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1 2 3 4 5 6 7 8	Thomas A. Saenz (Cal. Bar No. 159430) Eduardo Casas (Cal. Bar No. 346859) MEXICAN AMERICAN LEGAL DEFENSE AND EDUCATIONAL FUND 634 South Spring Street, 11 th Floor Los Angeles, CA 90014 Telephone: (213) 629-2512 Facsimile: (213) 629-0266 Email: tsaenz@maldef.org ecasas@maldef.org Attorneys for Plaintiff and the Proposed Class		
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10	UNITED STATES DISTRICT COURT		
11	NORTHERN DISTRICT OF CALIFORNIA OAKLAND DIVISION		
12			
13	ISMAEL ANTONIO RODRIGUEZ PEREZ, on behalf of himself and all others	Case No.:	
14	similarly situated,	COMPLAINT FOR VIOLATIONS OF 42 U.S.C. § 1981 AND CALIFORNIA	
15	Plaintiff, vs.	STATE LAW; INJUNCTIVE AND DECLARATORY RELIEF AND	
16		DAMAGES	
17	FIRST TECHNOLOGY FEDERAL CREDIT UNION,	CLASS ACTION	
18	Defendant.		
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Plaintiff Ismael Antonio Rodriguez Perez ("Plaintiff" or "Plaintiff Perez"), individually
 and on behalf of all others similarly situated, by his attorneys makes the following allegations,
 based upon information and belief, against Defendant First Technology Federal Credit Union
 ("Defendant" or "First Tech"):

INTRODUCTION

Defendant First Tech follows a policy of denying full access to loan products and
 services, in addition to other banking products and services, to applicants on the basis of their
 immigration status or alienage, including those who have Deferred Action for Childhood
 Arrivals ("DACA") status.

Plaintiff Perez and members of the Class he seeks to represent were and are
 unable to access Defendant's financial services because of their immigration status or alienage.
 Plaintiff brings this case against First Tech for unlawful discrimination in violation of the Civil
 Rights Act of 1866, as codified by 42 U.S.C. § 1981 ("Section 1981"), and the Unruh Civil
 Rights Act ("Unruh Act"), as codified by California Civil Code §§ 51, *et seq.*

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction over Plaintiff's Section 1981 claims
under 28 U.S.C. § 1331. This Court has supplemental jurisdiction over Plaintiff's state law
claims under 28 U.S.C. § 1367.

19 4. This Court is empowered to issue a declaratory judgment by 28 U.S.C. §§ 2201
20 and 2202.

5. Venue is proper in this district under 28 U.S.C. § 1391(b)(2) because a substantial
part of the events giving rise to the claims occurred in this district.

6. <u>Divisional Assignment</u>: Under N.D. Cal. Local Rule 3-2(c), intradistrict
assignment to the Oakland Division is proper because a substantial part of the events or
omissions giving rise to the claim occurred in Alameda County.

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1	PARTIES	
2	<u>Plaintiff</u>	
3	7.	Perez is a resident of Oakland, California and has been a DACA recipient since
4	2012. As par	rt of the DACA initiative, Perez received authorization to work in the United States
5	and a Social	Security Number. Perez resided in Oakland on the date that he applied for a Home
6	Equity Line of	of Credit ("HELOC") from Defendant and was unlawfully denied.
7	8.	Defendant subjected Perez and members of the Class he seeks to represent to
8	discriminatio	n in violation of federal and state law as described in this Complaint.
9	<u>Defendant</u>	
10	9.	Defendant is a member-owned and federally chartered credit union headquartered
11	in San Jose, G	California.
12	10.	Defendant maintains a business and mailing office at 2702 Orchard Pkwy, San
13	Jose, CA 95134-2012.	
14	11.	Defendant offers consumers a range of financial and credit products, including
15	retail banking	g services, business and life insurance products, personal loans, auto loans, credit
16	cards, and home loans.	
17		STATEMENT OF FACTS
18	12.	Perez brings this action on behalf of himself and members of the proposed
19	Plaintiff Clas	s. The class seeks damages, declaratory judgment, and injunctive relief.
20	13.	Perez is a recipient of DACA and has been since 2012. Since that time, He has
21	continuously	possessed an employment authorization card and Social Security Number.
22	14.	Perez graduated from Oregon State University in 2018 with a PhD in Materials
23	Chemistry an	d Philosophy. Perez subsequently accepted a postdoctoral fellowship at Pacific
24	Northwest National Laboratory in Washington and shortly after purchased a home there. Perez	
25	relocated to (Dakland in 2021 to pursue professional opportunities.
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1 15. In or around June 2022, Perez applied for a HELOC on his home in Washington
 with First Tech. Although First Tech requires loan applicants to be members of the credit union,
 and Perez was not a member, he qualified for membership because one of his relatives was a
 First Tech member.

5 16. On June 8, 2022, a First Tech loan officer, Eric Finster ("Finster"), contacted
6 Perez and requested various documents regarding credit, income, insurance, and legal residency.
7 The following day Finster asked Perez to upload his legal residency card which, he claimed was
8 required because Perez had marked his citizenship status as "Permanent Resident."

9 17. On June 21, 2022, Perez sent Finster his legal work permit stating that it allowed
10 him to be lawfully present in the United States. Finster accepted it for the purpose of proceeding
11 with the application and submitted Perez's application for underwriting review.

12 18. On June 23, 2022, Finster sent an email to Perez indicating that he had "great
13 news!" because Perez's loan was reviewed and conditionally approved by the underwriting team.
14 Perez then received an email from another First Tech loan processor, Christopher Scott ("Scott"),
15 on July 6th. Scott's email reiterated the "great news" about Perez's conditional approval and
16 requested several documents including, a copy of Perez's "current/unexpired Permanent
17 Resident Card."

18 19. On July 19, 2022, Scott informed Perez that the underwriter had conditioned approval on Perez having a "Permanent Residence/Green card." Perez told him that he did not 19 20 have a green card, to which Scott replied by seeking Perez's approval to change his citizenship status on the loan application from "permanent resident alien" to "non-permanent resident alien." 21 22 Perez reiterated that he did not have a visa, only work authorization. Scott then requested an I-94 23 from Perez, which Perez said he had but that it was expired. Perez said that this left his 24 employment authorization card (EAD) as the only applicable document and that he had 25 previously used it to purchase his home, obtained employment, and opened various bank and 26 retirement accounts. Scott told Perez that for the underwriting team neither an EAD nor an I-94 27 would be sufficient on its own.

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1	20. On July 28, 2022, Scott emailed Perez to inform him that they would not extend		
2	him the loan because DACA recipients are ineligible for such loans under Fannie Mae		
3	guidelines. Scott also told Perez that there was an issue because his updated rent liability put his		
4	debt-to-income ratio at 75% percent. Perez asked Scott to revisit the Fannie Mae guidelines and		
5	clarified that he had a roommate so his monthly liability for rent was less than what was listed.		
6	Perez also asked Scott whether he could nonetheless qualify for a smaller loan.		
7	21. On August 1, 2022, Scott replied that, under Fannie Mae guidelines, there were		
8	some situations where DACA recipients are eligible but that unfortunately, "First Tech		
9	guidelines did not allow for this type of status." Scott further indicated that their underwriter still		
10	recommended that they decline his application. Scott never acknowledged Perez's inquiry		
11	regarding eligibility for a smaller loan. Perez was officially denied two hours later. Under the		
12	section listing the principal reasons for denial, Defendant selected two boxes. One was for		
13	"excessive obligations" with a check next to a subcategory for "insufficient income for total		
14	obligations." The other box checked stated "unable to verify residency." Defendant never		
15	extended Perez membership in the alternative.		
16	22. First Tech's denial of Perez's application because of its limited and arbitrary		
17	immigration-status requirement violates 42 U.S.C. § 1981.		
18	23. First Tech's denial of Perez's application because of his immigration status		
19	violates the California Unruh Civil Rights Act.		
20	24. There is an actual and substantial controversy between Perez and First Tech.		
21	CLASS ACTION ALLEGATIONS		
22	25. Plaintiff Perez incorporates by reference the allegations in all preceding		
23	paragraphs.		
24	26. Plaintiff Perez brings this action on behalf of himself and all others similarly		
25	situated under Rule 23 of the Federal Rules of Civil Procedure as a nationwide class.		
26	27. Plaintiff Perez seeks to represent the following nationwide Class ("National		
27	Class"), composed of, and defined, as follows:		
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	CLASS ACTION COMPLAINT		

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1 2 3 4 5 6 7 8	 All persons who resided in the United States at the relevant time they applied for or attempted to apply for a financial product from First Tech but were denied full and equal consideration by First Tech on the basis of alienage. 28. Plaintiff Perez additionally brings class allegations on behalf of a California Subclass composed of and defined as follows: All persons who resided in California at the relevant time they applied for or attempted to apply for a financial product from First Tech but were denied full and equal consideration by First Tech on the basis of their immigration status. 		
	29. Plaintiff Perez may amend the above class definitions as this Court may permit or		
9	require. This action has been brought and may be properly maintained as a class action under the		
10	provisions of Rule 23 of the Federal Rules of Civil Procedure because all of the prerequisites for		
11 12	class treatment are met.		
12	Rule 23(a)(1) – Numerosity		
13	30. The potential members of the above National Class and California Subclass as		
15	defined are so numerous that joinder is impracticable.		
16	31. On information and belief, Defendant's records contain information as to the		
17	number and location of the National Class and California Subclass members that would allow the		
18	class to be ascertained.		
19	Rule 23(a)(2) – Common Questions of Law and Fact		
20	32. There are questions of law and fact common to the Class predominating over any		
21	questions affecting only Plaintiff Perez or any other individual Class Members. These common		
22	questions of law and fact include, without limitation:		
23	a. Whether it is First Tech's policy or practice to reject applicants for financial		
24	products on the basis of immigration status;		
25	b. Whether First Tech violated 42 U.S.C. § 1981 by denying the full and equal right		
26	to contract to Plaintiff Perez and the National Class on the basis of alienage;		
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1	с.	Whether First Tech violated the California Unruh Civil Rights Act by denying full
2	and equal acce	ess to its services to Plaintiff Perez and the California Subclass on the basis of
3	immigration s	tatus;
4	d.	Whether Plaintiff Perez and the Class Members are entitled to declaratory,
5	injunctive, and	d other equitable relief; and
6	e.	Whether Plaintiff Perez and the Class Members are entitled to damages and any
7	other available	e relief.
8	Rule 23(a)(3)	– Typicality
9	33.	The claims of the named Plaintiff are typical of the claims of the Class. Plaintiff
10	Perez and all	Class Members sustained injuries and damages arising out of and caused by
11	Defendant's c	ommon course of conduct and common policies in violation of federal and
12	California law	ys, regulations, and statutes as alleged here.
13	Rule 23(a)(4)	– Adequacy of Representation
14	34.	Plaintiff Perez will fairly and adequately represent and protect the interests of the
15	Class Member	rs.
16	35.	Plaintiff Perez has retained counsel competent and experienced in complex
17	litigation and	discrimination class actions.
18	Rule 23(b)(2)	– Declaratory, Equitable, and Injunctive Relief
19	36.	Class certification is appropriate because First Tech has acted and/or refused to
20	act on grounds	s generally applicable to the members of the National Class and California
21	Subclass. Firs	st Tech's actions make appropriate declaratory, equitable, and injunctive relief with
22	respect to Plai	ntiff and the Class Members as a whole.
23	37.	First Tech excludes Class Members in the National Class and California Subclass
24	outright from	banking products and services on the basis of alienage and/or immigration status.
25	The Class Me	mbers of the National Class and California Subclass are entitled to declaratory,
26	equitable, and	injunctive relief to end First Tech's common, unfair, and discriminatory policies.
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		CLASS ACTION COMPLAINT

1 Rule 23(b)(3) – Superiority of Class Action

2	38. A class action is superior to other available means for the fair and efficient		
3	adjudication of this controversy. Individual joinder of all Class Members is not practicable, and		
4	questions of law and fact common to the Class predominate over any questions affecting only		
5	individual Class Members. Each member of the proposed Class has been damaged and is		
6	entitled to recovery by reason of Defendant's unlawful policies and practices of discriminating		
7	on the basis of immigration status and denying full and equal access to Defendant's services.		
8	39. No other litigation concerning this controversy has been commenced by or against		
9	Class Members.		
10	40. Class action treatment will allow similarly-situated persons to litigate their claims		
11	in the manner that is most efficient and economical for the parties and the judicial system. It is		
12	unlikely that individual Class Members have any interest in individually controlling separate		
13	actions in this case. Under the Unruh Civil Rights Act, Class Members have been damaged and		
14	are entitled to recovery of damages and statutory penalties because of First Tech's discriminatory		
15	policies. Damages are capable of measurement on a class-wide basis. Plaintiff Perez and Class		
16	Members will rely on common evidence to resolve their legal and factual questions, including		
17	the applicable policies and practices in the relevant period.		
18	41. Plaintiff is unaware of any difficulties that are likely to be encountered in the		
19	management of this action that would preclude its maintenance as a class action. The benefits of		
20	maintaining this action on a class basis far outweigh any administrative burden in managing the		
21	class action. Conducting the case as a class action would be far less burdensome than		
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23	FIRST CLAIM FOR RELIEF Alienage Discrimination		
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26	paragraphs.		
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	CLASS ACTION COMPLAINT		

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1	43.	Plaintiff Perez brings this claim on his own behalf and on behalf of the National
2	Class.	
3	44.	Plaintiff and Class Members are persons within the jurisdiction of the United
4	States.	
5	45.	Plaintiff and Class Members are aliens.
6	46.	Plaintiff and Class Members have the right to make and enforce contracts in the
7	United States	and are entitled to the full and equal benefits of the law.
8	47.	Defendant conducts business in the United States and is obligated to comply with
9	the provisions	s of 42 U.S.C. § 1981.
10	48.	Defendant intentionally discriminated against Plaintiff Perez and members of the
11	Class on the b	asis of alienage by denying them access to financial products.
12	49.	Defendant intentionally discriminated against Plaintiff and members of the Class
13	by interfering	with their right to make and enforce contracts for financial products on the basis of
14	alienage.	
15	50.	Plaintiff Perez and Class Members have no plain, adequate, or complete remedy
16	at law to redre	ess the wrongs alleged here. Plaintiff Perez and Class Members request that the
17	Court issue a permanent injunction ordering Defendant to alter its policies and practices to	
18	prevent further violations on the basis of alienage.	
19	51.	Plaintiff Perez and Class Members are now suffering, and will continue to suffer,
20		
21		SECOND CLAIM FOR RELIEF Violation of the Unruh Civil Rights Act
22		(California Civil Code §§ 51, et seq.)
23	52.	Plaintiff Perez incorporates by reference the allegations in all preceding
24	paragraphs.	
25	53.	Plaintiff Perez brings this claim on his own behalf and on behalf of the California
26	Subclass.	
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Plaintiff Perez and class members are persons within the jurisdiction of the State of
 California and resided in California at the time of Defendant's discriminatory acts.

3 55. Defendant conducts business within the jurisdiction of the State of California and
4 is therefore obligated to comply with the provisions of the Unruh Act, California Civil Code §§
5 51, *et seq.*

6 56. Plaintiff Perez and class members are entitled to full and equal accommodations,
7 advantages, facilities, privileges, or services in all business establishments of every kind
8 whatsoever no matter their immigration status, and no business establishment of any kind
9 whatsoever may refuse to contract with Plaintiff and class members because of or due in part to
10 their immigration status.

57. Defendant violated the Unruh Civil Rights Act by denying Plaintiff Perez and
members of the California Subclass access to financial products free of discriminatory conditions
imposed on the basis of their immigration status.

14 58. Under Section 52(a) of the Unruh Civil Rights Act, Plaintiff Perez and members
15 of the California Subclass are entitled to actual damages suffered, statutory damages of up to
16 three times the amount of actual damages suffered per violation, but no less than \$4,000, and
17 attorneys' fees.

18 59. Under Section 52(c), Plaintiff Perez requests that this Court issue a permanent
19 injunction ordering Defendant to alter its policies and practices to prevent future discrimination
20 on the basis of an applicant's immigration status and to prevent further violations of the Unruh
21 Civil Rights Act.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Perez and the Class he seeks to represent pray for relief as
follows:
i. Certification of the case as a class action on behalf of the proposed Class

Certification of the case as a class action on behalf of the proposed Class
 Members in the National Class and California Subclass;

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1	ii.	Designation of Plaintiff Perez as the class representative on behalf of the Nation	al
2		Class and California Subclass;	
3	iii.	Designation of Plaintiff's counsel of record as Class Counsel;	
4	iv.	That this Court issue a declaratory judgment that Defendant's policies and	
5		practices complained of here are unlawful and violate 42 U.S.C. § 1981 and the	
6		California Unruh Civil Rights Act;	
7	v.	A preliminary and permanent injunction against Defendant and its officers,	
8		agents, successors, employees, representatives, and any and all persons acting in	L
9		concert with them, from engaging in each of the unlawful policies and practices	
10		set forth herein;	
11	vi.	That this Court award statutory and compensatory damages to Plaintiff and the	
12		Class Members in an amount to be determined at trial;	
13	vii.	That this court award to Plaintiff and Class Members reasonable attorneys' fees	
14		and costs to the extent allowable by law;	
15	viii.	For such other and further relief as the Court deems just and proper.	
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17	Dated: Dece	ember 29, 2023	
18	Deereettalla	y submitted, MEXICAN AMERICAN LEGAL DEFENS	
19	Respectivity	AND EDUCATIONAL FUND	SE
20		/s/ Eduardo Casas	
21		Eduardo Casas Thomas A. Saenz	
22		MEXICAN AMERICAN LEGAL DEFENS	SE
23		AND EDUCATIONAL FUND	
24		Attorneys for Plaintiff and the Proposed Cla	ıss
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