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12 **Applications for pro hac vice forthcoming*

13
 14 UNITED STATES DISTRICT COURT
 15 DISTRICT OF NEVADA

16 JORGE HERNANDEZ CASTRO, an
 17 individual, on behalf of himself and all
 18 others similarly situated,

Plaintiff,

19 vs.

20 ONE NEVADA CREDIT UNION,
 21

Defendant.

Case No.: 2:22-cv-01563

**COMPLAINT FOR VIOLATIONS OF 42
 U.S.C. § 1981; INJUNCTIVE AND
 DECLARATORY RELIEF AND
 DAMAGES**

CLASS ACTION

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1 Plaintiff Jorge Hernandez Castro (“Plaintiff” or “Hernandez”), individually and on behalf
2 of all others similarly situated, by his attorneys brings the following allegations, based upon
3 information and belief, against Defendant One Nevada Credit Union (“Defendant” or “One
4 Nevada”):

5 **INTRODUCTION**

6 1. Defendant One Nevada follows a policy of denying full access to credit products
7 and membership to applicants who are not United States citizens or lawful permanent residents.

8 2. Plaintiff and members of the Classes he seeks to represent were and are unable to
9 access Defendant’s credit products and were and are unable to obtain membership without
10 unequal conditions imposed upon them based on their alienage. Plaintiff brings this case against
11 One Nevada for unlawful discrimination based on alienage in violation of 42 U.S.C. § 1981
12 (“Section 1981”).

13 **JURISDICTION AND VENUE**

14 3. This Court has subject matter jurisdiction over Plaintiff’s Section 1981 claims
15 under 28 U.S.C. § 1331, 28 U.S.C § 1343(a)(3) and (4), and 28 U.S.C. § 1357.

16 4. This court has jurisdiction under 28 U.S.C. §§ 2201 and 2202, the Declaratory
17 Judgments Act, and Federal Rules of Civil Procedure 57 to grant the declaratory and injunctive
18 relief requested by Plaintiffs.

19 5. Venue is proper in this district under 28 U.S.C. §§ 1391(b)(1) and (2) because
20 One Nevada is headquartered in Nevada and a substantial part of the events giving rise to the
21 claims occurred in this district.

22 **PARTIES**

23 **Plaintiff**

24 6. Plaintiff Jorge Hernandez Castro is a resident of Las Vegas, Nevada and has been
25 a DACA recipient since 2012. As a DACA recipient, Plaintiff Hernandez is authorized to work
26 in the United States and has a Social Security Number. Plaintiff Hernandez resided in Las Vegas
27

1 on the date that he applied for membership with Defendant and on the date that he applied for an
2 auto loan with Defendant and was unlawfully denied.

3 7. Plaintiff and members of the Classes he seeks to represent were subjected to the
4 violations described in this Complaint.

5 **Defendant**

6 8. Defendant One Nevada is a member-owned credit union that serves Nevada.

7 9. One Nevada is headquartered in Las Vegas, Nevada and maintains twelve
8 locations in Clark, Nye, and Washoe counties.

9 10. Membership is available to those who live, work, worship, or attend school in
10 Clark, Nye, or Washoe counties. Other individuals can apply for membership, banking services,
11 and products if they are an immediate family member of a current member at the credit union.

12 11. One Nevada offers consumers a range of financial and credit products, including
13 savings and checking accounts, personal loans, auto loans, home equity loans, and investments.

14 **STATEMENT OF FACTS**

15 12. This action is brought on behalf of Plaintiff and members of the proposed Plaintiff
16 Classes. These classes seek damages, declaratory and injunctive relief.

17 **Plaintiff Hernandez**

18 13. Plaintiff Hernandez is a recipient of DACA, and has been since 2012. Since that
19 time, he has continuously possessed an employment authorization card and a Social Security
20 Number. Plaintiff Hernandez has worked as a senior architectural designer at an architectural
21 firm in Las Vegas, as well as an instructor at the University of Nevada, Las Vegas.

22 14. On or around July 15, 2022, Plaintiff Hernandez applied for a \$35,000 auto loan
23 at a One Nevada branch location. The representative told Plaintiff Hernandez that he must be a
24 resident of Nevada to become a member of the credit union.

25 15. As part of the application and membership process, Plaintiff Hernandez submitted
26 his Nevada driver's license for identification purposes and informed the representative that he
27 had a work permit. At the time of his application, he had a FICO score of 778.

1 16. On or around July 15, 2022, Plaintiff Hernandez was denied an auto loan and
2 membership to the credit union. He was given the application number 524356.

3 17. According to an Experian credit report, following the denial, his FICO score
4 dropped to 758. The credit report also shows that, since 2020, Plaintiff Hernandez has had four
5 credit inquiries, including the inquiry conducted by One Nevada.

