

**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-UA-JLW**

**ANSWER AND AFFIRMATIVE DEFENSES TO VERIFIED COMPLAINT**

Defendant Wells Fargo Bank, N.A. (“Wells Fargo”), by and through undersigned counsel, and pursuant to Federal Rule of Civil Procedure 8(b), hereby files this Answer and affirmative and other defenses to the Complaint filed by Plaintiff Ethan S. Parker (“Plaintiff”). Wells Fargo files this Answer without waiving, and expressly reserving, all rights that it has to file dispositive motions or other responses addressed to some or all of the allegations and claims asserted in the Complaint, and expressly reserving its rights to amend or supplement any responses or defenses set forth herein as its investigation and discovery progresses. Except as expressly admitted herein, Wells Fargo denies all allegations in the Complaint.

## ANSWER

Wells Fargo answers the allegations in each of the like-numbered paragraphs of the Complaint as follows:<sup>1</sup>

1. Wells Fargo lacks information or knowledge sufficient to form a belief as to the truth of the allegations in Paragraph 1 of the Complaint and, therefore denies them.
2. Wells Fargo denies the allegations in Paragraph 2 of the Complaint.
3. Wells Fargo admits the allegations in Paragraph 3 of the Complaint.

### JURISDICTION & VENUE

4. The allegations in Paragraph 4 of the Complaint constitute a legal conclusion to which no response is required. To the extent a response is required, denied.
5. The allegations in Paragraph 5 of the Complaint constitute a legal conclusion to which no response is required. To the extent a response is required, denied.

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<sup>1</sup> Wells Fargo uses certain subject headings from Plaintiff's Complaint strictly for ease of reference by the Court and the parties and, by using those headings, does not intend to admit the truth of any allegation contained within them. To the extent that any of the subject headings in Plaintiff's Complaint may be construed to contain factual allegations directed to Wells Fargo, Wells Fargo expressly denies all such allegations.

6. The allegations in Paragraph 6 of the Complaint constitute a legal conclusion to which no response is required. To the extent a response is required, denied.

### **FACTS**

7. Wells Fargo lacks information or knowledge sufficient to form a belief as to the truth of the allegations in Paragraph 7 of the Complaint and, therefore denies them.

8. Wells Fargo lacks information or knowledge sufficient to form a belief as to the truth of the allegations in Paragraph 8 of the Complaint and, therefore denies them.

9. Wells Fargo lacks information or knowledge sufficient to form a belief as to the truth of the allegations in Paragraph 9 of the Complaint and, therefore denies them.

10. Wells Fargo lacks information or knowledge sufficient to form a belief as to the truth of the allegations in Paragraph 10 of the Complaint and, therefore denies them.

11. Wells Fargo lacks information or knowledge sufficient to form a belief as to the truth of the allegations in Paragraph 11 of the Complaint and, therefore denies them.

12. Wells Fargo lacks information or knowledge sufficient to form a belief as to the truth of the allegations in Paragraph 12 of the Complaint and, therefore denies them.

13. Wells Fargo lacks information or knowledge sufficient to form a belief as to the truth of the allegations in Paragraph 13 of the Complaint and, therefore denies them.

14. Wells Fargo lacks information or knowledge sufficient to form a belief as to the truth of the allegations in Paragraph 14 of the Complaint and, therefore denies them.

15. Wells Fargo admits that Plaintiff had two prior accounts with Wells Fargo, both of which were closed with overdrawn balances. Wells Fargo admits that on September 27, 2022, Plaintiff opened a Wells Fargo account online using the Wells Fargo website. Wells Fargo further admits that Gwendolyn Parker previously held a Wells Fargo account. Wells Fargo lacks information or knowledge sufficient to form a belief as to the truth of the remaining allegations in Paragraph 15 of the Complaint and, therefore denies them.

16. Wells Fargo admits that on September 28, 2022, Plaintiff visited a Wells Fargo Branch located at 500 S. Main Street in Burlington, North Carolina and deposited a check in the amount of \$207,765.07 into his account ending in 9288. Wells Fargo denies the remaining allegations in Paragraph 16 of the Complaint.

17. Wells Fargo admits that on or about September 28, 2022, Plaintiff deposited \$5,000 into the account ending in 9288. Wells Fargo denies the remaining allegations in Paragraph 17 of the Complaint.

18. Wells Fargo admits that Plaintiff withdrew monies from the account ending in 9288 from September 30, 2022 through October 11, 2022. Wells Fargo denies the remaining allegations in Paragraph 18 of the Complaint.

19. Wells Fargo admits that on October 13, 2022, it held the balance in Plaintiff's account and closed Plaintiff's account. Wells Fargo denies the remaining allegations in Paragraph 19 of the Complaint.

