transactions being reversed due to the fraudulent conduct of the scammers was high.

27 105. In a subsequent call, Wells Fargo Bank representatives informed Plaintiff
28 Hartsock that Wells Fargo Bank would investigate the disputed transactions. But in

1 later conversations, Wells Fargo Bank indicated that it was less likely that the funds
2 would be refunded.

3 106. By January 5, 2022, Wells Fargo Bank stated that it had completed its
4 investigations, and informed Plaintiff Hartsock that it was refusing to refund
5 Plaintiff Hartsock for any of the unauthorized transactions.

6 107. On April 8, 2022, Wells Fargo Bank changed its position as to the December
7 23, 2021 disputed transaction only, informing Plaintiff Hartsock of its decision to
8 credit \$3,500 back to Plaintiff Hartsock's Wells Fargo Bank account.

9 108. Defendants knew or should have known of the likelihood of this type of scam
10 and its financial detriment to consumers, including Plaintiff Hartsock.

11 109. For each unauthorized transaction, Wells Fargo Bank sent Plaintiff Hartsock
12 two form letters, identical in substance. The letters were all sent within a day or two
13 of each other.

14 110. One letter states:

15
16 Based on the information available to us, we [Wells Fargo Bank] have
17 determined that this payment was processed as requested. As a
18 courtesy, we will continue to attempt to assist with resolution of this
19 issue with the receiving financial institution. We will notify you by
U.S. mail to update you of our findings.

20 111. The second letter states:

21
22 Our records indicate that you initiated a Zelle Transfer through your
23 Wells Fargo Online banking session on 12/23/2021 [or 12/24/2021] in
the amount of . . .

24
25 As this transfer has already been approved and processed, we are
unable to stop or reverse the funds . . .

26
27 We hope this information has been helpful to you[.]

28 112. The information was, in fact, *not* helpful to Plaintiff Hartsock.

1 113. Wells Fargo Bank letters also informed Plaintiff Hartsock that Wells Fargo
2 Bank “notified the financial institution and the Zelle Network about the scam.”

3 114. Plaintiff Hartsock has not received any reimbursement or communications
4 from Zelle about the fraudulent transactions.

5 115. Defendants were well-aware of the Zelle scam prior to December of 2021,
6 yet took virtually no steps to protect consumers, or to help scammed consumers,
7 due to Defendants’ own financial interests.¹⁹

8 116. Plaintiff Hartsock’s Wells Fargo Bank checking account had a deficit of
9 \$4,000.00 until June 7, 2022, when, without explanation, Wells Fargo Bank
10 partially reversed \$3,500 of the unauthorized transactions.

11 ***Plaintiff Winiarski***

12 117. Plaintiff Winiarski is a Wells Fargo Bank customer of several years.

13 118. On March 19, 2022 Plaintiff Winiarski completed a rental application for a
14 residence in San Tan Valley, Arizona. Plaintiff Winiarski submitted a \$75.00
15 application fee via Venmo to a scammer purporting to be the owner of the actual
16 residence.

17 119. The scammer sent Plaintiff Winiarski Letter of Approval to Rent, and
18 Plaintiff Winiarski signed a formal lease contract via DocuSign.

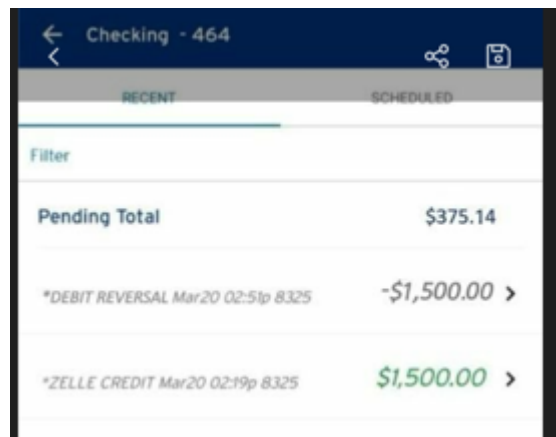
19 120. Per terms of the lease contract, Plaintiff Winiarski provided the “landlord”
20 with the first month’s rent of \$1,500.00. The scammer requested that the money be
21 sent via Zelle and provided an email address.

22 121. In anticipation of an April 1 start for the “approved” residential lease, on
23 March 20, 2022, Plaintiff Winiarski sent from his Wells Fargo Bank account \$1,500
24 via Zelle.

25 122. The next day, March 21, 2022 at 6:26 am, the scammer texted Plaintiff
26 Winiarki. The scammer told Plaintiff Winiarski that the \$1,500 payment was
27 “reversed and sent back to you [Plaintiff Winiarski].” The scammer included a

28 ¹⁹ *Ibid.*

1 screen shot, pictured below, of the scammer's Zelle account showing reversal of the
2 funds.



11
12 123. Within hours, Plaintiff Winiarski called Wells Fargo Bank to ascertain what
13 had happened to the funds. Per Wells Fargo Bank, the deposit funds had already
14 cleared and had been deposited the recipient's account.

15 124. Based on that information, Plaintiff Winiarski concluded that he had been the
16 victim of a scam.

17 125. Plaintiff Winiarski filed a police report with Pinal County Sheriff's Office.

18 126. Plaintiff Winiarski made fraud claims with Wells Fargo Bank for both the
19 \$75.00 Venmo transaction and \$1,500 Zelle transaction. On March 25, 2022
20 Plaintiff Winiarski provided supplemental documentation, including screen shots
21 of the text messages with the scammer and documentation of the transactions. He
22 also provided the assigned police officer's contact information.

23 127. On information and belief, Wells Fargo Bank did not contact the assigned
24 police officer and made no further investigation of Plaintiff Winiarski's claims. By
25 letter of June 9, 2022, Wells Fargo Bank informed Plaintiff Winiarski that its
26 investigation was closed.

27 128. Venmo reversed and refunded \$75.00 to Plaintiff Winiarski.

28 129. Wells Fargo Bank and Zelle refused to reverse or refund \$1,500 to Plaintiff

1 Winiarski.

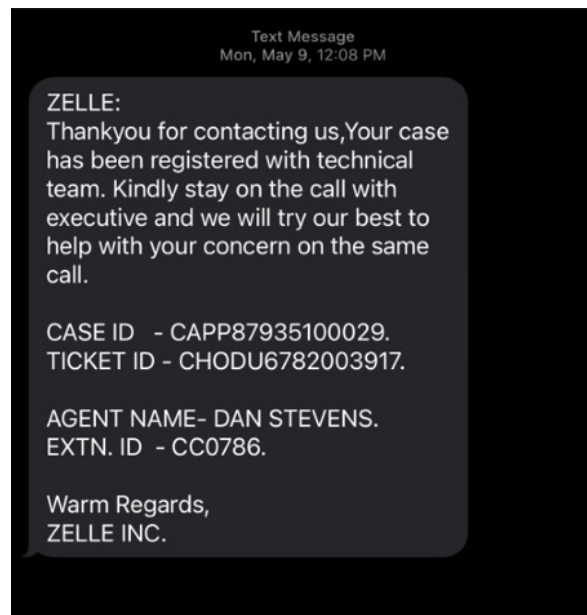
2 130. Plaintiff Winiarski, through an attorney, corresponded with Zelle on May 10,
3 2022 about the facts surrounding his financial injury.

