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10 **UNITED STATES DISTRICT COURT**  
11 **NORTHERN DISTRICT OF CALIFORNIA**  
12 **SAN FRANCISCO DIVISION**

13  
14 ERNST VALERY, on Behalf of  
15 Himself, and All Others Similarly  
16 Situated,

Plaintiff,

17 v.

18 WELLS FARGO & COMPANY; and  
19 WELLS FARGO BANK, N.A.,

20 Defendants.  
21  
22  
23  
24  
25  
26  
27  
28

Case No:

Pleading Type: Class Action

**CLASS ACTION COMPLAINT AND  
DEMAND FOR JURY TRIAL**

**Introduction and Factual Allegations**

1  
2 1. In June 2020, *The New York Times* reported on a disturbing nationwide trend:  
3 “Black customers risk being racially profiled on everyday visits to bank branches.” Emily Flitter,  
4 *‘Banking While Black’: How Cashing a Check Can Be a Minefield*, **N.Y. Times** (June 18, 2020),  
5 available at <http://archive.is/E4jLP> and attached as **Exhibit 1**. According to the report,

6 For many black Americans, going to the bank can be a fraught experience.  
7 Something as simple as trying to cash a check or open a bank account can  
8 lead to suspicious employees summoning the police, causing anxiety and  
fear — and sometimes even physical danger — for the accused customers.

9 The article describes four recent examples of “banking while black,” three of which occurred at  
10 Wells Fargo bank branches: (1) in December 2018, Claire Middleton tried to cash a \$200 check at  
11 a Wells Fargo branch in Atlanta, where bank employees promptly accused her of fraud and  
12 summoned police; (2) in March 2019, Jabari Bennett attempted to withdraw \$6,400 from his Wells  
13 Fargo account containing approximately \$70,000 so he could buy a used car, but the Wilmington,  
14 Delaware branch refused to accept he was the account holder and threatened to call the police  
15 when he persisted in trying to complete the transaction; and (3) in April 2019, the manager of a  
16 Tampa, Florida-area Wells Fargo branch uttered the “N-word” to attorney Benndrick Watson  
17 while he was trying to open a business account for his law firm.

18 2. Sadly, but perhaps not surprisingly, the instant action concerns yet another  
19 despicable and outrageous instance of “banking while black” at Wells Fargo.

20 3. Plaintiff, Ernst Valery (“Plaintiff” or “Mr. Valery”) is black. In 1985, he  
21 immigrated to the United States from Haiti at the age of eight. He rose from humble economic  
22 origins to obtain degrees in urban planning, public administration, and real estate development  
23 from Cornell University and Columbia University. Today, Mr. Valery is a prominent real estate  
24 developer, with a focus on low-income and underserved minority communities, who has built  
25 residential and commercial real estate projects across the country, including in Maryland,  
26 Washington, D.C., Pennsylvania, Virginia, California, and New York. The *Baltimore Business*  
27 *Journal* recently profiled Mr. Valery’s impressive career. See Morgan Eichensehr, *Podcast:*  
28 *Developer Ernst Valery on investing in neighborhoods, people with his projects*, **Balt. Bus. J.**



1 were for, and then the manager affirmatively suggested he was not the type of person who should  
2 be allowed to possess proceeds in such an amount. Even after Mr. Valery calmly and  
3 professionally attempted to explain the source of the check and the nature of the tax credit involved  
4 (none of which he was required to divulge to the banker but which he did in order to placate the  
5 situation and facilitate the transaction), the Wells Fargo manager continued to refuse Mr. Valery’s  
6 request to deposit the funds in the joint account. Mr. Valery left unable to deposit the check.

7 5. There are only two factors which caused Mr. Valery to leave Wells Fargo that day  
8 unable to deposit his own funds in his own bank account – funds which he had earned through  
9 years of extensive work as the chief developer on a restoration project that the State of Maryland  
10 has already deemed significant enough to merit more historic tax credits than any other project in  
11 the state during 2019. Those two factors are (1) the color of Mr. Valery’s skin; and (2) the racism  
12 of Wells Fargo. Had Mr. Valery been a white property developer visiting ANY Wells Fargo to  
13 deposit a check – much less the branch in his own backyard – we would simply not be here today.

14 6. Mr. Valery’s experience is just one more in a striking series of shameful “banking  
15 while black” incidents that have occurred at Wells Fargo branches in recent years, which constitute  
16 overwhelming evidence of systematic racism emanating from this banking institution.<sup>1</sup> It is a  
17 shameful remnant of an era in American history when black people were considered property  
18 rather than individuals with the right to own property. The time has long since come to put an end  
19 to this, once and for all.

