

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

**ETHAN S. PARKER,
PLAINTIFF,**

v.

**WELLS FARGO BANK, N.A.,
DEFENDANT.**

Case No.: 1:23-cv-00766

**VERIFIED COMPLAINT
(Jury Trial Demanded)**

Plaintiff Ethan S. Parker complains of Defendant Wells Fargo Bank N.A. as follows:

PARTIES

1. Plaintiff Ethan S. Parker is a citizen and resident of Alamance County, North Carolina.
2. Defendant Wells Fargo Bank, N.A. has its main office in Sioux City, South Dakota.
3. Wells Fargo also has a principal place of business in San Francisco, California.

JURISDICTION & VENUE

4. Jurisdiction is proper under 28 U.S.C. § 1332 because there is complete diversity of parties and the amount in controversy exceeds \$75,000.

5. Jurisdiction is also proper under 28 U.S.C. § 2201 because there is an actual controversy between the parties as to the rights of the parties.

6. Venue is proper in this District under 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to these claims occurred in the District. Venue is also proper in the District under 28 U.S.C. § 1391(d) because Wells Fargo has sufficient contacts with this District to subject it to personal jurisdiction in this District if this District were a separate state.

FACTS

7. Ethan Parker is the adopted child of Gwendolyn Parker.

8. Ms. Parker died on May 22, 2020, leaving Ethan her sole heir.

9. Ms. Parker had a retirement fund invested with AIG.

10. Mr. Parker was the designated beneficiary for that retirement account, and entitled to payment of death benefits from the retirement account.

11. Mr. Parker complied with all of AIG and VALIC's requirements for receiving the death benefits, including providing VALIC with his social security number.

12. After Ms. Parker's death, VALIC Retirement Services Company, a subsidiary of AIG, issued two checks to Ethan Parker:

- a. Check 78667483 in the amount of \$9,707.82;
- b. Check 7867883 in the amount of \$207,765.07.

13. At the time he received the checks, Mr. Parker did not have a bank account.

14. He was able to cash the \$9,707.82 check.

15. Because he had previously banked with Wells Fargo, and his mother had banked with Wells Fargo, on or about September 27, 2022, Mr. Parker opened the Wells Fargo account ending in XXXX9288 using the Wells Fargo website.

16. Mr. Parker then went to a branch at 500 S. Main Street in Burlington, North Carolina and deposited the \$207,765.07 check into the new account.

17. He deposited an additional \$5,000 in cash into the account at the same time. A copy of the check and deposit slip is attached as

Exhibit 1.

18. Between September 28, 2022, and October 13, 2022, he used the account without incident.

19. On October 13, 2022, without any explanation, Wells Fargo seized the balance in Mr. Parker's account and closed his account. A copy of a bank statement indicating that the account had been closed by Loss Prevention is attached as **Exhibit 2.**

20. Wells Fargo has never provided an adequate explanation for why it seized the funds.

21. Wells Fargo accused Mr. Parker forging the check, and representatives him that Wells Fargo expected AIG, or some other unknown claimant, to make a claim for the check.

22. Because this was a valid check paid to Ethan Parker, AIG would have had no reason to make such a claim.

23. Mr. Parker demanded the funds from Wells Fargo multiple times, each time he was refused.

24. At Wells Fargo's request, Mr. Parker's counsel contacted VALIC, the issuer of the check, and obtained a letter confirming that the check was valid and had been issued to Mr. Parker. A copy of the letter is attached as **Exhibit 3**.

25. The letter from VALIC explained that Mr. Parker was the designated beneficiary of Gwendolyn Parker's retirement account, and that two valid checks were issued to him.

26. This letter was presented to Wells Fargo along with a demand that Wells Fargo provide Mr. Parker with his funds.

27. Even when presented with evidence that the funds belonged to Mr. Parker, Wells Fargo refused to provide them, implying that either Mr. Parker or his counsel had forged this letter as well.

28. Upon information and belief, Wells Fargo did not conduct any meaningful fraud investigation.

29. Rather, Wells Fargo impermissibly shifted the burden to their customer, insisting that he prove to the bank's satisfaction that the check was not fraudulent.

30. Wells Fargo's conduct in this case is consistent with conduct Wells Fargo had engaged in in the past. A consent order entered on December 20, 2022, with the Consumer Financial Protection Bureau found that when Wells Fargo "believed that a fraudulent deposit had been made into a consumer deposit account largely based on an automated fraud detection system that identified suspect deposit accounts for employee review, [Wells Fargo's] typical practice was to freeze the customer's entire account...." A copy of the Consent Order is attached as **Exhibit 4**.

31. Charles W. Scharf, the CEO and President of Wells Fargo, signed a stipulation agreeing to the entry of the Consent Order on December 19, 2022. A copy of the Scharf Stipulation is attached as **Exhibit 5**.