4 131. By letter of May 20, 2022, Zelle maintained that Zelle is “in no way
5 responsible for the transaction” and is “not in a position to recover the funds[,]”
6 because Zelle “does not have any account, or other, [*sic*] relationship with Mr.
7 Winiarski.” Zelle directed Plaintiff Winiarski to “continuing working [*sic*] with his
8 financial institution for assistance.”

9
10 ***Plaintiff Vincent***

11 132. Plaintiff Vincent maintains a personal Wells Fargo bank account and accesses
12 her account through the Wells Fargo mobile banking app.

13 133. On or about May 9, 2022, Plaintiff Vincent tried to use Zelle to transfer money
14 and it did not work. Plaintiff Vincent followed up by calling Wells Fargo and the
15 phone call was disconnected.



26 134. Shortly thereafter, a scammer, disguised as a Wells Fargo Bank representative
27 called Plaintiff Vincent back. The scammer said that he was calling from Wells
28 Fargo Technical Support and requested access to Plaintiff Vincent’s accounts in

1 order to resolve the problem. Plaintiff Vincent observed that the incoming call did
2 not come from a 1-800 number typically used by Wells Fargo and inquired why that
3 was. The scammer impersonating Wells Fargo Technical Support brushed aside her
4 concern and continued to remote into her account. He indicated that he needed to
5 look through her account to test withdraw \$1. Instead, he entered in a name and
6 email of “Megan Lowelli” and instead withdrew \$440 from Plaintiff Vincent’s
7 account.

8 135. Later on May 9, 2022, the scammer tried to take an additional \$5,000, which
9 was blocked because Plaintiff Vincent rejected the withdrawal as unauthorized. The
10 scammer then sought to take \$350. This too was blocked and rejected.

11 136. The same day, May 9, 2022, Plaintiff Vincent called Zelle to file a claim of
12 fraud. A Zelle representative told Plaintiff Vincent that Zelle could not help her and
13 that she should go through Wells Fargo.

14 137. Later that day, May 9, 2022, Plaintiff Vincent contacted Wells Fargo to file a
15 fraud claim. Plaintiff Vincent has since contacted Wells Fargo weekly and Wells
16 Fargo representatives have told her that they have completed their investigation and
17 her case has been closed. Despite timely reporting the fraud and unauthorized
18 transaction, Plaintiff Vincent has not received back the \$440 that was taken from her
19 account.

20 138. On June 27, 2022, Plaintiff Vincent received a letter from Wells Fargo’s
21 Claims Assistance Center. In the letter Wells Fargo admitted that it was aware of the
22 fraud but refused to refund Plaintiff Vincent her money, stating, “We couldn’t
23 reverse the online transfer...Your claim is now closed.”

24 139. No further response has been received from Defendants.

25 CLASS ALLEGATIONS

26 140. Plaintiffs bring this action on behalf of themselves and on behalf of all other
27 persons similarly situated.
28

1 141. Plaintiffs are members of and seek to represent a nationwide Class, pursuant
2 to Fed. R. Civ. P. 23(b)(2) and/or (b)(3), defined as:

3
4 All persons within the United States whose bank account
5 with Wells Fargo was debited via one or more transactions
6 using the Wells Fargo and/or Zelle mobile application that
7 was not permanently credited by Defendant/s in full within
8 45 days of a dispute by the customer and/or the
consumer's authorized representative concerning the
transaction(s).

9 142. Additionally, Plaintiff Stock and Plaintiff Sioris are members of and seek to
10 represent a California Sub-Class, pursuant to Fed. R. Civ. P. 23(b)(2) and/or (b)(3),
11 defined as:

12
13 All persons residing in California whose bank account
14 with Wells Fargo was debited via one or more transactions
15 using the Wells Fargo and/or Zelle mobile application that
16 was not permanently credited by Defendant/s in full within
17 45 days of a dispute by the customer and/or the
consumer's authorized representative concerning the
transaction(s).

18 143. Additionally, Plaintiff Hartsock is a member of and seeks to represent a
19 Washington Sub-Class, pursuant to Fed. R. Civ. P. 23(b)(2), and/or (b)(3), defined
20 as:

21
22 All persons residing in Washington whose bank account
23 with Wells Fargo was debited via one or more transactions
24 using the Wells Fargo and/or Zelle mobile application that
25 was not permanently credited by Defendant/s in full within
26 45 days of a dispute by the customer and/or the
consumer's authorized representative concerning the
transaction(s).

27 144. Additionally, Plaintiff Winiarski is a member of and seeks to represent a
28 Arizona Sub-Class, pursuant to Fed. R. Civ. P. 23(b)(2), and/or (b)(3), defined as:

1 All persons residing in Arizona whose bank account with
2 Wells Fargo was debited via one or more transactions
3 using the Wells Fargo and/or Zelle mobile application that
4 was not permanently credited by Defendant/s in full within
5 45 days of a dispute by the customer and/or the
6 consumer's authorized representative concerning the
7 transaction(s).

8 145. Additionally, Plaintiff Vincent is a member of and seeks to represent a
9 Florida Sub-Class, pursuant to Fed. R. Civ. P. 23(b)(2) and/or (b)(3), defined as:

10 All persons residing in Florida whose bank account with
11 Wells Fargo was debited via one or more transactions
12 using the Wells Fargo and/or Zelle mobile application
13 that was not permanently credited by Defendant/s in full
14 within 45 days of a dispute by the customer and/or the
15 consumer's authorized representative concerning the
16 transaction(s).

17 146. Excluded from the Class and Sub-Classes are Defendants' officers, directors,
18 and employees; any entity in which Defendants have a controlling interest; and the
19 affiliates, legal representatives, attorneys, successors, heirs, and assigns of
20 Defendant. Further excluded from the Class and Sub-Classes are members of the
21 judiciary to whom this case is assigned, their families, and members of their staff.

22 147. Plaintiffs reserve the right to modify the proposed class definitions, including
23 but not limited to expanding the class to protect additional individuals and to assert
24 additional sub-classes as warranted by additional investigation.

