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IN THE CIRCUIT COURT FOR THE STATE OF OREGON
FOR MULTNOMAH COUNTY

MATTHEW VALLES,

Plaintiff,

v.

WELLS FARGO BANK N.A.
and KIMBERLY THRUSH,

Defendants.

Case No.

COMPLAINT

Whistleblower Retaliation

Aiding and Abetting

Amount in Controversy: \$20 Million
Fee Authority: ORS 21.160(1)(e)
Filing Fee: \$1,111

Jury Trial Requested

Not Subject to Mandatory Arbitration

1.

ABOUT THIS CASE

Matthew Valles is a bank fraud investigator. Until January 2018, Mr. Valles worked as a Financial Crimes Specialist 3 in Wells Fargo’s Portland-area Loss Prevention Line of Business Referrals unit. Last month, Wells Fargo and Mr. Valles’s supervisor Kimberly Thrush decided to terminate his employment.

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2 Prior to his termination, Mr. Valles had repeatedly complained to Wells Fargo
3 management about what he believed was an illegal and systematic scheme
4 to prematurely close certain customer accounts.
5

6 Soon after transferring into the Loss Prevention Line of Business Referrals
7 unit, Mr. Valles discovered that when Wells Fargo customers experienced fraud or
8 unauthorized activity on an account, Wells Fargo failed to adequately investigate
9 the fraud, and instead closed the account under the pretext of a “business decision”,
10 leaving its customers to absorb the loss for any unauthorized withdrawals.
11

12 Wells Fargo customers have long complained that after being victimized by
13 account fraud or suffering identity theft, their accounts were closed for no legitimate
14 reason. Last year, federal authorities investigated accusations that Wells Fargo was
15 wrongfully closing the accounts of fraud victims. But until now, no proof existed to
16 substantiate the accusations.
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18 By filing this lawsuit, Mr. Valles became the first person to finally expose
19 Wells Fargo’s fraud victim account closure scandal to the public.
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3 **JURISDICTION AND THE PARTIES**

4 Matthew Valles is a natural person and a resident of Oregon.
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6 3.

7 Wells Fargo Bank N.A. (Wells Fargo) is a national association bank and a
8 citizen of South Dakota. Wells Fargo was Mr. Valles's employer and conducted
9 regular and sustained business in Multnomah County, Oregon. Mr. Valles was
10 supervised by Wells Fargo employee agents and Mr. Valles relied on the actual or
11 apparent authority of Wells Fargo's employee agents, supervisors and management.
12 Mr. Valles was employed at Wells Fargo's Portland-area unit.
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16 Kimberly Thrush is a natural person who acted as supervisor of Mr. Valles in
17 the course of Mr. Valles's employment with Wells Fargo. Ms. Thrush is a resident of
18 Oregon. Ms. Thrush was an authorized employee agent of Wells Fargo and was in
19 substantial part acting within the course and scope of such agency and employment.
20 Ms. Thrush was motivated, at least in part, by a purpose to serve Wells Fargo.
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22 5.

23 This complaint's allegations are based on personal knowledge as to Mr.
24 Valles's own conduct and are made on information and belief as to the acts of others.
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3 **FACTUAL ALLEGATIONS**

4 In or around 2009 to 2010, Mr. Valles was employed in the banking industry
5 at American Express. While at American Express Mr. Valles received regular
6 promotions and raises.
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9 Mr. Valles ultimately left American Express to become a Financial Crimes
10 Specialist 2 in the Internet Service Group Online Fraud Operations unit with Wells
11 Fargo in Salt Lake City, Utah in or around February 2011. As a Financial Crimes
12 Specialist 2, Mr. Valles investigated reports of online fraud pertaining to Wells Fargo
13 customer savings accounts, checking accounts, and credit accounts. After a year or
14 so in his position as a Financial Crimes Specialist 2, Wells Fargo promoted Mr.
15 Valles's position to Financial Crimes Specialist 3.
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18 8.

19 While at the Internet Service Group Online Fraud Operations unit, Mr. Valles
20 personally helped to uncover the now publicly-known Wells Fargo scheme involving
21 an internal fraud ring used by branch employees to create fake customer accounts.
22 As a result of Mr. Valles's contributions and positive work record, the Internet
23 Service Group Online Fraud Operations unit tasked him with providing training to
24 other Wells Fargo investigators. The Internet Service Group Online Fraud
25 Operations unit began grooming Mr. Valles to be a team lead and Mr. Valles had the
26 opportunity to take a higher position within Wells Fargo's Salt Lake City office.
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3 Rather than take a higher position in the Internet Service Group Online
4 Fraud Operations unit, Mr. Valles turned down a team lead position in online fraud
5 to pursue a different opening within Wells Fargo's Portland, Oregon office. The
6 opening in Wells Fargo's Portland office would allow Mr. Valles to become familiar
7 with various types of bank fraud, not just online fraud as he had investigated in the
8 Internet Service Group Online Fraud Operations unit. Mr. Valles was told by his
9 supervisors that the new position in Portland would give him broader knowledge of
10 various types of fraud that would ultimately help him promote higher within Wells
11 Fargo. In or around November 2014, Mr. Valles was hired for the new position and
12 relocated to the Portland, Oregon area. In his new position, Mr. Valles worked with
13 investigators in Wells Fargo's Loss Prevention Line of Business Referrals unit, to
14 investigate internal fraud referrals submitted by Wells Fargo employees to a
15 confidential internal database. Wells Fargo's Loss Prevention Line of Business
16 Referrals unit investigated instances of alleged fraud on both consumer and business
17 deposit and savings accounts.
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23 Almost immediately upon starting his new position in Wells Fargo's Portland
24 office, Mr. Valles became concerned about the internal culture of Wells Fargo's Loss
25 Prevention Line of Business Referrals unit.
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3 Mr. Valles soon discovered that the apparent directive of the Loss Prevention
4 Line of Business Referrals unit – as indicated by Wells Fargo management – was to
5 meet Wells Fargo’s metrics at all costs, even if it meant failing to adequately
6 investigate instances of fraud on accounts belonging to Wells Fargo’s customers. By
7 failing to adequately investigate internal fraud referrals as the law required, the
8 Loss Prevention Line of Business Referrals unfairly shifted losses caused by fraud
9 to Wells Fargo’s own customers, many of whom had been victims of identity theft
10 and unauthorized transactions. Rather than conduct a thorough investigation into
11 claims of fraud, Mr. Valles began to notice that Wells Fargo would instead save
12 money by simply closing accounts under the pretext of a “business decision to close”.
13 Improperly closing customer accounts in this manner ensured that customers, not
14 Wells Fargo, were left to absorb the costs of fraudulent activities and unauthorized
15 withdrawals from their checking and savings accounts. The decision by Wells Fargo’s
16 Loss Prevention Line of Business Referrals unit to prematurely close accounts also
17 unfairly harmed customers’ credit in cases where fraud had caused an account to
18 become overdrawn.
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25 In or around 2015, Mr. Valles suffered a serious health event that caused him
26 to be hospitalized. Mr. Valles was approved for leave by Wells Fargo human
27 resources from about April 24, 2015 to June 22, 2015, and for a few days in July
28 2015.

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2 13.

3 After Mr. Valles's hospitalizations, Wells Fargo supervisor Phillip Lea
4 chastised Mr. Valles, treated him worse than other employees, and refused to
5 properly train him, in retaliation for his requests for medical leave.
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7 14.

8 Soon after Mr. Valles returned to work, he complained to Wells Fargo's human
9 resources department. Mr. Valles complained to human resources about Wells
10 Fargo's illegal failure to properly investigate reports of fraud and Wells Fargo's
11 illegal behavior in wrongfully closing customer accounts. Wells Fargo's behavior
12 violated various regulations and laws, including ORS 646.607, ORS 646.608, the
13 Consumer Financial Protection Act, the Dodd-Frank Act, and 15 U.S.C. § 45, which
14 prohibits "unfair or deceptive acts or practices in or affecting commerce." Mr. Valles
15 also complained about illegal retaliation from Mr. Lea based on Mr. Valles's
16 hospitalization and medical leave. Mr. Valles was told on several occasions that the
17 potentially unlawful behavior he reported would be investigated and addressed. The
18 Loss Prevention Line of Business Referrals unit was later investigated and Mr. Lea
19 was transferred out of the unit.
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23 15.

24 After Mr. Lea was transferred from the Loss Prevention Line of Business
25 Referrals unit, Ms. Thrush was transferred in to become Mr. Valles's supervisor. Mr.
26 Valles immediately noticed that Ms. Thrush was hostile toward him. Ms. Thrush
27 proceeded to try to isolate Mr. Valles from the work of the unit.
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3 Ms. Thrush treated Mr. Valles worse than other employees and would not
4 allow him to get necessary training to work on advanced fraud issues, severely
5 limiting the type of work he was able to do. Ms. Thrush was unusually concerned
6 with Mr. Valles and her ability to control him. To that end, Ms. Thrush would not
7 allow Mr. Valles to work remotely or to use a laptop for work. In addition, Mr. Valles
8 was denied opportunities for overtime and promotions while supervised by Ms.
9 Thrush.
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13 Ultimately, Mr. Valles had to take a number of subsequent medical leaves due
14 to his serious health condition. Each time Mr. Valles returned from leave he observed
15 Ms. Thrush become more hostile toward him. Mr. Valles requested minor schedule
16 changes from Ms. Thrush in order to accommodate his medical conditions but she
17 consistently refused. Ms. Thrush, however, knew that she had to be careful to not
18 take certain actions against Mr. Valles close in time to his medical leaves.
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21 18.

22 Ms. Thrush attempted to discipline Mr. Valles because he was cooperating too
23 much with a law enforcement agent seeking information about fraud that took place
24 on a Wells Fargo customer's account. During the call with law enforcement official
25 Detective Carson, Mr. Valles was attempting to gather more information to help
26 determine whether the alleged fraudulent activity was customer-related or the
27 behavior of a third-party criminal.
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3 Instead of encouraging Mr. Valles for conducting a proper investigation to find
4 out the truth, Ms. Thrush reprimanded Mr. Valles and accused him of breaching
5 “security” protocol by providing Detective Carson with the Wells Fargo account
6 number at issue. Mr. Valles pointed out that he had not breached security protocol
7 and never provided an account number to law enforcement. Regardless, Ms. Thrush
8 persisted in reprimanding Mr. Valles. Ms. Thrush’s baseless reprimand for speaking
9 with law enforcement confirmed Mr. Valles’s belief that Wells Fargo’s Loss
10 Prevention Line of Business Referrals unit not have a commitment to thoroughly
11 investigating fraudulent account activity on customer accounts.
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15 20.

16 Mr. Valles contacted Wells Fargo human resources and complained that Ms.
17 Thrush had improperly written him up. After reviewing Ms. Thrush’s decision,
18 human resources lowered Ms. Thrush’s final warning to a regular warning. Mr.
19 Valles knew he did nothing wrong and intended to challenge the regular warning
20 but was unable to because his medical condition again required him to leave work.
21

22 21.

23 Undeterred, Mr. Valles returned to Wells Fargo as soon as his health
24 permitted and continued working without incident as a Financial Crimes Specialist
25 3 in its Portland-based Loss Prevention Line of Business Referrals unit.
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3 In or around December 2017, Mr. Valles applied to transfer back to Salt Lake
4 City away from the illegal and unethical practices of Wells Fargo’s Portland unit.
5 Mr. Valles reported to his former Salt Lake City supervisor about some of the issues
6 he witnessed in the Portland unit. Mr. Valles was later scheduled for an interview
7 in Salt Lake City, and given his exemplary record there, his former supervisor
8 indicated he was the best candidate.
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11 23.

12 On or around January 9, 2018, Wells Fargo and Ms. Thrush further retaliated
13 against Mr. Valles by terminating his employment. Ms. Thrush lied and said Mr.
14 Valles was terminated because he had committed another “security” violation. Wells
15 Fargo claimed that Mr. Valles allegedly violated its security rules by leaving his
16 notebook on his desk, which contained an internal case number.
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19 24.

20 Wells Fargo’s stated reason for terminating Mr. Valles was just a pretext – a
21 convenient echo of the other baseless “security” violation that Ms. Thrush fabricated
22 early on in Mr. Valles’s employment in the Loss Prevention Line of Business
23 Referrals unit, so the pretext would appear more plausible.
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26 Unlike coworkers who had not previously reported unlawful activity and
27 retaliation for protected medical leave, Wells Fargo did not give Mr. Valles a warning
28 or a second chance.

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2 26.

3 Wells Fargo does not usually terminate employees for such minor,
4 commonplace mistakes. Wells Fargo did not adhere to its own policies and
5 procedures with regard to purported security violations. In reality, Wells Fargo
6 terminated Mr. Valles's employment in substantial part because of his reporting of
7 retaliation for taking protected medical leave, and his decision to internally blow the
8 whistle on Wells Fargo's fraud victim account closure scheme. Ms. Thrush had a
9 history of wrongfully terminating whistleblowers and she understood the legal
10 importance of how to time a termination based on a plausible pretext to avoid
11 detection.
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15 27.

