

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION**

JOSE RENDON LEYVA,  
individually and on behalf of all others  
similarly situated,  
  
Plaintiff,  
  
v.  
  
SPACE COAST CREDIT UNION,  
  
Defendant.

Case No.:  
  
**COMPLAINT FOR  
DECLARATORY AND  
INJUNCTIVE RELIEF  
CLASS ACTION**

Plaintiff Jose Rendon Leyva (“Plaintiff” or “Plaintiff Rendon”), individually and on behalf of all others similarly situated, by his attorneys brings the following allegations, based upon information and belief, against Defendant Space Coast Credit Union (“Defendant” or “Space Coast CU”):

**INTRODUCTION**

1. Defendant Space Coast CU follows a policy of denying full access to financial products to applicants who are not United States citizens or Lawful Permanent Residents (“LPRs”).

2. Plaintiff Rendon and members of the Class he seeks to represent are unable to access Defendant's financial services without unequal conditions imposed upon them based on their alienage. Plaintiff Rendon brings this case against Space Coast CU for unlawful discrimination on the basis of alienage in violation of the Civil Rights Act of 1866, as codified at 42 U.S.C. § 1981 ("Section 1981").

### **JURISDICTION AND VENUE**

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

4. This court may issue a declaratory judgment under 28 U.S.C. §§ 2201 and 2202.

5. Venue is proper in this district under 28 U.S.C. § 1391 (b)(2), where Defendant conducts business, the Plaintiff resides, and a substantial part of the events giving rise to the claims occurred.

### **PARTIES**

#### **Plaintiff**

6. Plaintiff Rendon is a resident of Ft. Pierce, Florida and has been a Deferred Action for Childhood Arrivals ("DACA") recipient since 2012. As a DACA recipient, Plaintiff Rendon received authorization to work in the United

States and a Social Security Number. Plaintiff Rendon resided in Ft. Pierce on the date he applied for a home mortgage that Defendant unlawfully denied him.

7. Plaintiff Rendon and members of the Class he seeks to represent were subjected to the violation described in this Complaint.

### **Defendant**

8. Defendant Space Coast CU is a state chartered credit union that serves the individuals who live or work in Alachua, Brevard, Broward, Charlotte, Citrus, Clay, Collier, Duval, Flagler, Hernando, Hillsborough, Indian River, Lake, Lee, Manatee, Marion, Martin, Miami-Dade, Monroe, Nassau, Okeechobee, Orange, Osceola, Palm Beach, Pasco, Pinellas, Polk, Putnam, Sarasota, Seminole, St. Johns, St. Lucie, Sumter, or Volusia Counties through its 64 branch locations.

9. Defendant is headquartered in Melbourne, Florida. Its headquarter office is located at 8045 N Wickham Road, Melbourne, Florida 32940.

10. Space Coast CU offers consumers a range of financial and credit products, including savings and checking accounts, credit cards, personal loans, auto loans, home equity loans, and mortgages.

### **STATEMENT OF FACTS**

12. This action is brought on behalf of Plaintiff Rendon and members of the proposed Plaintiff Class. This class seeks damages, and declaratory and injunctive relief.

**Plaintiff Rendon**

13. Plaintiff Rendon is a recipient of DACA and has been since 2012. Since that time, he has continuously possessed an employment authorization card and a Social Security Number.

15. On or around December 5, 2022, Plaintiff Rendon and his partner Arely Aguilera Ruiz received a pre-approval letter from Space Coast CU for a home mortgage loan.

16. On or around March 8, 2023, Plaintiff Rendon and Ms. Aguilera applied for a home mortgage loan through Space Coast CU's website. The application asked for the applicant's citizenship status. Ms. Aguilera selected that she was a U.S. Citizen on the application form. Plaintiff Rendon marked that he was a Non-Permanent Resident on the application form. Plaintiff Rendon and Ms. Aguilera moved forward with a contract for a home located in Ft. Pierce, Florida. The closing date for the home was set for April 11, 2023.

