c	ase 2:24-cv-03697	Document 1	Filed 05/03/24	Page 1 of 12	Page ID #:1	
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8	Attorneys for Plai Rogelio Esqueda	ntiff and the Propos	sed Classes			
9		UNITED S	STATES DIS	FRICT COUR	Т	
10	UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA					
11	(WESTERN DIVISION)					
12 13	ROGELIO ESQU	JEDA, on beha thers similarly	alf of Ca	ase No.:		
15	situated,	j			ΓΩΡ ΥΙΩΙ ΑΤΙΩΝ	
14			-	OMPLAINT]	TOK VIOLATION	
14 15	vs.	Plaint	iff, O	F 42 U.S.C. §	1981 AND	
			iff, O C IN	F 42 U.S.C. § ALIFORNIA IJUNCTIVE	1981 AND STATE LAW; AND	
15	vs. KINECTA FEDI UNION,		iff, O C IN Γ D	F 42 U.S.C. § ALIFORNIA IJUNCTIVE	1981 AND STATE LAW;	
15 16 17 18	KINECTA FEDI		iff, O C IN Γ D D dant.	F 42 U.S.C. § ALIFORNIA JUNCTIVE A ECLARATOI	1981 AND STATE LAW; AND RY RELIEF AND	
15 16 17 18 19	KINECTA FEDI	ERAL CREDIT	iff, O C IN Γ D D dant.	F 42 U.S.C. § ALIFORNIA JUNCTIVE A ECLARATOI AMAGES	1981 AND STATE LAW; AND RY RELIEF AND	
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Plaintiff Rogelio Esqueda ("Plaintiff" or "Esqueda"), individually and on
 behalf of all others similarly situated, by his attorneys makes the following
 allegations, based upon information and belief, against Defendant Kinecta Federal
 Credit Union ("Defendant" or "Kinecta"):

INTRODUCTION

Defendant 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").

2. Plaintiff and members of the Classes 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 Kinecta 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.

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

PARTIES

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25 Plaintiff

26 6. Esqueda is a resident of Huntington Park and has been a DACA
27 recipient since 2013. As part of the DACA initiative, Esqueda received a Social

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Security Number and authorization to work in the United States. Esqueda resided
 in Huntington Park on the date that he applied for an auto loan from Defendant and
 was unlawfully denied.

4 7. Defendant subjected Esqueda and members of the Classes he seeks to
5 represent to discrimination in violation of federal and state law as described in this
6 Complaint.

7 Defendant

8 8. Defendant is a member-owned and federally chartered credit union
9 headquartered in Manhattan Beach, California.

9. Defendant maintains a business and mailing office at 1440 Rosecrans
 Avenue, Manhattan Beach, CA 90266.

10. Defendant offers consumers a range of financial and credit products,
including retail banking services, business and insurance products, personal loans,
auto loans, credit cards, and home loans.

15

STATEMENT OF FACTS

16 11. Esqueda brings this action on behalf of himself and members of the
17 proposed Plaintiff Classes. The classes seek damages, declaratory judgment, and
18 injunctive relief.

19 12. Esqueda is a recipient of DACA and has been since 2013. Since that
20 time, he has continuously possessed an employment authorization card and Social
21 Security Number.

13. Esqueda lives in the city of Huntington Park with his wife and three
children. He works in maintenance for an Anaheim-based company that
manufactures electric vehicles, and he earns about \$54,000 a year.

14. In or around October 2023, Esqueda decided that he needed to buy a
more fuel-efficient vehicle to reduce his commuting costs. He hoped to use the
savings to take his family on vacations and other family-bonding activities.

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1 15. On October 5, 2023, Esqueda applied for a \$16,000 auto loan through
 2 Kinecta's website. Although Esqueda was not a member, he qualified for
 3 membership because he lived within one of Kinecta's qualifying zip codes.
 4 Esqueda received an automated email indicating that a loan officer was reviewing
 5 his application because they could not automatically qualify him for his loan
 6 request.