20. Wells Fargo denies the allegations in Paragraph 20 of the Complaint.

21. Wells Fargo denies the allegations in Paragraph 21 of the Complaint.

22. Wells Fargo lacks information or knowledge sufficient to form a belief as to the truth of the allegations in Paragraph 22 of the Complaint and, therefore denies them.

23. Wells Fargo admits that Plaintiff requested the return of the balance of his account ending in 9288. Wells Fargo denies the remaining allegations in Paragraph 23 of the Complaint. Wells Fargo is in the process of issuing Plaintiff a check for the balance of funds that were in his account ending in 9288 as of October 13, 2022, totaling \$204,450.55.

24. Wells Fargo admits that Plaintiff's counsel sent Wells Fargo a letter on August 15, 2023. The remaining allegations in Paragraph 24 of the Complaint refer to a document that speaks for itself; therefore, no response is required.

25. The allegations in Paragraph 25 of the Complaint refer to a document that speaks for itself; therefore, no response is required.

26. Wells Fargo admits that on August 15, 2023, it received a copy of the document that is attached as Exhibit 3 to the Complaint. Wells Fargo further admits that Plaintiff requested access to the funds. Wells Fargo denies the remaining allegations in Paragraph 26 of the Complaint.

27. Wells Fargo denies the allegations in Paragraph 27 of the Complaint.

28. Wells Fargo denies the allegations in Paragraph 28 of the Complaint.

29. Wells Fargo denies the allegations in Paragraph 29 of the Complaint.

30. Wells Fargo denies all allegations in Paragraph 30 regarding Wells Fargo's conduct. The remaining allegations in Paragraph 30 reference public records that speak for itself; therefore, no response is required.

31. The allegations contained in Paragraph 31 reference public records that speak for itself; therefore, no response is required.

32. The allegations contained in Paragraph 32 reference public records that speak for itself; therefore, no response is required. To the extent a response is required, denied.

33. The allegations contained in Paragraph 33 reference public records that speak for itself; therefore, no response is required. To the extent a response is required, denied.

**FIRST CLAIM FOR RELIEF**  
**(Declaratory Judgment)**

34. Wells Fargo references and incorporates, as if fully set forth herein, its answers to the allegations in Paragraphs 1 through 33 of the Complaint.

35. The allegations in Paragraph 35 of the Complaint constitute a legal conclusion; therefore, no response is required. To the extent a response is required, denied.

36. Wells Fargo admits that Plaintiff contends he is the designated beneficiary of Gwendolyn Parker's retirement account. The remaining allegations in Paragraph 36 refer to a document which speaks for itself; therefore, no response is required.

37. Wells Fargo denies the allegations in Paragraph 37 of the Complaint.

38. The allegations in Paragraph 38 of the Complaint constitute a legal conclusion; therefore, no response is required. To the extent a response is required, denied.

**SECOND CLAIM FOR RELIEF**  
**(Conversion)**

39. Wells Fargo references and incorporates, as if fully set forth herein, its answers to the allegations in Paragraphs 1 through 38 of the Complaint.

40. The allegations in Paragraph 40 of the Complaint constitute a legal conclusion; therefore, no response is required. To the extent a response is required, denied.

41. The allegations in Paragraph 41 of the Complaint constitute a legal conclusion; therefore, no response is required. To the extent a response is required, denied.

42. The allegations in Paragraph 42 (and subparts a-c) of the Complaint constitute a legal conclusion; therefore, no response is required. To the extent a response is required, denied.

43. The allegations in Paragraph 43 of the Complaint constitute a legal conclusion; therefore, no response is required. To the extent a response is required, denied.

**THIRD CLAIM FOR RELIEF**  
**(Unjust Enrichment)**

44. Wells Fargo references and incorporates, as if fully set forth herein, its answers to the allegations in Paragraphs 1 through 43 of the Complaint and Demand for jury trial.

45. The allegations in Paragraph 45 of the Complaint constitute a legal conclusion; therefore, no response is required. To the extent a response is required, denied.

46. The allegations in Paragraph 46 of the Complaint constitute a legal conclusion; therefore, no response is required. To the extent a response is required, denied.

47. The allegations in Paragraph 47 of the Complaint constitute a legal conclusion; therefore, no response is required. To the extent a response is required, denied.

48. The allegations in Paragraph 48 of the Complaint constitute a legal conclusion; therefore, no response is required. To the extent a response is required, denied.

**FOURTH CLAIM FOR RELIEF**  
**(Unfair and Deceptive Trade Practices)**

49. Wells Fargo references and incorporates, as if fully set forth herein, its answers to the allegations in Paragraphs 1 through 48 of the Complaint and Demand for jury trial.

50. The allegations in Paragraph 50 of the Complaint constitute a legal conclusion; therefore, no response is required. To the extent a response is required, denied.