### 20 Jurisdiction and Venue

21 7. This Court has federal question jurisdiction under 28 U.S.C. § 1331 because the  
22 plaintiff’s cause of action arises under federal law. Alternatively, this Court has original  
23

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24 <sup>1</sup> “Banking while black” is not Wells Fargo’s first rodeo when it comes to institutionalized  
25 racism. In 2012, it agreed to pay \$175 million to resolve claims brought by the Department of  
26 Justice that it charged blacks and Hispanics higher rates and fees on mortgages. See Rick  
27 Rothacker & David Ingram, *Wells Fargo to pay \$175 million in race discrimination probe*,  
28 **Reuters** (July 12, 2012), attached hereto as **Exhibit 5**. And on August 26, 2020, the Ninth Circuit  
greenlighted the City of Oakland’s claims that Well Fargo’s discriminatory lending practices  
caused diminished property tax revenues to the city. *City of Oakland v. Wells Fargo & Co.*, 972  
F.3d 1112 (9th Cir. 2020).

1 jurisdiction under 28 U.S.C. § 1332(d)(2) (the Class Action Fairness Act) because the matter in  
2 controversy exceeds the sum or value of \$5 million, exclusive of interest and costs, and there is  
3 diversity of citizenship between the proposed class members and defendants. Alternatively, this  
4 Court has diversity jurisdiction under 28 U.S.C. § 1332(a)(1) because the individual matter in  
5 controversy between the plaintiff and defendants exceeds the sum or value of \$75,000, exclusive  
6 of interests and costs, and the plaintiff is a citizen of a state different from both defendants' states  
7 of citizenship.

8 8. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because both defendants  
9 reside here, and a substantial part of the events and omissions giving rise to the claim occurred  
10 here.

11 **Parties**

12 9. Plaintiff Ernst Valery is a citizen of Maryland and an individual *sui juris*.

13 10. Defendant, Wells Fargo & Company is a Delaware corporation with its principal  
14 place of business in San Francisco, California.

15 11. Defendant, Wells Fargo Bank, N.A. is a national banking association and the  
16 banking subsidiary of Wells Fargo & Company, with its principal place of business in Sioux Falls,  
17 South Dakota.

18 12. Collectively, the two defendants are referred through this Complaint as “Wells  
19 Fargo” or “Defendants.”

20 **Class Action Allegations**

21 13. Plaintiff seeks to certify an Injunctive Relief Class of all black individual bank  
22 customers of Wells Fargo.

23 14. Plaintiff seeks to certify a Damages Class of all black individual bank customers or  
24 prospective bank customers of Wells Fargo who have had their right to make and enforce a contract  
25 with Wells Fargo impaired at any time within the four years preceding the filing of this action.

26 15. This action is properly maintainable as a class action under Rule 23.

27 16. Both Classes are so numerous that joinder of all members is impracticable.  
28

1 17. There are questions of law and fact which are common to the Classes and which  
2 predominate over questions affecting any individual Class member. The common questions  
3 include, *inter alia*, the following: Whether Wells Fargo's practices and policies toward black  
4 banking customers violates their equal rights under the law as set forth under 28 U.S.C. § 1981.

5 18. Plaintiff's claims are typical of the claims of the other members of the Classes and  
6 Plaintiff does not have any interests adverse to the Classes.

7 19. Plaintiff is an adequate representative of both Classes, has retained competent  
8 counsel experienced in litigation of this nature and will fairly and adequately protect the interests  
9 of the Classes.

10 20. The prosecution of separate actions by individual members of the Classes would  
11 create a risk of inconsistent or varying adjudications with respect to individual members of the  
12 Classes which would establish incompatible standards of conduct for the party opposing the  
13 Classes.

14 21. Plaintiff anticipates that there will be no difficulty in the management of this  
15 litigation. A class action is superior to other available methods for the fair and efficient  
16 adjudication of this controversy.

17 22. Defendants have acted on grounds generally applicable to the Classes with respect  
18 to the matters complained of herein, thereby making appropriate the relief sought herein with  
19 respect to the Class as a whole.

20 **Cause of Action**

21 **Against Both Defendants for Violation of 42 U.S.C. § 1981**

22 23. Plaintiff repeats and incorporates by reference the allegations in Paragraphs 1  
23 through 22 set forth above as if fully set forth herein.

24 24. Plaintiff is black.

25 25. Defendants had the intent to discriminate on the basis of race against Plaintiff.

26 26. Defendants' discrimination concerned and impaired Plaintiff's right to make and  
27 enforce his banking contract with Wells Fargo.

28

1 27. Defendants' conduct was done with malice and reckless indifference to the rights  
2 of Plaintiff and other members of the proposed Classes.

3 **Prayer for Relief**

4 WHEREFORE, Plaintiff prays for judgment and relief against Defendants as follows:

5 A. that the Court certify the Classes under Rule 23 of the Federal Rules of Civil  
6 Procedure and appoint Plaintiff as Class Representative and his attorneys as Class Counsel to  
7 represent the members of the Classes;

8 B. that the Court declare that Defendants' conduct violates 42 U.S.C. § 1981;

9 C. that the Court preliminarily and permanently enjoin Defendants from conducting  
10 their banking business in violation of 42 U.S.C. § 1981;

11 D. that the Court order Defendant to implement whatever measures are necessary to  
12 remedy the violation of law described in this Complaint;

13 E. that the Court order Defendant to notify each and every black banking customer of  
14 Wells Fargo an opportunity to obtain damages or restitution from Defendants;

15 F. that the Court order Defendants to pay damages, including compensatory damages  
16 and punitive damages, to Plaintiff and members of the Damages Class;

17 G. that the Court award injunctive relief and restitution to Plaintiff and members of  
18 the Injunctive Relief Class;

19 H. that the Court award Plaintiff and the Classes their costs and attorneys' fees  
20 pursuant to statute, the common fund doctrine, and/or any other appropriate legal theory; and

21 I. that the Court grant such other and further relief as may be just and proper.

22 **Demand for Jury Trial**

23 Plaintiff hereby demands trial by jury in this action on all issues so triable.

24 DATED: December 14, 2020

25 RESPECTFULLY SUBMITTED,

26 /s/ Jared H. Beck

27 Jared H. Beck

28 Counsel for Plaintiff and Putative Classes

# Exhibit 1





Clarice Middleton shook with fear as she stood on the sidewalk outside a Wells Fargo branch in Atlanta one December morning in 2018. Moments earlier, she had tried to cash a \$200 check, only to be accused of fraud by three branch employees, who then called 911.

Ms. Middleton, who is black, remembers thinking: “I don’t want to die.”

For many black Americans, going to the bank can be a fraught experience. Something as simple as trying to cash a check or open a bank account can lead to suspicious employees summoning the police, causing anxiety and fear — and sometimes even physical danger — for the accused customers.

There is no data on how frequently the police are called on customers who are making legitimate everyday transactions. The phenomenon has its own social media hashtag: #BankingWhileBlack.

Most people who experience an episode of racial profiling don’t report it, lawyers say. Some find it easier to engage in private settlement negotiations. The few who sue — as Ms. Middleton did — are unlikely to win in court because of loopholes in the law. Now, the police killing of George Floyd in Minneapolis, which set off nationwide protests against systemic racism, is prompting more people to speak up.

Ms. Middleton had gone to the Wells Fargo branch in Druid Hills, a wealthy, mostly white neighborhood in Atlanta, to cash a refund for a security deposit from a real estate company that had an account with the bank. Three bank employees examined the check and her identification, but refused to look at the additional proof Ms. Middleton offered. They declared the check fraudulent, and one employee called the police, according to her lawsuit.

When an officer arrived, Ms. Middleton showed him her identification and the check stub. As a former bank teller, she knew that would be proof enough that her check was authentic. The officer left without taking action. The Wells Fargo employees asked Ms. Middleton whether she still wanted to cash the check.

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“I said yes, because they had written all over the back of the check,” said Ms. Middleton, who sued Wells Fargo last year for racial discrimination and defamation and sought an unspecified amount of damages.

Mary Eshet, a Wells Fargo spokeswoman, said Ms. Middleton had begun yelling “abusive and profane language” at the employees when she saw her ID being scanned.

“Employees tried to address Ms. Middleton’s concerns by explaining our policies, but Ms. Middleton continued to yell profane language,” Ms Eshet said. “She was asked to leave the branch multiple times and refused, so our employees followed their processes to engage law enforcement.” She added that the bank “appreciates the sensitivities of engaging law enforcement and the importance of continually reviewing our training, policies and procedures.”

Ms. Middleton’s lawyer, Yechezkel Rodal, said her client had not used profanity. “Wells Fargo is in possession of the video surveillance showing exactly what happened in the branch that morning,” he said. “The video will not support Wells Fargo’s lies.”