6 18. A few days later, One Nevada sent Plaintiff Hernandez a “Statement of Credit
7 Denial, Termination or Change.” Under “the principal reason(s) for the above credit decision(s)”
8 the “other” box is marked as “We do not grant credit to any applicant on the terms and
9 conditions you requested.”

10 19. The reverse-side of the statement shows that two other boxes are marked,
11 indicating that Plaintiff Hernandez was denied because of his credit score and number of credit
12 inquiries.

13 20. On or around July 25, 2022, Plaintiff Hernandez emailed Briana Jackson, a
14 representative at the credit union with whom he had previously been communicating about his
15 application, to confirm whether he was denied because of his “citizenship eligibility.”

16 21. On or around July 26, 2022, Jackson emailed him that the credit union was
17 “unable to go forward with your application because you stated that your social security card
18 says ‘For Work Purposes Only.’ Unfortunately, due to the Credit Union’s policy, we cannot
19 fund loans to members that do not have a valid security card.” Under the membership agreement
20 posted on One Nevada’s website, One Nevada provides memberships only to those who “have a
21 valid Social Security Number (SSN) or Tax Identification Number (TIN).”

22 22. Plaintiff Hernandez suffered harm as a result of One Nevada’s denial of
23 membership and of his loan application because of his alienage. One Nevada’s denial of his
24 application caused Plaintiff Hernandez to suffer damages, including compensatory damages,
25 emotional distress, and negative effects on his credit score.

26 23. One Nevada’s denial of his application caused Plaintiff Hernandez to feel the
27 deleterious effects of discrimination.

1 **One Nevada's Policies Are Unlawful and Harmed Plaintiffs**

2 24. One Nevada's denial of credit services and membership because of its limited and
3 arbitrary alienage requirement is a violation of 42 U.S.C. § 1981.

4 25. There is an actual and substantial controversy between Plaintiff and One Nevada.

5 **CLASS ACTION ALLEGATIONS**

6 26. Plaintiff incorporates by reference the allegations raised in all preceding
7 paragraphs.

8 27. Plaintiff brings this action on behalf of himself and all others similarly situated
9 under Rule 23 of the Federal Rules of Civil Procedure.

10 28. Plaintiff seeks to represent the following Credit Denial Class, composed of, and
11 defined as follows:

12 Persons with Social Security Numbers who attempted to apply for a loan
13 or credit product from One Nevada but were denied full and equal
14 consideration by One Nevada based on their alienage.

15 29. Plaintiff also seeks to represent the following Membership Class, composed of,
16 and defined as follows:

17 Persons with Social Security Numbers who attempted to apply for
18 membership from One Nevada but were denied full and equal
19 consideration by One Nevada based on their alienage.

20 30. Plaintiff may amend the above class definitions as permitted or required by this
21 Court. This action has been brought and may be properly maintained as a class action under the
22 provisions of Rule 23 of the Federal Rules of Civil Procedure because all of the prerequisites for
23 class treatment are met.

24 **Rule 23(a)(1) – Numerosity**

25 31. The potential members of the Credit Denial Class and Membership Class as
26 defined are so numerous that joinder is impracticable.
27

1 32. On information and belief, Defendant's records will provide information as to the
2 number and location of the Credit Denial Class and Membership Class, which will allow the
3 classes to be ascertained.

4 **Rule 23(a)(2) – Common Questions of Law and Fact**

5 33. There are questions of law and fact common to the Classes predominating over
6 any questions affecting only Plaintiff or any other individual Class Members.

7 34. These common questions of law and fact include, without limitation:

8 a. Whether it is One Nevada's policy to reject applicants for credit products and
9 membership because they are not U.S. citizens or lawful permanent residents.

10 b. Whether One Nevada violated 42 U.S.C. § 1981 by denying the full and equal
11 right to contract to Plaintiff and members of the Credit Denial Class based on alienage.

12 c. Whether One Nevada violated 42 U.S.C. § 1981 by denying membership to
13 Plaintiff and members of the Membership Class based on alienage.

14 d. Whether Plaintiff and the Class Members are entitled to declaratory, injunctive,
15 and other equitable relief; and

16 e. Whether Plaintiff and the Class Members are entitled to damages and any other
17 available relief.

18 **Rule 23(a)(3) – Typicality**

19 35. The claims of the named Plaintiff are typical of the claims of the Classes.
20 Plaintiff and all Class Members sustained injuries and damages arising out of and caused by
21 Defendant's common course of conduct and common policies in violation of federal law,
22 regulations, and statutes as alleged here.

23 **Rule 23(a)(4) – Adequacy of Representation**

24 36. Plaintiff will fairly and adequately represent and protect the interests of the Class
25 Members in each class.

26 37. Plaintiff has retained counsel competent and experienced in complex litigation
27 and discrimination class actions.

1 **Rule 23(b)(2) – Declaratory, Equitable, and Injunctive Relief**

2 38. Class certification is appropriate because One Nevada has acted and/or refused to
3 act on grounds generally applicable to the Credit Denial Class and to the Membership Class.
4 One Nevada’s actions make declaratory, equitable, and injunctive relief appropriate with respect
5 to Plaintiff and the Class Members in each class as a whole.