51. The allegations in Paragraph 51 of the Complaint constitute a legal conclusion; therefore, no response is required. To the extent a response is required, denied.

52. The allegations in Paragraph 52 of the Complaint constitute a legal conclusion; therefore, no response is required. To the extent a response is required, denied.

53. The allegations in Paragraph 53 of the Complaint constitute a legal conclusion; therefore, no response is required. To the extent a response is required, denied.

54. The allegations in Paragraph 54 of the Complaint constitute a legal conclusion; therefore, no response is required. To the extent a response is required, denied.

**FIFTH CLAIM FOR RELIEF**  
**(Injunctive Relief)**

55. Wells Fargo references and incorporates, as if fully set forth herein, its answers to the allegations in Paragraphs 1 through 54 of the Complaint and Demand for jury trial.

56. The allegations in Paragraph 56 of the Complaint constitute a legal conclusion; therefore, no response is required. To the extent a response is required, denied.

57. The allegations in Paragraph 57 of the Complaint constitute a legal conclusion; therefore, no response is required. To the extent a response is required, denied.

58. The allegations in Paragraph 58 of the Complaint constitute a legal conclusion; therefore, no response is required. To the extent a response is required, denied.

59. The allegations in Paragraph 59 of the Complaint constitute a legal conclusion; therefore, no response is required. To the extent a response is required, denied.

60. Wells Fargo lacks information or knowledge sufficient to form a belief as to the truth of the allegations in Paragraph 60 of the Complaint and, therefore denies them.

61. The allegations in Paragraph 61 of the Complaint constitute a legal conclusion; therefore, no response is required. To the extent a response is required, denied.

62. Wells Fargo lacks information or knowledge sufficient to form a belief as to the truth of the allegations in Paragraph 62 of the Complaint and, therefore denies them.

63. The allegations in Paragraph 63 of the Complaint constitute a legal conclusion; therefore, no response is required. To the extent a response is required, denied.

64. The allegations in Paragraph 64 of the Complaint constitute a legal conclusion; therefore, no response is required. To the extent a response is required, denied.

65. The allegations in Paragraph 65 of the Complaint constitute a legal conclusion; therefore, no response is required. To the extent a response is required, denied.

#### **ANSWER TO RELIEF REQUESTED**

Wells Fargo denies that Plaintiff is entitled to the relief requested.

#### **WELLS FARGO'S AFFIRMATIVE AND OTHER DEFENSES**

Wells Fargo reserves the right to assert additional affirmative defenses, or to amend its present defenses, as further information becomes available.

#### **FIRST AFFIRMATIVE DEFENSE**

The Complaint as a whole, and each and every purported cause of action contained therein, fails to state a claim for which relief can be granted.

#### **SECOND AFFIRMATIVE DEFENSE**

Plaintiff's claims are barred because they fail to show that any alleged acts or omissions of Wells Fargo caused the injuries or damages alleged by Plaintiffs.

### **THIRD AFFIRMATIVE DEFENSE**

The Complaint as a whole, and each and every purported cause of action alleged therein, is barred because at all times relevant hereto, Wells Fargo conducted itself in conformity with all applicable laws and regulations.

### **FOURTH AFFIRMATIVE DEFENSE**

Plaintiff's Complaint fails, in whole or in part, because Plaintiff has suffered no actual damages as a result of Wells Fargo's alleged violations.

### **FIFTH AFFIRMATIVE DEFENSE**

Plaintiff is barred from recovering the relief requested, in whole or in part, because of Plaintiff's failure to mitigate damages.

### **SIXTH AFFIRMATIVE DEFENSE**

The Complaint as a whole, and each and every purported cause of action alleged therein, is barred because this Court does not have jurisdiction over the parties' dispute because the parties' dispute is subject to arbitration.

WHEREFORE, Wells Fargo Bank, N.A., by its undersigned counsel, respectfully submits this Answer and Affirmative Defenses to the Verified Complaint filed by Plaintiff, denies any legal liability to Plaintiff, asserts various affirmative defenses, and respectfully prays:

1. That the Court enter judgment in its favor and award it its reasonable attorneys' fees;

2. That Plaintiff have and recover nothing from Wells Fargo and that Plaintiff's claims be dismissed with prejudice; and

3. That the Court enter such other and further relief as the Court may deem just and proper.

Dated: October 3, 2023

Respectfully submitted,

/s/ Jasmine K. Gardner

Jasmine K. Gardner (N.C. Bar No. 47853)

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***Counsel for Wells Fargo Bank, N.A.***

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on October 3, 2023, a copy of the foregoing Answer and Defenses to Verified Complaint were served via the CM/ECF System on all counsel of record.

*/s/ Jasmine K. Gardner*

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Jasmine K. Gardner