The Wells Fargo location in Westchase, Fla. Zack Wittman for  
The New York Times

Some incidents play out without the involvement of police or courts.

In March 2019, Jabari Bennett wanted to withdraw \$6,400 in cash to buy a used Toyota Camry from a dealership in Wilmington, Del. He had just sold his house in Atlanta and moved to Wilmington to live with his mother. Having been a Wells Fargo customer for four years — he had around \$70,000 in his account from the sale of his

house — Mr. Bennett walked into a nearby branch expecting to be back at the dealership and in his Camry within minutes.

He came away empty-handed and reeling.

First, a teller refused to accept that he was the account holder, questioning his out-of-state driver's license, he said — even though Mr. Bennett had informed the bank of his new address just two weeks earlier. Then, a branch manager told Mr. Bennett to leave. He left in disbelief, then returned to try to complete the transaction. This time, the manager threatened to call the police. Mr. Bennett left again.

The experience “made me feel like I was nothing,” Mr. Bennett said.

He abandoned the deal on the car. A week later, he moved all his money out of Wells Fargo and then hired Mr. Rodal, who had gained a reputation for representing black customers against the bank after the story of one of his clients [went viral in 2018](#). Mr. Rodal sent Wells Fargo a letter, but negotiations stalled.

Mr. Bennett decided to share his story publicly in light of the recent protests: “I don't want anybody else to go through what I went through.”

Ms. Eshet, the Wells Fargo spokeswoman, said that branch employees were trained to spot potential fraud, and that the bank had increased security protocols to thwart internet scams involving large transfers of money.

“In this instance, there were enough markers for our team to conduct extra diligence in order to protect the customer and the bank,” she said.

The protests also pushed Benndrick Watson into action.

Last spring, Mr. Watson was driven out of a Wells Fargo branch in Westchase, a wealthy neighborhood near Tampa, Fla., by what the branch manager described as a “slip of the tongue.”

Mr. Watson, who was already a bank customer with a personal checking account, went to the branch to open a business account for his law firm.

“I felt like I had a knife in my gut,” Benndrick Watson said of his experience with a bank branch manager. “It’s a sickening word.” Zack Wittman for The New York Times

A banker did a corporate records search and found Mr. Watson’s other business, a record label. Mr. Watson tried to direct the employee to the records for his law firm instead.

Eventually, the branch manager got involved. He sat down across from Mr. Watson and watched him enter information, including his Social Security number, into a keypad.

Then, the man uttered the N-word.

”He just said it — clear as day, no mistake,” Mr. Watson said. “My jaw just dropped, I dropped the pen, there was silence, he kind of looked at me, I said: ‘Did you really just say that?’”

Mr. Watson said the man had immediately begun to protest, saying that he had not meant to use the word, and that he was deeply sorry. Mr. Watson did not buy it. He got up and left. The manager followed him to his car, apologizing profusely, and resigned from the bank shortly afterward.

“I felt like I had a knife in my gut,” Mr. Watson said. “It’s a sickening word.”

Mr. Watson turned to Mr. Rodal, who wrote to Wells Fargo seeking an apology. The bank’s regional president, Steve Schultz, responded. “It seems that the utterance of the offensive term was unintentional,” Mr. Schultz wrote, but said the bank had taken “corrective action” against the branch manager anyway, without

providing details. Ms. Eshet of Wells Fargo said the manager was deemed ineligible for any job with the bank.

Mr. Watson sued Wells Fargo in federal court in Florida on June 4.

In a statement, Ms. Eshet said: “We deeply apologize to Mr. Watson. There’s no excuse for it, and while we took action to address the matter, it cannot undo what happened and how he felt. We are very sorry.”

The problem is hardly confined to Wells Fargo. Last June, Robyn Murphy, a public relations consultant in Maryland, took her 18-year-old son, Jason, to a Bank of America branch in Owings Mills, Md., to open a joint savings account. Ms. Murphy, a 20-year customer of the bank, said she was shocked when an employee refused to proceed after a computer program flagged her son’s Social Security number as fraudulent.

Ms. Murphy protested: Her son had his own checking account at the bank. His Social Security number had already been used there without issue. The Murphys are black. Mr. Murphy, his mother said, is 6-foot-9.

“For all I know, it’s fraud,” the employee told them. Ms. Murphy said he had asked them to come back with Mr. Murphy’s Social Security card. When Mr. Murphy stood up, the employee yelled: “Don’t get up!”

After Ms. Murphy contacted a senior vice president she knew at the bank, other officials apologized and offered to open the branch whenever it was convenient for the Murphys to return and complete the transaction — which they did.

“It weighed on us very heavily for a long time,” Ms. Murphy said.

“We understand the client did not feel she and her son were treated properly in this interaction with our team, and we regret that,” Bill Halldin, a Bank of America spokesman, said in an emailed statement. “These alerts are designed to protect our clients from fraud and misuse of their personal information.” He declined to comment on what, if any, action the bank had taken against the employee.

Banks say they reject racism of any sort. The country’s four largest banks by asset size, JPMorgan Chase, Wells Fargo, Bank of America and Citigroup, all require branch employees to complete annual diversity training, according to the banks’ representatives.

Still, banks have not managed to weed out discrimination. The New York Times reported in December that a JPMorgan Chase employee had described a customer as being “[from Section 8](#)” and

therefore undeserving of service. The bank has since said it would seek to increase its sensitivity to issues surrounding race.

But little is mandated by law. The Civil Rights Act of 1964 lists specific businesses that may not treat black customers differently: movie theaters, hotels, restaurants, and performance and sports venues. Federal courts have held that because the law identifies the kinds of businesses to which it applies, those not on the list, such as banks, cannot be held to it. That loophole makes it hard for victims of racial profiling to win in court.

There is an additional limitation. In 1866, Congress created new laws to establish rights for black Americans, including one giving them the right to enter into agreements to buy goods or services and have those contracts enforced. Courts have since ruled that the law requires only that service be granted eventually.

In 2012, for instance, a federal appeals court ruled that a Hispanic man who had been turned away by a white cashier at a Target store in Florida did not have a case against Target because he was able to complete his purchases with a different cashier.

That could stymie Ms. Middleton's case. Wells Fargo is arguing that because she was eventually able to cash her check, a judge should dismiss it.

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Dec. 11, 2019

#### Wells Fargo Says Its Culture Has Changed. Some Employees Disagree.

March 9, 2019

#### Wells Fargo Closed Their Accounts, but the Fees Continued to Mount

Aug. 16, 2019

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Emily Flitter covers banking and Wall Street. Before joining The Times in 2017, she spent eight years at Reuters, writing about politics, financial crimes and the environment.

[@FlitterOnFraud](#)



Bryan Anselm for The New York Times

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Brendan Mcdermid/Reuters

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Tony Cenicola/The New York Times

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# Exhibit 2

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Commercial Real Estate

## Podcast: Developer Ernst Valery on investing in neighborhoods, people with his projects



Ernst Valery is the managing partner of SAA | EVI Development.  
ERIC STOCKLIN



By Morgan Eichensehr – Reporter, Baltimore Business Journal  
May 23, 2019, 3:08pm EDT

### IN THIS ARTICLE

**Commercial Real Estate**  
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The Pivot: Ernst Valery, managing partner...

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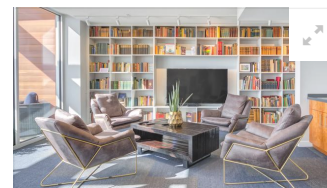
Ernst Valery thought he wanted to be architect, then an urban planner, then maybe work in the public sector. But ultimately, he settled on development. It seemed like the perfect way to combine all of his interests and and create real impact in urban areas.

The word "impact" is thrown around a lot these days, Valery said, but he doesn't like to use it lightly. In his work he said he tries to focus not just on making something that is beautiful, but also something sustainable, supportive of the surrounding community and considerate of people's wants and needs. In that vein, he looks to work and invest in urban communities that other developers and investors might overlook.

"Things are called 'risky' because there are certain people that our society doesn't want to invest in," Valery said. "And until we say that all people are worth it, we're always going to have this dichotomy and uneven investment."

Valery started his development work in Philadelphia. He was drawn to Baltimore after meeting Otis Rolley, the city's former director of planning, and hearing how passionately he spoke about the character of its people and its different neighborhoods. Upon visiting Baltimore, Valery said he immediately understood what Rolley was talking about – so he moved, and began trying to make his impact here.

Since coming to the city, Valery has been involved with several transformative redevelopment projects that have helped reshape the visual and structural makeup of certain Baltimore neighborhoods. For example, he recently completed the \$22 million Nelson Kohl apartment project in Station North. That eight-story building was erected in place of old rowhomes, and brought 103 new apartments to the neighborhood right behind Penn Station.



The Nelson Kohl opened last year.  
COURTESY OF NELSON KOHL

Valery has also been involved with the city-led effort to revitalize the blighted areas of the Park Heights neighborhood near Pimlico Race Course. Currently, he is working to redevelop 130-year-old St. Michael's Roman Catholic Church near Patterson Park, into a brew pub and new apartments.

In this episode of The Pivot, I talked with Valery about all of those projects and what impact he hopes each will bring to their respective neighborhoods. Plus we discussed which neighborhoods he might be working in next.

Thanks for checking out the podcast. Keep an eye out for new episodes of The Pivot, released each month on Soundcloud.

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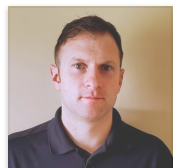
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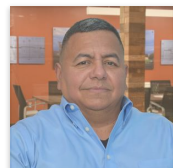
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10/06/2020  
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\$3,000,000.00  
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TO THE ORDER OF:  
PERSONAL  
REFUND 2019

TRANSACTION I.D.  
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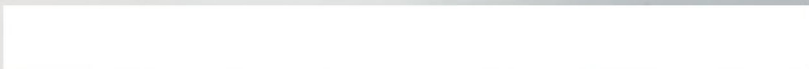
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# Exhibit 4

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DAN RODRICKS COLUMNISTS OPINION

# In Baltimore, turning an abandoned church into the 'Ministry of Brewing'

By DAN RODRICKS  
THE BALTIMORE SUN | JUN 04, 2019



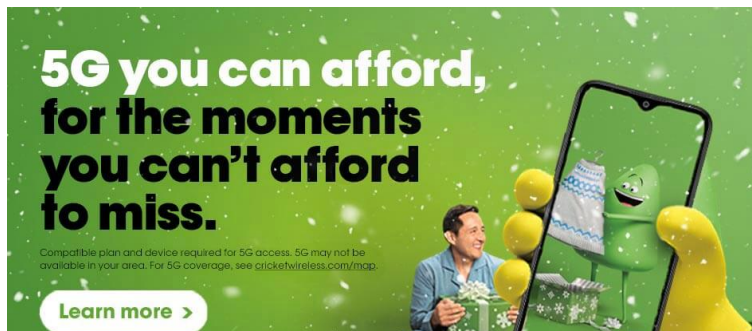
Ernst Valery, of SAA/EVI Development, wears a "Ministry of Brewing" T-shirt as he checks on work in the East Baltimore church being converted into a brew pub. (Baltimore Sun)

FEEDBACK

And so, later this year, there will be a brewery where priests once celebrated Mass, where thousands of couples were wed, where thousands of babies were baptized. In fact, large stainless steel tanks have already been installed in the sanctuary of old St. Michael the Archangel Church, at Wolfe and Lombard, in Upper Fells Point.

“Old” is an insufficient description for the amazing stone edifice on that high corner of Washington Hill. I should say “former” church because it has been closed for eight years and, at some point before the Redemptorists sold it off, St. Michael’s was “rendered to profane use,” in accordance with canon law.

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So no one can officially claim sacrilege when they see what the new owners, trading as the Ministry of Brewing, have in mind for the place. Nor will it be the first house of God turned into a house of beer.



The ornate entrance to St. Michael the Archangel Church on East Lombard Street. (Baltimore Sun)

Before I go on, allow me to describe the mixed feelings that suddenly appeared in my old altar boy brain as I stood in the center aisle of what was once one of the largest Catholic churches in the country's oldest diocese.

I guess we should be long past sadness about the Roman Catholic Church, but even for those who tried to make a comeback and failed, angered by the nature and extent of clergy sexual abuse, there's still ambivalence. This was your church once, and the church of immigrant ancestors until their dying days. Going to Mass to receive the

Eucharist was a tradition we grew up with and carried into adulthood.

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FEEDBACK

It's hard to let go of that, despite all — despite all that overshadows the church's charitable works around the world: the abuse scandal that has cost at least \$3 billion in damages and millions of followers, the Vatican's foolish unwillingness to break from the all-male, supposedly celibate priesthood.

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As church attendance fell over the last half-century, the hierarchy had to consolidate or close parishes.

It was not merely the loss of faith and trust that led to this.

In Baltimore, there was the loss of some 300,000 residents over a half-century of social change. Among those who fled the long-standing city parishes were increasingly affluent, mainly white families. They moved to suburbs, and the archdiocese built churches for them there, eliminating the need to return to the old neighborhoods on Sundays.

This — and Bernie Madoff — hurt St. Michael's, particularly. (I'll come back to Madoff in a moment.)



The conversion of old St. Michael's church into a brewery has been underway for months. (Baltimore Sun)

St. Michael's opened in 1852, when its parishioners were mostly German immigrants. Its pastors and curates once served one of the largest flocks in the premier American see. St. Michael's had 10,000 parishioners in 1900. Its campus included a rectory and large parish hall, a girls school, a boys school and a convent. Over the years, the ethnicity of those who received the sacraments at St. Michael's changed, reflecting the population of East Baltimore through the 20th Century — Poles, Italians, Czechs, Koreans, Lumbee American Indians and African-Americans. By the early part of this century, St. Michael's had become a beloved parish of Hispanic immigrants. Despite a [passionate effort to keep the historic](#)

[church open](#), it went dark in 2011.

Now, about Bernie Madoff.

A decade ago, when federal prosecutors revealed Madoff's massive fraud scheme, they listed the Redemptorists, the order of priests who had run St. Michael's for 160 years, among his victims.

FEEDBACK

Starting in 1992, the [Baltimore province had entrusted part of its endowment to Madoff](#). According to the National Catholic Reporter, proceeds from the Madoff investment were used to meet many needs, including scholarships for Baltimore children to attend Catholic schools. The Reporter said the Redemptorists had suffered "significant" losses as a result of Madoff's Ponzi scheme. Though the Baltimore province denied it at the time, it was hard to believe the losses did not contribute to St. Michael's demise.

The city has a lot of empty buildings, but because of its location and mass, taking up half a block, St. Michael's was especially regrettable, a reminder of what once was and could probably never be again.

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And then, one day, Ernst Valery, a developer with expertise in historic tax credits, and his partners — David Wendell, Jeff Hunt and Michael Powell — bought the church and remaining buildings from the Redemptorists. Starting last summer, construction crews have turned the parish hall, rectory and girls school into apartments, keeping many of the original features — including some of the classroom chalkboards — in place.

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And the grand space of St. Michael's, with its barrel-vault ceiling, will become one of Baltimore's largest brew pubs, with tables made from timbers taken from parts of the church, a long bar and kitchen. Valery thinks Baltimore, with its rich history of brewing, should push for more such places, creating jobs in a growing industry. He intends to have his brewmaster train young people in crafting beer.

While it might seem a little strange to see big steel tanks where the altar used to be, this project will bring a dead Baltimore corner back to life. Customers will be able to go where no one has gone for years. They won't be able to get communion, but they will be able to commune. The church will become a public space again, and that is something to celebrate, not mourn.

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If the old ghosts of St. Michael's flit about — the German immigrants who landed here ages ago — some might frown, some might cry. But I think most will be happy to know they can get a beer there.



The parish hall, girls school and rectory at old St. Michael's are being converted into apartments while the church becomes a brewery. (Baltimore Sun)

Topics: Bernard Madoff



**Dan Rodricks**  
The Baltimore Sun



Dan Rodricks is a long-time columnist for The Baltimore Sun, and a local radio and television personality who has won several national and regional journalism awards over a reporting, writing and broadcast career spanning five decades. He is the author of three books, including "Father's Day Creek" (Apprentice House 2019).

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# Exhibit 5



BUSINESS NEWS JULY 12, 2012 / 2:35 PM / UPDATED 8 YEARS AGO

## Wells Fargo to pay \$175 million in race discrimination probe

By Rick Rothacker, David Ingram

7 MIN READ



CHARLOTTE, N.C./WASHINGTON (Reuters) - Wells Fargo & Co [WFC.N](#) has agreed to pay \$175 million (113.4 million pounds) to resolve allegations it discriminated against qualified African-American and Hispanic borrowers in its mortgage lending, the U.S. Justice Department said on Thursday.

A Wells Fargo bank is seen in Del Mar, California January 17, 2012. REUTERS/Mike Blake

In the second-largest settlement of its kind, the biggest U.S. mortgage lender will pay \$125 million to borrowers who were allegedly steered into higher-priced subprime loans or who paid higher fees and rates than white borrowers.

Wells Fargo will also contribute \$50 million to homebuyer assistance programs in eight metropolitan areas around the country. The government identified those areas needing the most help in recovering from the housing crisis.

The settlement, which needs approval from a judge, would end the investigation into whether the fourth-largest U.S. bank between 2004 and 2009 knowingly targeted minorities for risky mortgages that came with higher costs, according to documents filed in the U.S. District Court for the District of Columbia.

“This a case about real people, African-American and Latino, who suffered real harm as a result of Wells Fargo’s discriminatory lending practices,” Thomas Perez, U.S. assistant attorney general for civil rights, said at a news conference in Washington.

“People with similar qualifications should be treated similarly. They should be judged by the content of their credit worthiness and not the colour of their skin.”

The government investigation found that loans submitted to Wells Fargo by mortgage brokers had varied interest rates, fees, and costs based only on race and not correlated to the borrowers’ creditworthiness, according to the court document.

The Obama administration has mounted a campaign to closely monitor banks in order to ensure loan discrimination practices that were a part of the housing bust and led to record defaults are eliminated. Bank of America Corp’s [BAC.N](#) Countrywide Financial unit agreed in December to pay a record \$335 million to settle similar charges.

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Wells Fargo said it was settling the matter “solely for the purpose of avoiding contested litigation” with the U.S. Justice Department. In the consent order with the government, Wells asserted it treated all its customers fairly and without regard to race and national origin.

“We believe it is in the best interest of our team members, customers, communities and investors to avoid a long and costly legal fight, and to instead devote our resources to continuing to contribute to the country’s housing recovery,” Mike Heid, president of Wells Fargo Home Mortgage, said in a statement.

## WELLS TO END LOANS THROUGH BROKERS

The bank signalled in a securities filing in May that it could face civil charges from the U.S. Justice Department. The bank said the settlement also resolves pending litigation filed in 2009 by the State of Illinois on behalf of borrowers, and resolves an investigative complaint filed in 2010 by the Pennsylvania Human Relations Commission.

Wells Fargo, which makes more than one-third of U.S. mortgage loans, declined to say whether it has already set aside reserves for the settlement. The bank reports second-quarter earnings on Friday.

The government alleged that Wells Fargo discriminated by steering about 4,000 African-American and Hispanic borrowers into subprime mortgages when white borrowers with similar credit profiles received prime loans. Officials also alleged that Wells charged about 30,000 African-American and Hispanic borrowers higher rates and fees than white borrowers because of their race or national origin rather than their credit worthiness.

The loans were largely made through independent mortgage brokers, rather than directly by Wells Fargo loan officers. Starting Friday, the bank said it has voluntarily decided to stop making loans through brokers.

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These mortgages accounted for about 5 percent of its home loan volume. Rivals such as Bank of America have already made similar moves.

“These loans are being originated under our name,” Wells spokesman Oscar Suris said. “If we can’t control the customer experience, we are going to get out of it.”

The bank will continue to buy loans that are originated and funded by smaller banks and mortgage companies, a practice known as correspondent lending, Suris said.

Wells on Thursday also resolved a lawsuit filed by the city of Baltimore in 2008 alleging the bank engaged in “reverse redlining,” or intentionally targeting minority communities for predatory mortgage loans, leading to high foreclosures in minority neighbourhoods.

Wells will spend \$4.5 million of the \$50 million earmarked for eight metro areas in Baltimore. It will also pay an additional \$3 million for local housing and foreclosure initiatives and set a five-year lending goal for the city. In return, Baltimore will drop its suit.

Wells reached a similar agreement in May with the city of Memphis, which had also filed a reverse redlining lawsuit.

‘DISCRIMINATION WITH A SMILE’

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The Wells Fargo case was initially referred to the Justice Department in 2009 by the Office of the Comptroller of the Currency, overseeing the nation’s largest banks, and was taken to the U.S. Justice Department’s civil rights division.

The victims of the discrimination will be compensated, according to the Justice Department. Wells Fargo will be required to conduct new monitoring programs to ensure fair lending standards are in place in the future.

Perez, the U.S. assistant attorney general, gave examples of how the alleged discrimination played out. In one instance, an African-American customer in the Chicago area in 2007 seeking a \$300,000 loan paid on average \$2,937 more in fees than a similarly qualified white applicant. In another example, a Latino borrower in the

Miami area in 2007 seeking a \$300,000 loan paid on average \$2,538 more in fees than a similarly qualified white applicant.

“All too frequently, Wells Fargo’s African-American and Latino borrowers had no idea whatsoever that they could have gotten a better deal, no idea that white borrowers with similar credit would pay less,” he said. “That is discrimination with a smile.”

In the next step in the case, Wells has agreed to conduct a review of loans it made directly to customers and will compensate African-American and Hispanic borrowers who were placed into subprime loans when similarly qualified borrowers received prime loans. Perez said he expected 3,000 to 4,000 more victims will be found in this review.

Wells Fargo shares were down .69 percent at \$33.04 in afternoon trading.

Reporting by David Ingram, Margaret Chadbourn, Rick Rothacker; editing by Jeffrey Benkoe, Andrew Hay and Bernard Orr

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