17. On or around March 14, 2023, Space Coast CU informed Plaintiff Rendon over the phone that it could not approve the loan because he was unable to prove residency.

18. On or around March 16, 2023, Plaintiff Rendon and Ms. Aguilera received a denial letter that stated that the reason for denial of the loan was because it was unable to verify the residence of the applicants.

19. On or around March 30, 2023, Plaintiff Rendon emailed Space Coast CU Loan Originator Stephanie Vargas to inquire about the reason for the loan denial. Vargas replied via email that the mortgage was denied by Space Coast CU because Plaintiff Rendon did not have permanent residency or U.S. citizenship. Vargas stated that U.S. citizenship or lawful permanent residency was required under the Defendant's guidelines.

20. Plaintiff Rendon suffered harm as a result of Space Coast CU's denial of his home mortgage application because of his alienage. Space Coast CU's denial of his application caused Plaintiff Rendon to suffer damages, including emotional distress, loss of a day of work as a result of rushing to find a new lender, and having to put additional money down for their deposit for the home mortgage.

21. Space Coast CU's denial of his application caused Plaintiff Rendon to experience the deleterious effects of discrimination.

**Space Coast CU's Policies Are Unlawful and Harmed Plaintiff**

22. Space Coast CU's denial of services because of its limited and arbitrary alienage requirements is a violation of 42 U.S.C. § 1981.

23. There is an actual and substantial controversy between Plaintiff Rendon and Space Coast CU.

**CLASS ACTION ALLEGATIONS**

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

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

26. Plaintiff seeks to represent the following class, composed of, and defined as follows:

All persons who resided in the United States at the relevant time that they applied for or attempted to apply for a financial product from Space Coast CU but were denied full and equal consideration by Space Coast CU on the basis of their alienage.

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

**Rule 23(a)(1) – Numerosity**

28. The potential members of the Class as defined are so numerous that joinder is impracticable.

29. On information and belief, Defendant’s records will provide information as to the number and location of the Class Members, which will allow the class to be ascertained.

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

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

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

a. Whether it is Space Coast CU’s policy to reject applicants for financial products because they are not U.S. citizens or permanent residents;

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

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

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

**Rule 23(a)(3) – Typicality**

32. 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 law as alleged here.

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

33. Plaintiff will fairly and adequately represent and protect the interests of the Class Members.

34. Plaintiff has retained counsel competent and experienced in complex litigation and discrimination class actions.

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

35. Class certification is appropriate because Space Coast CU has acted and/or refused to act on grounds generally applicable to the Class Members. Space Coast CU's actions make appropriate declaratory, equitable, and injunctive relief with respect to Plaintiff and the Class Members as a whole.

36. Space Coast CU excludes Class Members outright from banking products and services on the basis of alienage. The Class Members are entitled to declaratory, equitable, and injunctive relief to end Space Coast CU's common, unfair, and discriminatory policies.

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

37. 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 alienage and denying full and equal access to Defendant's services.

38. No other litigation concerning this controversy has been commenced by Class Members.

39. Class action treatment will allow those similarly-situated persons to litigate their claims in the manner that is most efficient and economical for the parties and the judicial system. It is unlikely that Class Members have any interest in individually controlling separate actions in this case. The Class Members have been damaged and are entitled to recovery of damages because of Space Coast CU's discriminatory policies. Damages are capable of measurement on a class-wide basis. Plaintiff and Class Members will rely on common evidence to resolve their legal and factual questions, including the applicable credit union membership and financial policies and practices in the relevant period.

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

### **CLAIM FOR RELIEF**

#### **Alienage Discrimination (42 U.S.C. § 1981)**

41. Plaintiff Rendon incorporates by reference the allegations raised in all preceding paragraphs.

42. Plaintiff Rendon brings this claim on his own behalf and on behalf of the Class.

43. Plaintiff and Class Members are persons within the jurisdiction of the United States.

44. Plaintiff and Class Members are non-U.S. citizens.

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

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

47. Defendant intentionally discriminated against Plaintiff and members of the Class on the basis of alienage by denying them the opportunity of full review of their request to acquire credit union products.