25 148. The proposed Class and Sub-Classes meet the criteria for certification under
26 Rule 23(a), b(2) and b(3).

27 149. Numerosity: The members of the Class and Sub-Classes are so numerous that
28 joinder of all of them is impracticable. While the exact number of Class Members is
unknown to Plaintiffs at this time, based on information and belief, the Class and
Sub-Classes consists of thousands of individuals nationwide.

1 150. Commonality: There are questions of law and fact common to the Class and
2 Sub-Classes, which predominate over any questions affecting only individual Class
3 Members. These common questions of law and fact include, without limitation:

4 A. Whether Plaintiffs and the Class Members lost money that was
5 transferred from their account via Zelle;

6 B. Whether Plaintiffs and the Class Members were customers of
7 Wells Fargo at the time of the unauthorized transactions;

8 C. Whether Plaintiffs and the Class Members were customers of
9 Zelle at the time of the unauthorized transactions;

10 D. Whether Defendants violated EFTA by failing to adequately
11 investigate the disputes of Plaintiff and the Class Members;

12 E. Whether Defendants violated EFTA by failing to correct errors
13 on the accounts of Plaintiffs and the Class Members within 45 days of
14 the transactions being disputed;

15 F. Whether the transactions at issue were unauthorized EFTs, by
16 way of a third party fraudulently obtaining access to Plaintiffs' and the
17 Class Members' accounts through fraudulent inducement, making them
18 errors subject to EFTA's remedial provisions, including Regulation E;

19 G. Whether Plaintiffs and the Class Members are entitled to
20 maximum statutory damages, costs and fees under EFTA;

21 H. California Sub-Class: Whether the conduct of Wells Fargo Bank
22 and WFC was "unlawful" as that term is defined in the UCL;

23 I. California Sub-Class: Whether the conduct of Wells Fargo Bank
24 and WFC was "unfair" as that term is defined in the UCL;

25 J. Washington Sub-Class: Whether the conduct of Defendants was
26 an "unfair or deceptive act[] or practice[]" as that term is defined in the
27 Washington Consumer Protection Act, RCW § 19.86 *et seq.*;

1 K. Whether Plaintiff Hartsock and the Washington Sub-Class are
2 entitled to maximum statutory damages, costs, and fees under the
3 Washington Consumer Protection Act;

4 L. Arizona Sub-Class: Whether the conduct of Defendants
5 constitutes a “deceptive or unfair act or practice ... in connection with
6 the sale or advertisement of any merchandise” as defined by Ariz. Rev.
7 Stat. §§ 44-1521;

8 M. Arizona Sub-Class: Whether Plaintiffs and the Sub-Class are
9 entitled to maximum statutory damages, costs and fees under Ariz. Rev.
10 Stat. §§ 44-1521;

11 N. Arizona Sub-Class: Whether Plaintiffs and the Sub-Class are
12 entitled to injunctive relief under Ariz. Rev. Stat. §§ 44-1521;

13 O. Florida Sub-Class: Whether the conduct of Defendants
14 constitutes a deceptive, unfair, and unlawful trade act or practice in the
15 conduct of trade or commerce, in violation of Fla. Stat. § 501.204(1);

16 P. Florida Sub-Class: Whether Plaintiffs and the Sub-Class
17 Members are entitled to damages, injunctive relief and/or fees and costs
18 under Fla. Stat. §§ 501.201, *et seq.*

19 Q. Whether Defendants were negligent in their actions and/or
20 omissions;

21 R. Whether Defendants have been conferred an enrichment by
22 keeping funds that they were obligated to replace pursuant to
23 Regulation E’s error resolution obligations; and

24 S. Whether Plaintiff and the Class Members are entitled to
25 injunctive relief.

26 151. Typicality: Plaintiffs’ claims are typical of those of other Class and Sub-Class
27 Members because Plaintiffs were fraudulently induced by a third party to cause a
28 withdrawal of funds from their Wells Fargo accounts to occur through the Wells

1 Fargo/Zelle mobile application. After disputing that unauthorized transaction,
2 Plaintiffs were informed by Defendants that the unauthorized transactions would
3 ultimately not be reversed.

4 152. Adequacy of Representation: Plaintiffs will fairly and adequately represent
5 and protect the interests of Class and Sub-Class Members. Plaintiffs' Counsel are
6 competent and experienced in litigating consumer class actions.

7 153. Predominance: Defendants have engaged in a common course of conduct
8 toward Plaintiffs, Class Members, and Sub-Class Members, in that all were induced
9 into allowing a third party to make unauthorized withdrawals on their Wells Fargo
10 accounts using Zelle. The common issues arising from Defendants' conduct
11 affecting Class and Sub-Class Members set out above predominate over any
12 individual issues. Adjudication of these common issues in a single action has
13 important and desirable advantages of judicial economy.

14 154. Superiority: A class action is superior to other available methods for the fair
15 and efficient adjudication of the controversy. Class treatment of common questions
16 of law and fact is superior to multiple individual actions or piecemeal litigation.
17 Absent a Class action, most Class and Sub-Class Members would likely find that
18 the cost of litigating their individual claims is prohibitively high and would
19 therefore have no effective remedy. The prosecution of separate actions by
20 individual Class and Sub-Class Members would create a risk of inconsistent or
21 varying adjudications with respect to individual Class and Sub-Class Members,
22 which would establish incompatible standards of conduct for Defendant. In
23 contrast, the conduct of this action as a Class action presents far fewer management
24 difficulties, conserves judicial resources and the parties' resources, and protects the
25 rights of each Class Member.

26 155. Defendants have acted on grounds that apply generally to the Class and Sub-
27 Classes, so that class certification is appropriate.

28 156. All Members of the proposed Class and Sub-Classes are readily

1 ascertainable. Defendants have access to consumer reporting of fraudulent and/or
2 unauthorized transactions on their books and records. Using this information, Class
3 Members can be identified and ascertained for the purpose of providing notice.

4 157. Notice: Plaintiffs anticipate providing direct notice to the Class and Sub-
5 Classes for purposes of class certification, via U.S. Mail and/or email, based upon
6 Defendants' and/or Defendants' agents' records.

7
8 **FIRST CAUSE OF ACTION**

9 **VIOLATION OF THE ELECTRONIC FUND TRANSFER ACT (“EFTA”),**
10 **15 U.S.C. §§ 1693, *ET SEQ.***

11 **(On Behalf of Plaintiffs, the Class Against All Defendants)**

12 158. Plaintiffs reallege and incorporate herein by reference the allegations
13 contained in all preceding paragraphs, and further allege as follows:

14 159. The Electronic Fund Transfer Act (“EFTA”) and Regulation E apply to
15 electronic fund transfers that authorize a financial institution to debit or credit a
16 consumer’s account. 12 C.F.R. 1005.3(a).