32. Under the terms of the consent order, Wells Fargo was required, when it suspected that a deposit in a consumer deposit account may be fraudulent, to use an item-hold or other restraint less than a full freeze of the deposit account when reasonable under the circumstances and sufficient to prevent further fraud. Exh. 4 at 17.

33. The CFPB Consent Order found that the practice of freezing consumer deposit accounts was an unfair, deceptive or abusive practice because it was likely to cause consumers substantial injury that is not reasonably avoidable, and the substantial injury is not outweighed by countervailing benefits to consumers or to competition. Exh. 4 at 13.

FIRST CLAIM FOR RELIEF
(Declaratory Judgment)

34. Mr. Parker incorporates all preceding paragraphs by reference.

35. A genuine controversy exists between Mr. Parker and Wells Fargo regarding the ownership of the funds seized by Wells Fargo on October 13, 2022.

36. Mr. Parker contends, as AIG states in its letter attached as Exhibit 3, that he is the designated beneficiary of Gwendolyn Parker's retirement account.

37. Wells Fargo has not indicated who it believes is entitled to the funds that were tendered by AIG to Mr. Parker, but, upon information and belief, claims that there is some unnamed party who will someday make a claim for the funds, and that therefore Wells Fargo has a right to hold the funds indefinitely.

38. Mr. Parker is entitled to a declaratory judgment, pursuant to the provisions of 28 U.S.C. § 2201 *et seq.* that the funds seized by Wells Fargo from his bank account belong to him, and that he is entitled to immediate ownership of those funds.

SECOND CLAIM FOR RELIEF
(Conversion)

39. Mr. Parker incorporates all preceding paragraphs by reference.

40. On or about October 13, 2022, Wells Fargo converted all of the funds in Mr. Parker's Wells Fargo account ending in XXXX9288, including the \$207,765.07 paid to Mr. Parker by AIG.

41. Until the time Wells Fargo wrongfully closed Mr. Parker's account and seized his funds, Mr. Parker was the lawful owner of the funds and entitled to possess them.

42. Wells Fargo converted the funds to its own use by:
- a. the unauthorized exercise of a right of ownership over the funds;
 - b. the unauthorized exclusion of Mr. Parker from exercising his rights of ownership over the funds;

c. the unauthorized retention of the funds after Mr. Parker demanded their return.

43. Mr. Parker has been damaged by Wells Fargo's conversion of his funds in an amount to be determined at trial.

THIRD CLAIM FOR RELIEF
(Unjust Enrichment)

44. Mr. Parker incorporates all preceding paragraphs by reference.

45. By the unauthorized seizure of Mr. Parker's funds, Wells Fargo received a benefit.

46. The benefit was not given by Mr. Parker to Wells Fargo gratuitously.

47. Because of its illegal conduct, Wells Fargo obtained Mr. Parker's funds under circumstances in which they should not have equitably received them.

48. Wells Fargo has been unjustly enriched by Mr. Parker in an amount to be determined at trial.

FOURTH CLAIM FOR RELIEF
(Unfair and Deceptive Trade Practices)

49. Mr. Parker incorporates all preceding paragraphs by reference.

50. Wells Fargo's freezing of Mr. Parker's account was an unfair, deceptive or abusive practice because it was likely to cause him substantial injury that is not reasonably avoidable and the substantial injury is not outweighed by countervailing benefits to consumers or to competition. *See* Exh. 4 at 13.

51. Wells Fargo's actions described in this complaint constituted unfair or deceptive trade practices pursuant to N.C. Gen. Stat. § 75-1.1.

52. As a direct and proximate result of Wells Fargo's unfair and deceptive trade practices, Mr. Parker has been damaged in an amount to be proved at trial.

53. As a matter of law, Wells Fargo is liable for treble damages pursuant to N.C. Gen. Stat. § 75-16.

54. Mr. Parker is also entitled to his reasonable attorneys' fees for Wells Fargo's unfair and deceptive trade practices.

FIFTH CLAIM FOR RELIEF
(Injunctive Relief)

55. Mr. Parker incorporates all preceding paragraphs by reference.

56. Mr. Parker will suffer irreparable harm if Wells Fargo is permitted to continue to retain funds that clearly belong to him.

57. Mr. Parker is likely to prevail on his declaratory judgment action, since all available evidence shows that the funds seized by Wells Fargo belong to him alone.

58. Mr. Parker is also likely to prevail on his claims for conversion, unjust enrichment, and unfair and deceptive trade practices.

59. Because of the improper seizure of these funds for such a long period of time, Mr. Parker suffered the loss of his mother's belongings, which were in storage with fees to have been paid from these funds.