48. Defendant intentionally discriminated against Plaintiff and members of the Class by interfering with their right to make and enforce contracts for banking products on the basis of alienage.

49. 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 issue a permanent injunction ordering Defendant to alter its membership and banking policies and practices to prevent further violations on the basis of alienage.

50. Plaintiff and Class Members are now suffering, and will continue to suffer irreparable injury from Space Coast CU's discriminatory acts and omissions.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff 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 Members;
- ii. Designation of Plaintiff as class representative on behalf of the Class;
- iii. Designation of Plaintiff's counsel of record as Class Counsel;

- iv. That this Court issue a declaratory judgment that Defendant's policies and practices complained of are unlawful and violate 42 U.S.C. § 1981;
- v. A preliminary and permanent injunction against Defendant and its officers, agents, successors, employees, representatives, and any and all persons acting in concert with them, from engaging in each of the unlawful policies and practices set forth;
- vi. That this Court award compensatory damages to Plaintiff and the Class Members in an amount to be determined at trial;
- vii. That this court award to Plaintiff and Class Members reasonable attorneys' fees and costs to the extent allowable by law; and
- viii. For such other and further relief as the Court deems just and proper.

Dated: May 29, 2024

Respectfully submitted,

/s/ Francisco Symphorien-Saavedra

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^Admitted in New York State only*

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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.) NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.

I. (a) PLAINTIFFS

DEFENDANTS

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)

Attorneys (If Known)

(d) Check County Where Action Arose: MIAMI-DADE MONROE BROWARD PALM BEACH MARTIN ST. LUCIE INDIAN RIVER OKEECHOBEE HIGHLANDS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

- Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
PTF DEF
1 1 Incorporated or Principal Place of Business In This State
2 2 Incorporated and Principal Place of Business In Another State
3 3 Foreign Nation
4 4
5 5
6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Insurance, Personal Injury, Real Estate, etc.

V. ORIGIN

(Place an "X" in One Box Only)

- 1 Original Proceeding
2 Removed from State Court
3 Re-filed (See VI below)
4 Reinstated or Reopened
5 Transferred from another district (specify)
6 Multidistrict Litigation Transfer
7 Appeal to District Judge from Magistrate Judgment
8 Multidistrict Litigation - Direct File
9 Reremanded from Appellate Court

VI. RELATED/ RE-FILED CASE(S)

(See instructions): a) Re-filed Case YES NO b) Related Cases YES NO

JUDGE:

DOCKET NUMBER:

Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity):

VII. CAUSE OF ACTION

LENGTH OF TRIAL via days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE

DATE SIGNATURE OF ATTORNEY OF RECORD

**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

**I. (a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

**(b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the “defendant” is the location of the tract of land involved.)

**(c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section “(see attachment)”.

**II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an “X” in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.  
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an “X” in this box.  
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked. Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

**III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

**IV. Nature of Suit.** Nature of Suit. Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).

**V. Origin.** Place an “X” in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Refiled (3) Attach copy of Order for Dismissal of Previous case. Also complete VI.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge’s decision.

Remanded from Appellate Court. (8) Check this box if remanded from Appellate Court.

**VI. Related/Refiled Cases.** This section of the JS 44 is used to reference related pending cases or re-filed cases. Insert the docket numbers and the corresponding judges name for such cases.

**VII. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553  
 Brief Description: Unauthorized reception of cable service

**VIII. Requested in Complaint.** Class Action. Place an “X” in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
 Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.  
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION**

**Attachment to Civil Cover Sheet**

I. (c) Attorneys (*Firm name, Address, and Telephone Number*)

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*\*Motion for pro hac vice forthcoming*

*^ Admitted in New York State only*



AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

I returned the summons unexecuted because \_\_\_\_\_; or

Other *(specify)*: \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc: