

**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**

**REPLY**

Wells Fargo destroyed Ethan Parker’s financial life, seizing all of the money in his bank account based on unfounded allegations of fraud (an act that Wells Fargo’s former CEO concedes was a *per se* unfair trade practice(see Doc 1, Exh. 5 at 1)). Mr. Parker was forced to come to this Court in a desperate attempt to get Wells Fargo to return over \$200,000 in funds and avoid losing his mother’s home to foreclosure. He has set forth compelling evidence that Wells Fargo acted wrongfully, and that the funds it seized have always belonged to him.

Wells Fargo’s response? It can only be described as the “Wimpy defense.” Like the character in old Popeye cartoons who says, “I will gladly pay you Tuesday for a hamburger today,” Wells Fargo says, “Wells Fargo is in the process of issuing Parker a check for the total value of the funds and

expects that Parker will receive that check within the next two and a half weeks.” Doc 16 at 2. In other words, “we will gladly return in October 2023 the funds we seized in October 2022.”

This is wrong. There is no other word for it.

Ethan Parker set out a detailed explanation for why Wells Fargo acted improperly and why he will ultimately succeed with his Unfair and Deceptive Trade Practices claim against the bank (which the bank insists will happen in arbitration and not before this court).<sup>1</sup> (Doc. 5) Wells Fargo responded with no evidence and offered no defense, not in its response to this motion (Doc. 16), not in its answer (Doc. 12).

This motion is *not* moot. Ethan Parker does not have his money, his house still faces foreclosure, and all the evidence presented to this Court shows that Wells Fargo acted recklessly and wrongfully. An injunction is necessary because a court order finding that these funds belong to Ethan Parker is the only way to ensure that Wells Fargo follows through with

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<sup>1</sup> Under Rule 37(d) of the AAA Consumer Rules: “A party to an arbitration agreement under these Rules may instead file in state or federal court for interim relief. Applying to the court for this type of relief, including temporary restraining orders, is consistent with the agreement to arbitrate ....” So, even if this case does end up in arbitration, the relief sought in this motion is still appropriate.

turning this money over. It will also ensure that Wells Fargo does not make any attempt to claw this money back.

“The purpose of a preliminary injunction is merely to preserve the relative positions of the parties until a trial on the merits can be held.” *Univ. of Tex. v. Camenisch*, 451 U.S. 390, 395 (1981). This injunction (which is prohibitory, not mandatory as Wells Fargo claims) asks that the Court prohibit Wells Fargo from holding Mr. Parker’s funds. Wells Fargo’s claim that it will release the funds at some point in the future and is “diligently working” to issue a check (Doc. 16, Exh. 1 at 1), does not eliminate the need for an injunction. Wells Fargo has to be prohibited from attempting to hold the funds. An injunction would prevent Wells Fargo from giving Mr. Parker the funds three weeks from now and then attempting to claw them back if the injunction is denied. An injunction is moot once it is “fully and *irrevocably* carried out.” *Id.* at 398 (emphasis added). Wells Fargo’s future return of the fund does not fully resolve this matter, and is far from “irrevocable.”

This Court needs to find that Mr. Parker is likely to succeed and issue this injunction, which Wells Fargo has already indicated it will comply with.

Dated: October 6, 2023

**J.C. WHITE LAW GROUP PLLC**

/s/ James C. White

James C. White, N.C. Bar # 31859

Jonathan T. Dickerson, N.C. Bar # 57871

100 Europa Drive, Suite 401

Chapel Hill, NC 27517

[jwhite@jcwhitelaw.com](mailto:jwhite@jcwhitelaw.com)

[jdickerson@jcwhitelaw.com](mailto:jdickerson@jcwhitelaw.com)

(919) 246-4676

(919) 246-9113 fax

*Attorneys for Plaintiff Ethan Parker*

**CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.3**

Pursuant to Rule 7.3(d) of the Local Rules of the United States District Court for the Middle District of North Carolina, I hereby certify that this document complies with LR 7.3(d) because it contains less than 3,125 words, exclusive of the caption, signature blocks, certificates, cover page, and indices. I further certify that this document was prepared using Microsoft Word and uses the 13-point proportional font Century Schoolbook.

Dated: October 6, 2023

/s/ James C. White