60. Mr. Parker inherited his mother's 50% share in property located at 2108 Wilkins Street, Burlington, NC.

61. Because Wells Fargo has improperly seized his funds, Mr. Parker has been unable to pay the mortgage on the property and it is presently in foreclosure proceedings.

62. If Wells Fargo does not surrender Mr. Parker's funds, he will lose this house.

63. Mr. Parker has no adequate remedy at law. Money damages in the future will not and cannot compensate Mr. Parker for the loss of family property.

64. Based on the foregoing, Mr. Parker is likely to succeed on the merits of his claims.

65. Mr. Parker is entitled to a preliminary and permanent injunction requiring the turnover of his funds from Wells Fargo.

RELIEF REQUESTED

WHEREFORE, Mr. Parker respectfully asks this Court to:

1. Enter a declaratory judgment finding that Mr. Parker is the proper owner of the funds that Wells Fargo seized from his account ending in XXX9288, including the check paid to him by VALIC;
2. Award Plaintiff compensatory damages;
3. Award Plaintiff punitive damages for Wells Fargo's willful and wanton conduct;
4. Award Plaintiff treble damages for Wells Fargo's unfair and deceptive trade practices;
5. Grant Plaintiff an injunction ordering the return of the improperly seized funds;
6. Award Plaintiff the costs of this action and reasonable attorneys' fees as permitted by statute; and
7. Grant Plaintiff such other and further relief as the Court may deem just and equitable.

**PLAINTIFF DEMANDS A JURY TRIAL ON ALL
ISSUES SO TRIABLE.**

Dated: September 6, 2023

J.C. WHITE LAW GROUP PLLC

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Attorneys for Plaintiff


VERIFICATION

I, Ethan S. Parker, make the following unsworn declaration pursuant to 28 U.S.C. § 1746. The contents of the foregoing Complaint are true to my own knowledge, or have been supplied by my attorneys or other agents in this litigation and/or compiled from documents, except as to matters stated on information and belief, and as to those matters, I believe them to be true. I declare under penalty of perjury that the foregoing is true and correct.



Ethan S. Parker


SIGNATURE CERTIFICATE



REFERENCE NUMBER
46A0BB75-24BD-47B0-AA33-1EA7F3B2A558

TRANSACTION DETAILS	DOCUMENT DETAILS
<p>Reference Number 46A0BB75-24BD-47B0-AA33-1EA7F3B2A558</p> <p>Transaction Type Signature Request</p> <p>Sent At 09/05/2023 11:21 EDT</p> <p>Executed At 09/05/2023 12:10 EDT</p> <p>Identity Method email</p> <p>Distribution Method email</p> <p>Signed Checksum 612a4d9ca0004aeac45b1fa8744c7f3fc08e5020f1130ff9c65797de954a2c6d</p> <p>Signer Sequencing Disabled</p> <p>Document Passcode Disabled</p>	<p>Document Name 23_09_05_Complaint</p> <p>Filename 23_09_05_Complaint.pdf</p> <p>Pages 15 pages</p> <p>Content Type application/pdf</p> <p>File Size 144 KB</p> <p>Original Checksum 084ecf44fe1ada63b2629cc33132e81da715296c1906df047f3bff3767a19738</p>

SIGNERS

SIGNER	E-SIGNATURE	EVENTS
<p>Name Ethan Parker</p> <p>Email esparker8186@gmail.com</p> <p>Components 1</p>	<p>Status signed</p> <p>Multi-factor Digital Fingerprint Checksum aff2067cbb5f7ace86769091a8fb0cb47aa8a5fb602595dc4184577bb26436a8</p> <p>IP Address 174.247.9.71</p> <p>Device Mobile Safari via iOS</p> <p>Drawn Signature </p> <p>Signature Reference ID 3F16F18D</p> <p>Signature Biometric Count 7</p>	<p>Viewed At 09/05/2023 12:09 EDT</p> <p>Identity Authenticated At 09/05/2023 12:10 EDT</p> <p>Signed At 09/05/2023 12:10 EDT</p>

AUDITS

TIMESTAMP	AUDIT
09/05/2023 11:21 EDT	Jim White (jwhite@jcwhitelaw.com) created document '23_09_05_Complaint.pdf' on Chrome via Windows from 91.193.232.52.
09/05/2023 11:21 EDT	Ethan Parker (esparker8186@gmail.com) was emailed a link to sign.
09/05/2023 12:09 EDT	Ethan Parker (esparker8186@gmail.com) viewed the document on Mobile Safari via iOS from 174.247.9.71.
09/05/2023 12:10 EDT	Ethan Parker (esparker8186@gmail.com) authenticated via email on Mobile Safari via iOS from 174.247.9.71.
09/05/2023 12:10 EDT	Ethan Parker (esparker8186@gmail.com) signed the document on Mobile Safari via iOS from 174.247.9.71.