17 160. The primary objective of EFTA is “the protection of individual consumers
18 engaging in electronic fund transfers and remittance transfers.” 12 C.F.R.
19 § 1005.1(b).

20 161. Financial institutions have error resolution obligations pursuant to Regulation
21 E in the event that a consumer notifies the financial institution of an error. 12 C.F.R.
22 § 1005.11.

23 162. WFC and Wells Fargo Bank are financial institutions. 12 C.F.R. § 1005.2(i).

24 163. Zelle is an MPP and financial institution, as the applicable code, 12 C.F.R.
25 § 1005.2(i), is interpreted by the Consumer Financial Protection Bureau and the
26 Federal Deposit Insurance Corporation, because it issues an access device and agrees
27 with a consumer to provide electronic fund transfer services.²⁰

28 ²⁰ *Ibid.*

1 164. “If a financial institution, within sixty days after having transmitted to a
2 consumer pursuant to [15 U.S.C. § 1693d(a), (c), or (d)] or notification pursuant to
3 [15 U.S.C. § 1693(d)] receives oral or written notice in which the consumer[:] (1)
4 sets forth or otherwise enables the financial institution to identify the name and the
5 account number of the consumer; (2) indicates the consumer’s belief that the
6 documentation, or, in the case of notification pursuant to [15 U.S.C. § 1693d(b)], the
7 consumer’s account, contains an error and the amount of such error; and (3) sets
8 forth the reasons for the consumer’s belief (where applicable) that an error has
9 occurred,” the financial institution is required to investigate the alleged error. 15
10 U.S.C. § 1693f(a).

11 165. After said investigation, the financial institution must determine whether an
12 error has occurred and report or mail the results of such investigation and
13 determination to the consumer within ten (10) business days. *Id.*

14 166. A financial institution that provisionally recredits the consumer’s account for
15 the amount alleged to be in error pending an investigation, however, is afforded
16 forty-five (45) days after receipt of notice of error to investigate. *Id.* § 1693f(c).

17 167. Pursuant to the EFTA, an error includes “an unauthorized electronic fund
18 transfer.” *Id.* § 1693f(f).

19 168. An Electronic Fund Transfer (“EFT”) is any transfer of funds that is initiated
20 through an electronic terminal, telephone, computer, or magnetic tape for the
21 purpose of ordering, instructing, or authorizing a financial institution to debit or
22 credit a consumer’s account. 12 C.F.R. 1005.3(b)(1). Accordingly, Regulation E
23 applies to any P2P or mobile payment transactions that meet the definition of EFT.
24 12 C.R.F. 1005.3(b)(1)(v); *id.*, Comment 3(b)(1)-1ii.

25 169. Unauthorized EFTs are EFTs from a consumer’s account initiated by a person
26 other than the consumer without actual authority to initiate the transfer and from
27 which the consumer receives no benefit. 12 C.F.R. 1005.2(m).

1 170. According to the CFPB and FDIC, when a third party fraudulently induces a
2 consumer into sharing account access information that is used to initiate an EFT
3 from the consumer's account, that transfer meets Regulation E's definition of an
4 unauthorized EFT.²¹

5 171. In particular, Comment 1005.2(m)-3 of Regulation E explains that an
6 unauthorized EFT includes a transfer initiated by a person who obtained the access
7 device from the consumer through robbery or fraud. As such, when a consumer is
8 fraudulently induced into sharing account access information with a third party, and
9 a third party uses that information to make an EFT from the consumer's account, the
10 transfer is an unauthorized EFT under Regulation E.²²

11 172. Here, Plaintiffs, the Class Members, and Sub-Class Members were
12 fraudulently induced by third-party scammers purporting to be Wells Fargo to share
13 Zelle account information, personal information, login credentials and/or
14 authorization codes.

15 173. The third party then used the information fraudulently obtained from
16 Plaintiffs, the Class Members, and Sub-Class Members to make unauthorized EFTs
17 from the bank accounts of Plaintiffs and other Class Members.

18 174. After the unauthorized EFTs were made, the EFTs appeared on the bank
19 statements of Plaintiffs, the Class Members, and Sub-Class Members .

20 175. Plaintiffs, the Class Members, and Sub-Class Members notified Wells Fargo
21 Bank and WFC of these errors within sixty (60) days of their appearances on the
22 accounts of Plaintiffs and other Class Members.

23 176. Wells Fargo Bank and WFC then issued provisional credits in the amounts of
24 those credits on the account of Plaintiff Stock, and at least some of the other Class
25 Members.

26
27
28 ²¹ See *supra*, notes 14, 15.

²² See *supra*, note 14.

1 177. After receiving notice of the unauthorized EFTs on the accounts of Plaintiff
2 Stock, and other Class Members, Wells Fargo Bank, using a WFC-standardized
3 letter, informed Plaintiffs and at least some of the Class members that the provisional
4 credits placed on said accounts would be reversed because Wells Fargo Bank and
5 WFC erroneously concluded that the unauthorized EFTs “were made by [Plaintiff
6 and other class members] or someone who had [their] permission to perform
7 transactions on [their] account.”

8 178. For Plaintiff Sioris, Plaintiff Hartsock, Plaintiff Winiarski and Plaintiff
9 Vincent, Wells Fargo sent letters indicating that they had concluded their
10 investigation and would not be refunding any of the money from the unauthorized
11 transactions.

12 179. While Wells Fargo Bank eventually refunded Plaintiff Stock \$1,000, she was
13 not refunded for the two \$10 service fees incurred as a result.

14 180. Wells Fargo notified Zelle of Plaintiffs’ claims with Wells Fargo and of the
15 unauthorized transactions.

16 181. Plaintiff Vincent also notified Zelle of the unauthorized transactions on May
17 9, 2022.

18 182. As a direct and proximate result of the conduct of Defendants, Plaintiffs, the
19 Class Members, and Sub-Class Members were unable to reclaim funds that were
20 fraudulently taken from their accounts with Wells Fargo within the authorized period
21 for error resolution.

22 183. Upon information and belief, Defendants knowingly and willfully failed to
23 fulfill their obligations to investigate Plaintiffs’ unauthorized transactions and
24 instead summarily concluded that the transfers of funds via Zelle on accounts of
25 Plaintiffs and other Class Members were not in error, when such conclusions could
26 not reasonably have been drawn from the evidence available to the financial
27 institutions at the time of the investigation. 15 U.S.C. § 1693f(e)(2).

1 184. Upon information and belief, Defendants intentionally determined that the
2 unwanted transfer of funds via Zelle on accounts of Plaintiffs, the Class Members,
3 and Sub-Class Members were not in error due to, at least in part, WFC's financial
4 self-interest as a stakeholder in Zelle, and for both Wells Fargo and Zelle, to avoid
5 their liability to Plaintiff and other Class Members for the unauthorized transfers
6 pursuant to Regulation E.