6 39. One Nevada excludes Class Members in the Credit Denial Class and in the
7 Membership Class outright from banking products and services and membership based on
8 alienage. The Class Members of the Credit Denial Class and the Membership Class are entitled
9 to declaratory, equitable, and injunctive relief to end One Nevada’s common, unfair, and
10 discriminatory policies.

11 **Rule 23(b)(3) – Superiority of Class Action**

12 40. A class action is superior to other available means for the fair and efficient
13 adjudication of this controversy. Individual joinder of all Class Members is not practicable, and
14 questions of law and fact common to the Class predominate over any questions affecting only
15 individual Class Members. Each member of the proposed Classes has been damaged and is
16 entitled to recovery by reason of Defendant’s unlawful policies and practices of discriminating
17 based on immigration status and denying full and equal access to Defendant’s services.

18 41. No other litigation concerning this controversy has been commenced by Class
19 Members.

20 42. Class action treatment will allow those similarly-situated persons to litigate their
21 claims in the manner that is most efficient and economical for the parties and the judicial system.
22 It is unlikely that Class Members have any interest in individually controlling separate actions in
23 this case. The Class Members have been damaged and are entitled to recovery of other damages
24 because of One Nevada’s discriminatory policies. Damages are capable of measurement on a
25 class-wide basis. Plaintiff and Class Members will rely on common evidence to resolve their
26 legal and factual questions, including the applicable membership and banking policies and
27 practices in the relevant period.

1 43. Plaintiff is unaware of any difficulties that are likely to be encountered in the
2 management of this action that would preclude its maintenance as a class action. The benefits of
3 maintaining this action on a class basis far outweigh any administrative burden in managing the
4 class action. Conducting the case as a class action would be far less burdensome than
5 prosecuting numerous individual actions.

6 **CLAIM FOR RELIEF**
7 **Alienage Discrimination**
8 **(42 U.S.C. § 1981)**

9 44. Plaintiff incorporates by reference the allegations raised in all preceding
10 paragraphs.

11 45. Plaintiff brings this claim on his own behalf and on behalf of the Credit Denial
12 Class and the Membership Class.

13 46. Plaintiff and Class Members are persons within the jurisdiction of the United
14 States.

15 47. Plaintiff and Class Members are non-citizens.

16 48. Plaintiff and Class Members have the right to make and enforce contracts in the
17 United States and are entitled to the full and equal benefits of the law.

18 49. Defendant conducts business in the United States and, as such, is obligated to
19 comply with the provisions of 42 U.S.C. § 1981.

20 50. Defendant intentionally discriminated against Plaintiff and Class Members based
21 on their alienage by denying them the opportunity to become members of the credit union and
22 acquire the credit union's financial services.

23 51. Defendant intentionally discriminated against Plaintiff and Class Members based
24 on their alienage by interfering with their right to make and enforce contracts for credit products.

25 52. Plaintiff and Class Members have no plain, adequate, or complete remedy at law
26 to redress the wrongs alleged here. Plaintiff and Class Members request that the Court issue a
27 permanent injunction ordering Defendant to alter its membership and banking policies and
28 practices to prevent further violations on the basis of alienage.

1 53. Plaintiff and Class Members are now suffering, and will continue to suffer,
2 irreparable injury from One Nevada's discriminatory acts and omissions.

3
4 **PRAYER FOR RELIEF**

5 **WHEREFORE**, Plaintiff and the Classes he seeks to represent pray for relief as follows:

- 6 i. Certification of the case as a class action on behalf of the proposed Class
7 Members in the Credit Denial Class and the Membership Class;
- 8 ii. Designation of Plaintiff as class representative on behalf of the Credit Denial
9 Class and the Membership Class;
- 10 iii. Designation of Plaintiff's counsel of record as Class Counsel;
- 11 iv. That this Court issue a declaratory judgment that Defendant's policies and
12 practices complained of are unlawful and violate 42 U.S.C. § 1981;
- 13 v. A preliminary and permanent injunction against Defendant and its officers,
14 agents, successors, employees, representatives, and any and all persons acting in
15 concert with them, from engaging in each of the unlawful policies and practices
16 set forth;
- 17 vi. That this Court award statutory and compensatory damages to Plaintiff and the
18 Class Members in an amount to be determined at trial;
- 19 vii. That this court award to Plaintiff and Class Members reasonable attorneys' fees
20 and costs to the extent allowable by law; and
- 21 viii. For such other and further relief as the Court deems just and proper.
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1 Dated: September 16, 2022

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3 Respectfully submitted,

MEXICAN AMERICAN LEGAL DEFENSE
AND EDUCATIONAL FUND

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/s/ Luis L. Lozada

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Luis L. Lozada

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