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 10 UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 11 OAKLAND DIVISION

12 ISMAEL ANTONIO RODRIGUEZ
 13 PEREZ, on behalf of himself and all others
 similarly situated,

14 Plaintiff,

15 vs.

16 FIRST TECHNOLOGY FEDERAL
 17 CREDIT UNION,

18 Defendant.

Case No.:

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

CLASS ACTION

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1 Plaintiff Ismael Antonio Rodriguez Perez (“Plaintiff” or “Plaintiff Perez”), individually
2 and on behalf of all others similarly situated, by his attorneys makes the following allegations,
3 based upon information and belief, against Defendant First Technology Federal Credit Union
4 (“Defendant” or “First Tech”):

5 **INTRODUCTION**

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

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

15 **JURISDICTION AND VENUE**

16 3. This Court has subject matter jurisdiction over Plaintiff’s Section 1981 claims
17 under 28 U.S.C. § 1331. This Court has supplemental jurisdiction over Plaintiff’s state law
18 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.

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

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

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PARTIES

Plaintiff

7. Perez is a resident of Oakland, California and has been a DACA recipient since 2012. As part of the DACA initiative, Perez received authorization to work in the United States and a Social Security Number. Perez resided in Oakland on the date that he applied for a Home Equity Line of Credit (“HELOC”) from Defendant and was unlawfully denied.

8. Defendant subjected Perez and members of the Class he seeks to represent to discrimination in violation of federal and state law as described in this Complaint.

Defendant

9. Defendant is a member-owned and federally chartered credit union headquartered in San Jose, California.

10. Defendant maintains a business and mailing office at 2702 Orchard Pkwy, San Jose, CA 95134-2012.

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

STATEMENT OF FACTS

12. Perez brings this action on behalf of himself and members of the proposed Plaintiff Class. The class seeks damages, declaratory judgment, and injunctive relief.

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

14. Perez graduated from Oregon State University in 2018 with a PhD in Materials Chemistry and Philosophy. Perez subsequently accepted a postdoctoral fellowship at Pacific Northwest National Laboratory in Washington and shortly after purchased a home there. Perez relocated to Oakland in 2021 to pursue professional opportunities.

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1 All persons who resided in the United States at the relevant time they
2 applied for or attempted to apply for a financial product from First Tech but
3 were denied full and equal consideration by First Tech on the basis of
alienage.

4 28. Plaintiff Perez additionally brings class allegations on behalf of a California
5 Subclass composed of and defined as follows:

6 All persons who resided in California at the relevant time they applied for
7 or attempted to apply for a financial product from First Tech but were
8 denied full and equal consideration by First Tech on the basis of their
immigration status.

9 29. Plaintiff Perez may amend the above class definitions as this Court may permit or
10 require. This action has been brought and may be properly maintained as a class action under the
11 provisions of Rule 23 of the Federal Rules of Civil Procedure because all of the prerequisites for
12 class treatment are met.

13 **Rule 23(a)(1) – Numerosity**

14 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;

1 c. Whether First Tech violated the California Unruh Civil Rights Act by denying full
2 and equal access to its services to Plaintiff Perez and the California Subclass on the basis of
3 immigration status;

4 d. Whether Plaintiff Perez and the Class Members are entitled to declaratory,
5 injunctive, and other equitable relief; and

6 e. Whether Plaintiff Perez and the Class Members are entitled to damages and any
7 other available 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 common course of conduct and common policies in violation of federal and
12 California laws, 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 Members.

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 generally applicable to the members of the National Class and California
21 Subclass. First Tech’s actions make appropriate declaratory, equitable, and injunctive relief with
22 respect to Plaintiff 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 Members 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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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
22 prosecuting numerous individual actions.

23 **FIRST CLAIM FOR RELIEF**
24 **Alienage Discrimination**
25 **(42 U.S.C. § 1981)**

26 42. Plaintiff Perez incorporates by reference the allegations in all preceding
27 paragraphs.

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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 of 42 U.S.C. § 1981.

10 48. Defendant intentionally discriminated against Plaintiff Perez and members of the
11 Class on the basis 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 redress 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 irreparable injury from First Tech's discriminatory acts and omissions.

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

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

26 53. Plaintiff Perez brings this claim on his own behalf and on behalf of the California
27 Subclass.

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1 54. Plaintiff Perez and class members are persons within the jurisdiction of the State of
2 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.

11 57. Defendant violated the Unruh Civil Rights Act by denying Plaintiff Perez and
12 members of the California Subclass access to financial products free of discriminatory conditions
13 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.

22 **PRAYER FOR RELIEF**

23 **WHEREFORE**, Plaintiff Perez and the Class he seeks to represent pray for relief as
24 follows:

- 25 i. Certification of the case as a class action on behalf of the proposed Class
26 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 National
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
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: December 29, 2023

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19 Respectfully submitted,

MEXICAN AMERICAN LEGAL DEFENSE
AND EDUCATIONAL FUND

/s/ Eduardo Casas

Eduardo Casas
Thomas A. Saenz
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