7 185. Defendants, in their normal course of business, refuse to completely reverse
8 or refund funds (including any related service charges incurred because of the
9 unauthorized charges), to consumers consistent with their obligations under
10 Regulation E, §1005.6. Notably, it was only after Plaintiff Stock and Plaintiff
11 Hartsock separately filed a lawsuit that Wells Fargo reimbursed each of them for the
12 unauthorized charges.

13 186. As such, Plaintiffs, the Class Members, and Sub-Class Members are each
14 entitled to (i) actual damages; (ii) treble damages; (iii) the lesser of \$500,000.00 or
15 one percent (1%) of the net worth of Wells Fargo, WFC and Zelle; and (iv)
16 reasonable attorneys' fees and costs. *Id.* §§ 1693f(e)(2), 1693m(a)(2)(B)-(3).

17
18 **SECOND CAUSE OF ACTION**

19 **CALIFORNIA'S UNFAIR COMPETITION LAW ("UCL"),**

20 **CAL. BUS. & PROF. CODE §§ 17200, *ET SEQ.***

21 **(On Behalf of Plaintiffs Stock and Sioris and the California Sub-Class Against**
22 **All Defendants)**

23 187. Plaintiffs Stock and Sioris reallege and incorporate herein by reference the
24 allegations contained in all preceding paragraphs, and further alleges as follows:

25 188. The UCL defines "unfair business competition" to include any "unlawful,
26 unfair, or fraudulent" act or practice, as well as any "unfair, deceptive, untrue or
27 misleading" advertising. Cal. Bus. & Prof. Code § 17200.

1 189. The UCL imposes strict liability. Plaintiffs Stock and Sioris need not prove
2 that Defendants intentionally or negligently engaged in unlawful, unfair, or
3 fraudulent business practices—but only that such practices occurred.

4 ***“Unfair” Prong***

5 190. A business practice is “unfair” under the UCL if it offends an established
6 public policy or is immoral, unethical, oppressive, unscrupulous or substantially
7 injurious to consumers, and that unfairness is determined by weighing the reasons,
8 justifications and motives of the practices against the gravity of the harm to the
9 alleged victims.

10 191. Wells Fargo Bank and WFC’s actions constitute “unfair” business practices
11 because, as alleged above, they intentionally declined to reverse charges and refund
12 associated fees on the accounts of Plaintiff Stock, Plaintiff Sioris, and California
13 Sub-Class Members even though they knew or should have known that said charges
14 were in fact unauthorized transactions that needed to be reversed pursuant to the
15 terms of EFTA.

16 192. Defendants’ failure to adequately investigate the unauthorized transactions,
17 including after acknowledging the Zelle scam in some instances, coupled with their
18 financial interest in Zelle and the bank’s decision to not permanently and completely
19 credit their customers’ accounts that were affected by the scam, offends established
20 public policy, including that embodied by the EFTA.

21 193. Through their practices, Wells Fargo Bank and WFC save millions of dollars
22 which should have, in all fairness, been permanently credited to Plaintiff Stock,
23 Plaintiff Sioris, and the California Sub-Class following their disputes with the bank.

24 194. The harm to Plaintiff Stock, Plaintiff Sioris, and California Sub-Class
25 Members grossly outweighs the utility of Defendants’ practices as there is no utility
26 to practices of Defendants.

27 //

28 //

“Unlawful” Prong

195. A business act or practice is “unlawful” under the UCL if it violates any other law or regulation.

196. Wells Fargo Bank and WFC’s acts and practices alleged above constitute unlawful business acts or practices as they have violated the plain language of EFTA as described in Plaintiffs’ First Cause of Action above.

197. The violation of any law constitutes as “unlawful” business practice under the UCL.

198. These acts and practices alleged were intended to or did result in violations of EFTA.

199. Defendants have and will continue to unlawfully deny the transaction disputes of Plaintiff Stock, Plaintiff Sioris, the California Sub-Class, and the public by claiming that said disputed transactions are “authorized,” even though said transactions are actually “unauthorized,” as that term is defined by EFTA and applicable regulations. Consequently, the practices of Defendants constitute unfair and unlawful business practices within the meaning of the UCL.

200. Pursuant to the UCL, Plaintiff Stock, Plaintiff Sioris, and the California Sub-Class are entitled to preliminary and permanent injunctive relief and order Defendants to cease this unfair and unlawful competition, as well as disgorgement and restitution to Plaintiff Stock, Plaintiff Sioris, and the California Sub-Class of all the revenues associated with this unfair and unlawful competition, or such portion of said revenues as the Court may find applicable.

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2 **THIRD CAUSE OF ACTION**

3 **WASHINGTON CONSUMER PROTECTION ACT (“CPA”),**

4 **RCW § 19.86, *ET SEQ.***

5 **(On Behalf of Plaintiff Hartsock and the Washington Sub-Class Against All**
6 **Defendants)**

7 201. Plaintiff Hartsock realleges and incorporates herein by reference the
8 allegations contained in all preceding paragraphs, and further alleges as follows:

9 202. Washington prohibits unfair or deceptive acts or practices in the conduct of
10 any trade or commerce. RCW 19.86.20.

11 203. Defendants’ acts violate the EFTA, as described in Plaintiff Hartsock’s First
12 Cause of Action above.

13 204. Defendants’ acts or practices constitute unfair or deceptive business practices
14 because, as alleged above, Defendants intentionally declined to timely reverse or to
15 refund charges on the accounts of Plaintiff Hartsock and the Washington Sub-Class
16 members even though they knew or should have known that said charges were in
17 fact transactions not authorized by Plaintiff Hartsock and the Washington Sub-Class
18 members, and Defendants are obligated to reverse or refund them pursuant to the
19 EFTA.

20 205. Defendants’ acts or practices constitute an unfair or deceptive practice, where
21 Defendants failed to adequately investigate the cause of unauthorized transactions
22 because this would reveal the security limitations of the Wells Fargo and/or Zelle
23 app and result in Defendants’ liability for unauthorized transfers, which conflicts
24 with WFC and Wells Fargo Bank’s financial interests in Zelle. On information and
25 belief, the manner that Wells Fargo Bank investigates, and processes, Zelle-related
26 fraud claims differs from other similar investigations.

27 206. Defendants’ acts or practices constitute an unfair or deceptive practice where,
28 with knowledge of a widespread scam affecting their customers, Defendants failed

1 to take reasonable steps to adequately warn of known risks and/or dangers associated
2 with the Wells Fargo and/or Zelle app and to take appropriate steps in response to a
3 known scam involving the app to protect consumers.

4 207. Defendants' acts or practices constitute an unfair or deceptive practice where,
5 with knowledge of a widespread scam affecting their customers, Defendants failed
6 to take reasonable steps to develop and implement adequate safety precautions to
7 mitigate against known, rampant Zelle app scams.

8 208. Defendants' acts or practices occur in the conduct of trade or commerce.

9 209. Defendants' acts or practices affect the public interest because there is a strong
10 likelihood that additional consumers have been or will be injured in exactly the same
11 fashion.

12 210. Through their acts or practices, Defendants save themselves millions of
13 dollars which should have been credited to Plaintiff Hartsock and the Washington
14 Sub-Class members from their refusal to reverse or refund the unauthorized
15 transactions.

16 211. Plaintiff Hartsock and the Washington Sub-Class members are injured by
17 Defendants' acts or practices by the failure to reverse or refund funds and to comply
18 with Regulation E.

19 212. Pursuant to the CPA, Plaintiff Hartsock and the Washington Sub-Class
20 members are entitled to preliminary and permanent injunctive relief that Defendants
21 must comply with Regulation E.

22 213. Pursuant to the CPA, Plaintiff Hartsock and the Washington Sub-Class
23 members are entitled to preliminary and permanent injunctive relief, and they seek
24 an order requiring Defendants to cease their unfair and unlawful practice of failing
25 to divulge to consumers and putative class members their unfair, anti-competitive
26 business practices of profiting from Zelle at consumers' expense.

27 214. Plaintiff Hartsock and the Washington Sub-Class members are also entitled to
28 restitution, refund of funds unfairly obtained by Defendants, disgorgement, as well

1 as all costs, funds, and fees available at law to remedy with this unfair, anti-
2 competitive acts or practices.

3
4 **FOURTH CAUSE OF ACTION**
5 **VIOLATIONS OF ARIZONA CONSUMER FRAUD ACT (“ACFA”), ARIZ.**
6 **REV. STAT. §§ 44-1521, *ET SEQ.***

7 **(On Behalf of Plaintiff Winiarski and the Arizona Sub-Class Against All**
8 **Defendants)**

9 215. Plaintiff Winiarski realleges and incorporates herein by reference the
10 allegations contained in all preceding paragraphs, and further alleges as follows:

11 216. The ACFA provides in pertinent part:

12
13 The act, use or employment by any person of any deception, deceptive
14 or unfair act or practice, fraud, false pretense, false promise,
15 misrepresentation, or concealment, suppression or omission of any
16 material fact with intent that others rely on such concealment,
17 suppression or omission, in connection with the sale or advertisement
of any merchandise whether or not any person has in fact been misled,
deceived or damaged thereby, is declared to be an unlawful practice.

18 *Id.* § 44-1522.

19 217. Plaintiff Winiarski and the Arizona Sub-Class Members are “persons” as
20 defined by Ariz. Rev. Stat. § 44-1521(6).

21 218. Defendants provide “services” as that term is included in the definition of
22 “merchandise” under Ariz. Rev. Stat. § 44-1521(5) and Defendants are engaged in
23 the “sale” of merchandise as defined by Ariz. Rev. Stat. § 44-1521(7).

24 219. Defendants engaged in deceptive and unfair acts and practices,
25 misrepresentation, and the concealment, suppression and omission of material facts
26 in connection with the sale and advertisement of “merchandise” (as defined in the
27 ACFA) in violation of the ACFA, including but not limited to the following:
28

1 A. By Defendant Zelle advertising its money transfer services as “a fast,
2 safe and easy way to send and receive money” that is superior to other forms
3 of transferring money²³;

4 B. By Defendant Wells Fargo advertising its mobile banking app services
5 with Zelle as being “fast safe and easy way to send and receive money” that
6 “protect[s]” consumers in the “unlikely event an unauthorized user accesses
7 your consumers accounts and initiates payments using Wells Fargo Online or
8 Wells Fargo Mobile”²⁴;

9 C. Failing to maintain sufficient security to keep Plaintiff and Sub-Class
10 Member’s confidential financial and personal data from being obtained by
11 scammers;

12 D. Failing to disclose the Zelle scam to Arizona Sub-Class Members in a
13 timely and accurate manner, in violation of Ariz. Rev. Stat. § 18-552(B);

14 E. Intentionally declining to reverse or to refund charges on the accounts of
15 Plaintiff and Arizona Sub-Class Members even though they knew or should
16 have known that said charges were in fact transactions not authorized by
17 Plaintiff or the Arizona Sub-Class Members, and Defendants are obligated to
18 reverse or refund them pursuant to EFTA.

19 F. Failing to adequately investigate the cause of unauthorized transactions
20 because this would reveal the security limitations of the Wells Fargo/Zelle
21 app and result in Defendants’ liability for unauthorized transfers, which
22 conflicts with WFC’s financial interests in Zelle. On information and belief,
23 the manner that Wells Fargo Bank investigates, and processes, Zelle-related
24 fraud claims differs from other similar investigations.

25
26 _____
27 ²³ <https://www.wellsfargo.com/online-banking/transfer-pay/comparison-chart/>
(last visit July 6, 2022).

28 ²⁴ <https://www.wellsfargo.com/help/online-banking/zelle-faqs/> (last accessed July
6, 2022).

1 G. Failing to take reasonable steps to adequately warn of known risks and/or
2 dangers associated with the Wells Fargo/Zelle app and to take appropriate
3 steps in response to a known scam involving the app to protect consumers;

4 H. Failing to take reasonable steps to develop and implement adequate safety
5 precautions to mitigate against known, rampant Zelle app scams.

6 220. The above unlawful, unfair, and deceptive acts and practices by Defendants
7 were immoral, unethical, oppressive and unscrupulous. These acts cause substantial
8 injury to Plaintiff Winiarski and the Arizona Sub-Class Members that they could not
9 reasonably avoid; this substantial injury outweighed any benefits to consumers or to
10 competition.

11 221. As financial institutions, Defendants knew or should have known that their
12 money transfer systems and security practices were inadequate to safeguard Arizona
13 Sub-Class Members' bank accounts and that the risk of unauthorized transactions
14 was high. Defendants' actions in engaging in the above-identified deceptive acts and
15 practices were negligent, knowing, and willful, and/or wanton and reckless with
16 respect to the rights of the Arizona Sub-Class Members.

17 222. Defendants' acts or practices affect the public interest because there is a strong
18 likelihood that additional consumers have been or will be injured in exactly the same
19 fashion.

20 223. Through their acts or practices, Defendants save themselves millions of
21 dollars which should have been credited to Plaintiff and the Arizona Sub-Class from
22 their refusal to reverse or refund the unauthorized transactions.

23 224. As a direct and proximate result of Defendants' deceptive acts and practices,
24 the Arizona Sub-Class Members suffered an ascertainable loss of money or property,
25 real or personal, as described above and were injured by Defendants' acts or
26 practices in failing to reverse or refund funds and to comply with Regulation E.

1 225. Pursuant to Ariz. Rev. Stat. §§ 44-1521, Plaintiff Winiarski and the Arizona
2 Sub-Class are entitled to preliminary and permanent injunctive relief that Defendants
3 must comply with Regulation E.

4 **FOURTH CAUSE OF ACTION**
5 **VIOLATIONS OF THE FLORIDA UNFAIR AND DECEPTIVE TRADE**
6 **PRACTICES ACT FLA. STAT. §§ 501.201, ET SEQ.**

7 **(On Behalf of Plaintiff Vincent and the Florida Sub-Class Against All**
8 **Defendants)**

9 226. Plaintiff Vincent realleges and incorporates herein by reference the allegations
10 contained in all preceding paragraphs, and further alleges as follows:

11 227. Plaintiff Vincent and the Florida Sub-Class Members are “consumer[s]” as
12 defined by Fla. Stat. § 501.203.

13 228. Defendants engaged in the conduct alleged in this Complaint, and advertised,
14 offered or sold services in Florida and engaged in trade or commerce directly or
15 indirectly affecting the people of Florida, including Plaintiff Vincent and Florida
16 Sub-Class Members.

17 229. Defendants engaged in deceptive, unfair, and unlawful trade acts or practices
18 in the conduct of trade or commerce, in violation of Fla. Stat. § 501.204(1), including
19 but not limited to the following:

20 A. By Defendant Zelle advertising its money transfer services as “a fast,
21 safe and easy way to send and receive money” that is superior to other forms
22 of transferring money²⁵;

23 B. By Defendant Wells Fargo advertising its mobile banking app services
24 with Zelle as being “fast safe and easy way to send and receive money” that
25 “protect[s]” consumers in the “unlikely event an unauthorized user accesses
26
27

28 _____
²⁵ *Ibid.*

1 your consumers accounts and initiates payments using Wells Fargo Online or
2 Wells Fargo Mobile”²⁶;

3 C. Failing to maintain sufficient security to keep Plaintiff and Sub-Class
4 Member’s confidential financial and personal data from being obtained by
5 scammers;

6 D. Intentionally declining to reverse or to refund charges on the accounts
7 of Plaintiff and Sub-Class Members even though they knew or should have
8 known that said charges were in fact transactions not authorized by Plaintiff
9 or the Sub-Class Members, and Defendants are obligated to reverse or refund
10 them pursuant to the EFTA.

11 E. Failing to adequately investigate the cause of unauthorized transactions
12 because this would reveal the security limitations of the Wells Fargo/Zelle
13 app and result in Defendants’ liability for unauthorized transfers, which
14 conflicts with Wells Fargo’s financial interests in Zelle. On information and
15 belief, the manner that Wells Fargo investigates, and processes, Zelle-related
16 fraud claims differs from other similar investigations.

17 F. Failing to take reasonable steps to adequately warn of known risks
18 and/or dangers associated with the Wells Fargo/Zelle app and to take
19 appropriate steps in response to a known scam involving the app to protect
20 consumers;

21 G. Failing to take reasonable steps to develop and implement adequate
22 safety precautions to mitigate against known, rampant Wells Fargo/Zelle app
23 scams.

24 230. These unfair acts and practices violated duties imposed by laws, including but
25 not limited to EFTA.

26 231. Defendants’ misrepresentations were disseminated in Florida via the internet.
27

28 _____
²⁶ *Ibid.*

1 232. As a direct and proximate result of Defendants' violations of the Florida
2 Unfair and Deceptive Trade Practices Act, Plaintiff and the Florida Sub-Class
3 Members suffered damages including, but not limited to an ascertainable loss of
4 money or property, real or personal, as described above and were injured by
5 Defendants' acts or practices in failing to reverse or refund funds and to comply with
6 Regulation E's investigative and error resolution requirements.

7 233. As a direct result of Defendants' knowing violation of the Florida Unfair and
8 Deceptive Trade Practices Act, Plaintiff Vincent and the Florida Sub-Class Members
9 are entitled to damages as well as injunctive relief, including but not limited to:
10 ordering that Defendants must comply with Regulation E.

11 234. Plaintiff Vincent brings this action on behalf of herself and Florida Sub-Class
12 Members for the relief requested above and for the public benefit in order to promote
13 the public interests in the provision of truthful, fair information to allow consumers
14 to make informed decisions about the banking mobile app and money transfer
15 services they use, and to protect Plaintiff, Florida Sub-Class Members and the public
16 from Defendants' unfair methods of competition and unfair, deceptive, fraudulent,
17 unconscionable and unlawful practices. Defendants' wrongful conduct as alleged in
18 this Complaint has had widespread impact on the public at large.

19 235. The above unfair and deceptive practices and acts by Defendants were
20 immoral, unethical, oppressive and unscrupulous. These acts caused substantial
21 injury to Plaintiff Vincent and Florida Sub-Class Members that they could not
22 reasonably avoid; this substantial injury outweighed any benefit to consumers or to
23 competition.

24 236. As financial institutions, Defendants knew or should have known that their
25 money transfer systems and security practices were inadequate to safeguard Sub-
26 Class Members' bank accounts and that the risk of unauthorized transactions was
27 high.

1 237. Defendants' actions or inactions in engaging in the above-identified unfair
2 practices and deceptive acts herein were negligent, knowing, and willful, and/or
3 wanton and reckless with respect to the rights of the Florida Sub-Class Members.

4 238. Defendants' acts or practices affect the public interest because there is a strong
5 likelihood that additional consumers have been or will be injured in exactly the same
6 fashion.

7 239. Through their acts or practices, Defendants save themselves thousands of
8 dollars which should have been credited to Plaintiff and the Florida Sub-Class
9 Members from their refusal to reverse or refund the unauthorized transactions.

10 240. Plaintiff and Florida Sub-Class Members seek relief under the Florida
11 Deceptive and Unfair Trade Practices Act, Fla. Stat. §§ 501.201, *et seq*, including,
12 but not limited to damages, restitution, injunctive relief, and/or attorney fees and
13 costs, and any other just and proper relief.

14
15 **FIFTH CAUSE OF ACTION**
16 **NEGLIGENCE**

17 **(On Behalf of Plaintiffs, and All Sub-Classes Against All Defendants)**

18 241. Plaintiffs reallege and incorporate herein by reference the allegations
19 contained in all preceding paragraphs, and further allege as follows:

20 242. Wells Fargo Bank and WFC owed Plaintiffs, and all Sub-Classes at least a
21 duty to take reasonable steps to safeguard customer financial information and protect
22 their financial accounts from malicious third parties, to adequately warn of known
23 risks and/or dangers associated with the Wells Fargo/Zelle app, and to properly
24 investigate disputed transactions initiated and consummated through the Wells
25 Fargo and/or Zelle app.

26 243. Zelle owed Plaintiffs and all Sub-Classes at least a duty to take reasonable
27 steps to adequately warn of known risks and/or dangers associated with the Wells
28

1 Fargo/Zelle app, and to take appropriate steps in response to a known scam involving
2 the app to protect consumers from malicious third parties.

3 244. Defendants breached their obligations to Plaintiffs, and all Sub-Class
4 Members and were otherwise negligent and/or reckless by at least:

5 A. Failing to maintain adequate data security measures to prevent or
6 reduce the risk of disclosure of the names, phone numbers, and bank
7 affiliation of Plaintiffs, and the Sub-Classes to malicious third parties;

8 B. Failing to adequately protect the private information of Plaintiffs,
9 and the Sub-Classes;

10 C. Failing to properly warn Plaintiffs, and the Sub-Classes of the
11 risks and/or dangers associated with the Wells Fargo/Zelle mobile app
12 or informing consumers about the Zelle-related scams;

13 D. Failing to review account agreements and disclosures to ensure
14 they do not attempt to diminish or limit consumers' rights under
15 Regulation E;

16 E. Failing to take appropriate steps to avoid unauthorized
17 transactions through the Wells Fargo/Zelle app in response to known
18 scams and continuing with business as normal;

19 F. Failing to adequately investigate and document findings from the
20 investigations of fraud-related EFT disputes of the unauthorized
21 transactions made on the accounts of Plaintiffs, and the Sub-Classes
22 using the Wells Fargo/Zelle payment platform;

23 G. Failing to implement appropriate and sufficient safeguards
24 against scams of the nature alleged in the Complaint in light of the
25 knowledge that those scams have been rampant across the country;

26 H. Permitting scammers to use Zelle's member banks to siphon
27 funds from accounts of Plaintiffs, and the Sub-Classes' accounts using
28 the Wells Fargo/Zelle payment platform;

1 I. Failing to reverse unauthorized transactions pursuant to
2 Regulation E error resolution requirements following disputes of
3 Plaintiffs, and the Sub-Classes despite Defendants' knowledge that the
4 transactions were unauthorized as part of a scam that is well-known to
5 Defendants; and

6 J. Failing to permanently reverse or refund unauthorized
7 transactions upon a sufficient showing by Plaintiffs, and the Sub-
8 Classes that the transactions were unauthorized.

9 245. As a direct and proximate result of Defendants' breaches, Plaintiffs, and the
10 Sub-Classes lost funds from their Wells Fargo Bank accounts and incurred
11 unnecessary related charges.

12 246. Plaintiffs, the Sub-Classes are entitled to damages for their continuing and
13 increased risk of fraud and their loss of money.

14
15 **SIXTH CAUSE OF ACTION**

16 **UNJUST ENRICHMENT**

17 **(On Behalf of Plaintiffs, and All Sub-Classes Against**
18 **WFC and Wells Fargo Bank)**

19 247. Plaintiffs reallege and incorporate herein by reference the allegations
20 contained in all preceding paragraphs, and further allege as follows:

21 248. Defendants have been conferred the benefit or enrichment by keeping funds
22 that Defendants are otherwise obligated to replace for Plaintiffs, and Sub-Class
23 Members pursuant to Regulation E's error resolution obligations.

24 249. Defendants know and appreciate this benefit or enrichment and the detriment
25 or impoverishment to Plaintiffs, and Sub-Class members.

26 250. It is inequitable for Defendants to retain the benefit or enrichment of keeping
27 these funds when they know that as financial institutions, they are obligated to
28

1 comply with Regulation E and credit Plaintiffs and putative Sub-Class Members’
2 accounts for the amounts taken.

3 251. Plaintiffs, and Sub-Class members have sustained a detriment or an
4 impoverishment from Defendants’ failure to remedy this inequity and are entitled to
5 restitution for the unjust enrichment to Defendants.

6 252. Plaintiffs, and Sub-Class members are entitled to restitution and disgorgement
7 of the funds unjustly retained by Defendants in the absence of any legal relief.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Plaintiffs pray for relief and judgment against Defendants,
10 and each of them, as follows:

- 11 • Class certification of this action;
- 12 • Appointment of Plaintiffs as Class Representatives;
- 13 • Appointment of Plaintiffs’ attorneys as Class Counsel;
- 14 • An award of actual damages, in an amount to be determined at trial;
- 15 • An award of treble damages against Defendants pursuant to the EFTA;
- 16 • An award of the lesser of \$500,000.00 or one percent (1%) of the net worth
17 of Defendants;
- 18 • An award of the maximum allowable damages against Defendants pursuant
19 to Cal. Bus. & Prof. Code § 17200, RCW § 19.86, Ariz. Rev. Stat. § 44-1521;
20 and/or Fla. Stat. §§ 501.201, *et seq.*;
- 21 • Injunctive and other equitable relief against Defendants as necessary to
22 protect the interests of Plaintiffs and other Class Members and Sub-Class
23 Members, and an order prohibiting Defendants from engaging in unlawful
24 and/or unfair acts described above, including public injunctive relief;
- 25 • Disgorgement;
- 26 • An order of restitution from Defendants for unjust enrichment;
- 27 • An order declaring Defendants’ conduct as unlawful;
- 28 • Costs of Suit;

- 1 • Pre- and post-judgment interest;
- 2 • An award of reasonable attorneys' fees; and
- 3 • Any other relief the Court may deem just and proper, including interest.

4 **DEMAND FOR TRIAL BY JURY**

5 Plaintiffs, individually and on behalf of all others similarly situated, hereby
6 demand a jury trial on all claims so triable.

7
8 Dated: July 11, 2022

Respectfully submitted,

9 **KAZEROUNI LAW GROUP, APC**

10 By: /s/ Abbas Kazerounian
11 Abbas Kazerounian, Esq.

12 ATTORNEY FOR PLAINTIFF STOCK

13 **KELLER ROHRBACK L.L.P.**

14 By: /s/ Laura R. Gerber

15 By: /s/ Nathan L. Nanfelt

16
17
18 ATTORNEYS FOR PLAINTIFF HARTSOCK
19 AND PLAINTIFF WINIARSKI

20 **SAUDER |SCHELKOPF**

21 By: /s/ Joseph G. Sauder

22
23 ATTORNEY FOR TRACY VINCENT