16. 7 On October 6, 2023, Esqueda received an email indicating that 8 Kinecta could not verify his identity, which was needed to open his account online. He received a third email a few hours later congratulating him because Kinecta had 9 processed and approved his loan application. Esqueda received a fourth email 10 from a Kinecta consumer lending specialist, Rosa Bergara ("Bergara"), who 11 worked at Kinecta's Manhattan Beach location. The email reiterated that Esqueda 12 13 was pre-approved for a \$16,000 loan with a 6.99% interest rate, which could be lowered to 6.74% if he set up automatic payments from a Kinecta bank account. 14 The email listed stipulations that needed to be met before proceeding with the loan, 15 which included providing his driver's license, the signed purchase contract, and 16 both sides of his signed social security card. 17

17. 18 Esqueda submitted the requested documents but received no response. He called Bergara a week later and was told that his application was denied 19 20 because he was not a permanent resident. Esqueda's wife, Yadira, went in-person to a Kinecta branch on East Century Blvd. seeking additional information. A 21 Kinecta employee told her that the only way for Esqueda to qualify would be with 22 23 an Individual Taxpayer Identification Number (ITIN). Yadira expressed confusion because Esqueda's social security number was valid. However, the representative 24 insisted that the only option for Esqueda was to use an ITIN so that he could build 25 credit until he could obtain a "real" social security number. 26

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18. Esqueda was not offered membership and never received a written
 notice of credit denial. The loan application asked Esqueda to enter his account
 information from another bank to make a minimum five-dollar deposit, which was
 necessary to open a Kinecta account. However, Esqueda never received a
 welcome notice or login information and was never charged for that amount.
 At the time that Esqueda applied for the loan he had a credit score of

19. At the time that Esqueda applied for the loan he had a credit score of
7 780, but when he checked it again after Kinecta's denial it was 748. Esqueda was
8 ultimately able to secure a loan elsewhere, but on much less favorable terms. The
9 loan he obtained was for \$18,466 with a finance charge of \$6,158 and an interest
10 rate of 9.84%.

20. Esqueda suffered harm as a result of Kinecta's denial of his loan
application because of his alienage. Kinecta's rejection caused Esqueda to suffer
damages, including compensatory damages, emotional distress, and negative
effects on his credit score.

15 21. Kinecta's rejection caused Esqueda to feel the deleterious effects of
16 discrimination.

17 22. Kinecta's denial of Esqueda's application because of its limited and
18 arbitrary immigration-status requirement violates 42 U.S.C. § 1981.

19 23. Kinecta's denial of Esqueda's application because of his immigration
20 status violates the California Unruh Civil Rights Act.

21 24. There is an actual and substantial controversy between Esqueda and
22 Kinecta.

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CLASS ACTION ALLEGATIONS

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24 25. Plaintiff incorporates by reference the allegations in all preceding
25 paragraphs.

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1	1 26. Plaintiff brings this action on behalf of	himself and all others similarly				
2	2 situated under Rule 23 of the Federal Rules of Civil	Procedure as a nationwide				
3	3 class.					
4	4 27. Plaintiff seeks to represent the following	ng nationwide Class ("National				
5	5 Class"), composed of, and defined, as follows:	Class"), composed of, and defined, as follows:				
6 7 8	7 All persons who resided in the United 5 7 they applied for or attempted to appl from Kinecta but were denied full an	y for a financial product				
9	l C	ations on behalf of a California				
10						
11	11					
12	12 All persons who resided in California applied for or attempted to apply for	•				
13 14	13 Kinecta but were denied full and equal	consideration by Kinecta				
15	29 Plaintiff may amend the above class de	finitions as this Court may				
16	$\frac{16}{16}$ permit or require. This action is filed and may be p	roperly maintained as a class				
17	action under the provisions of Rule 23 of the Federa	ll Rules of Civil Procedure				
18	because all of the prerequisites for class treatment are met.					
19	$\frac{\text{Rule 23(a)(1)} - \text{Numerosity}}{19}$					
20	30. The potential members of the above Na	ational Class and California				
21	21 Subclass as defined are so numerous that joinder is	impracticable.				
22	22 31. On information and belief, Defendant's	s records contain information as				
23	$_{23}$ to the number and location of the National Class and	d California Subclass members				
24						
25						
26						
27	27 predominating over any questions affecting only Pla	auntiff or any other individual				
28	286					
	II.	CLASS ACTION COMPLAINT				

Class Members. These common questions of law and fact include, without
 limitation:

a. Whether it is Kinecta's policy or practice to reject applicants for
financial products on the basis of immigration status;

b. Whether Kinecta violated 42 U.S.C. § 1981 by denying the full and
equal right to contract to Plaintiff and the National Class on the basis of alienage;

c. Whether Kinecta violated the California Unruh Civil Rights Act by
denying full and equal access to its services to Plaintiff and the California Subclass
on the basis of immigration status;

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

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

14 **Rule 23(a)(3) – Typicality**

33. The claims of the named Plaintiff are typical of the claims of the
Class. Plaintiff and all Class Members sustained injuries and damages arising out
of and caused by Defendant's common course of conduct and common policies in
violation of federal and California laws, regulations, and statutes as alleged here.

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

20 34. Plaintiff will fairly and adequately represent and protect the interests21 of the Class Members.

22 35. Plaintiff has retained counsel competent and experienced in complex
23 litigation and discrimination class actions.

24 **<u>Rule 23(b)(2) – Declaratory, Equitable, and Injunctive Relief</u>**

36. Class certification is appropriate because Kinecta has acted and/or
refused to act on grounds generally applicable to the members of the National
Class and California Subclass. Kinecta's actions make appropriate declaratory,

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equitable, and injunctive relief with respect to Plaintiff and the Class Members as a
 whole.

3 37. Kinecta excludes Class Members in the National Class and California
4 Subclass outright from banking products and services on the basis of alienage
5 and/or immigration status. The Class Members of the National Class and
6 California Subclass are entitled to declaratory, equitable, and injunctive relief to
7 end Kinecta's common, unfair, and discriminatory policies.

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

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

39. No other litigation concerning this controversy has been commencedby or against Class Members.

40. 18 Class action treatment will allow similarly-situated persons to litigate their claims in the manner that is most efficient and economical for the parties and 19 20the judicial system. It is unlikely that individual Class Members have any interest in individually controlling separate actions in this case. Under the applicable laws, 21 Class Members have been damaged and are entitled to recovery of damages and 22 23 statutory penalties because of Kinecta's discriminatory policies. Damages are capable of measurement on a class-wide basis. Plaintiff and Class Members will 24 rely on common evidence to resolve their legal and factual questions, including the 25 applicable policies and practices in the relevant period. 26

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Plaintiff is unaware of any difficulties that are likely to be 41. 1 encountered in the management of this action that would preclude its maintenance 2 as a class action. The benefits of maintaining this action on a class basis far 3 outweigh any administrative burden in managing the class action. Conducting the 4 case as a class action would be far less burdensome than prosecuting numerous 5 individual actions. 6 FIRST CLAIM FOR RELIEF 7 Alienage Discrimination 8 (42 U.S.C. § 1981) Plaintiff incorporates by reference the allegations in all preceding 42. 9 paragraphs. 10 43. Plaintiff brings this claim on his own behalf and on behalf of the 11

National Class. 12

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

45. Plaintiff and Class Members are aliens.

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

47. Defendant conducts business in the United States and is obligated to 19 comply with the provisions of 42 U.S.C. § 1981. 20

48. Defendant intentionally discriminated against Plaintiff Esqueda and 21 members of the Class on the basis of alienage by denying them access to financial 22 23 products.

Defendant intentionally discriminated against Plaintiff and members 49. 24 of the Class by interfering with their right to make and enforce contracts for 25 financial products on the basis of alienage. 26

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50. Plaintiff and Class Members have no plain, adequate, or complete
 remedy at law to redress the wrongs alleged here. Plaintiff and Class Members
 request that the Court award them damages and issue a permanent injunction
 ordering Defendant to alter its policies and practices to prevent further violations
 on the basis of alienage.

51. Plaintiff and Class Members are now suffering, and will continue to
suffer, irreparable injury from Kinecta's discriminatory acts and omissions.

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SECOND CLAIM FOR RELIEF Violation of the Unruh Civil Rights Act (California Civil Code §§ 51, *et seq.*)

10 52. Plaintiff incorporates by reference the allegations in all preceding
11 paragraphs.

12 53. Plaintiff brings this claim on his own behalf and on behalf of the13 California Subclass.

54. Plaintiff 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.

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

56. Plaintiff and class members are entitled to full and equal 20 accommodations, advantages, facilities, privileges, or services in all business 21 establishments of every kind whatsoever no matter their immigration status, and no 22 23 business establishment of any kind whatsoever may refuse to contract with Plaintiff and class members because of or due in part to their immigration status. 24 Defendant violated the Unruh Civil Rights Act by denying Plaintiff 57. 25 Esqueda and members of the California Subclass access to financial products free 26

27 of discriminatory conditions imposed on the basis of their immigration status.

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1	58.	Under Section 52(a) of the Unruh Civil Rights Act, Plaintiff and			
2	members of the California Subclass are entitled to actual damages suffered,				
3	statutory da	mages of up to three times the amount of actual damages suffered per			
4	violation, b	ut no less than \$4,000, and attorneys' fees.			
5	59.	Under Section 52(c), Plaintiff requests that this Court issue a			
6	permanent injunction ordering Defendant to alter its policies and practices to				
7	prevent future discrimination on the basis of an applicant's immigration status and				
8	to prevent further violations of the Unruh Civil Rights Act.				
9	PRAYER FOR RELIEF				
10	WHE	EREFORE , Plaintiff and the Class he seeks to represent pray for relief			
11	as follows:				
12	i.	Certification of the case as a class action on behalf of the proposed			
13		Class Members in the National Class and California Subclass;			
14	ii.	Designation of Plaintiff as the class representative on behalf of the			
15		National Class and California Subclass;			
16	iii.	Designation of Plaintiff's counsel of record as Class Counsel;			
17	iv.	Declaratory judgment that Defendant's policies and practices			
18		complained of here are unlawful and violate 42 U.S.C. § 1981 and the			
19		California Unruh Civil Rights Act;			
20	v.	A preliminary and permanent injunction against Defendant and its			
21		officers, agents, successors, employees, representatives, and any and			
22		all persons acting in concert with them, from engaging in each of the			
23		unlawful policies and practices set forth herein;			
24	vi.	Statutory and compensatory damages to Plaintiff and the Class			
25		Members in an amount to be determined at trial;			
26	vii.	Reasonable attorneys' fees and costs to the extent allowable by law;			
27	viii.	Such other and further relief as the Court deems just and proper.			
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		CLASS ACTION COMPLAINT			

Ca	se 2:24-cv-03697 Document 1 Filed 05/03/24 Page 12 of 12 Page ID #:12
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2	Dated: May 3, 2024
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4	Respectfully submitted,MEXICAN AMERICAN LEGALDEFENSE AND EDUCATIONAL
5	FUND
6	/s/ Eduardo Casas
7	Eduardo Casas Thomas A. Saenz
8	Ernest Herrera
9 10	MEXICAN AMERICAN LEGAL DEFENSE AND EDUCATIONAL
10	FUND
12	Attorneys for Plaintiff and the Proposed
13	Class
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	CLASS ACTION COMPLAINT