16 Due to his wrongful termination, Mr. Valles was prevented from transferring
17 back to the Salt Lake City unit. As a direct and proximate result of Wells Fargo's
18 adverse employment behavior, Mr. Valles has suffered ongoing emotional distress,
19 including stress, anxiety, embarrassment, harm to reputation, and other harmful
20 and negative emotions. Mr. Valles is without a job and his employment record has
21 been forever tarnished. Mr. Valles left a good position in Salt Lake City, with the
22 opportunity for advancement, and uprooted his life to take the position in Portland
23 at Wells Fargo's Loss Prevention Line of Business Referrals unit. Mr. Valles reserves
24 the right for the jury to allow punitive damages of up to \$180 million against Wells
25 Fargo based on evidence that Wells Fargo's behavior was malicious.
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3 Mr. Valles is now at a loss as to what his next job will be and fears that Wells
4 Fargo's wrongful termination will limit his ability to get another fraud investigation
5 position in the banking industry. Mr. Valles's emotional distress is exacerbated by
6 the massive size and resources of Wells Fargo and its reputation for retaliating
7 against whistleblowers. Prior to Mr. Lea's transfer from Wells Fargo's Loss
8 Prevention Line of Business Referrals unit, Mr. Lea suggested to Mr. Valles that Mr.
9 Valles was responsible for the investigation into the unit.
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12 29.

13 In a filing dated August 4, 2017, Wells Fargo disclosed to the public that it
14 was under investigation for the very account closure scheme Mr. Valles had
15 internally blown the whistle about, as alleged in this complaint. Wells Fargo's
16 disclosure is below:
17

18
19 **CONSUMER DEPOSIT ACCOUNT RELATED REGULATORY**
20 **INVESTIGATION** The Consumer Financial Protection Bureau
21 (CFPB) has commenced an investigation into whether customers
22 were unduly harmed by the Company's procedures regarding the
23 freezing (and, in many cases, closing) of consumer deposit
24 accounts after the Company detected suspected fraudulent
25 activity (by third-parties or account holders) that affected those
26 accounts.
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29 A review of consumer complaints filed with the Consumer Financial
30 Protection Bureau's substantiates Wells Fargo's fraud victim account closure
31 scheme.
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3 **CAUSES OF ACTION**

4 **Claim One against Wells Fargo**

5 Whistleblower Retaliation – ORS 659A.199

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7 Wells Fargo’s behavior as alleged above violated ORS 659A.199 because Wells
8 Fargo retaliated against Mr. Valles in the terms and conditions of his employment;
9 retaliated/discriminated based on disability/medical leave; failed to transfer;
10 retaliated against; and terminated him in substantial part because he opposed and
11 reported in good faith information he believed to be evidence of violations of state
12 law, federal law, and banking regulations.
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15 32.

16 As a direct and proximate result of Wells Fargo’s behavior, Mr. Valles suffered
17 non-economic loss of \$20 million. Under ORS 20.107 and ORS 659A.885, Mr. Valles
18 is entitled to compensation for his losses and reimbursement of his fees and costs.
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20 33.

21 Mr. Valles is also entitled to an injunction stopping Wells Fargo from
22 retaliating against any other employee in a manner similar to the behavior alleged
23 in this complaint.
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Claim Two against Kimberly Thrush

Aiding and Abetting – ORS 659A.030(1)(g)

Kimberly Thrush violated ORS 659A.030(1)(g) by aiding, abetting, inciting, compelling and coercing unlawful retaliation against Mr. Valles, as alleged above. As a direct and proximate result of Kimberly Thrush’s behavior, Mr. Valles suffered non-economic loss of \$20 million. Under ORS 20.107 and ORS 659A.885, Mr. Valles is entitled to compensation for his losses and reimbursement of his fees and costs.

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2 **PRAYER FOR RELIEF**

3 Mr. Valles respectfully requests:

- 4 **A.** An injunction stopping Wells Fargo from retaliating against any other
5 employee in a manner similar to the retaliation alleged in this complaint;
6
7 **B.** A judgment against Wells Fargo holding it liable for retaliating against Mr.
8 Valles as alleged in this complaint;
9
10 **C.** A judgment against Wells Fargo allowing actual damages up to \$20 million
11 plus interest and reimbursed fees, costs and expenses; and
12
13 **D.** Any other equitable relief this Court deems appropriate.
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15 Mr. Valles intends to amend this complaint with leave of Court to add a claim
16 for punitive damages up to \$180 million and may intend to add additional defendants
17 and claims as information is learned in discovery. Mr. Valles respectfully requests
18 trial by jury.
19

20 February 28, 2018
21

22 **RESPECTFULLY FILED,**

23 /s/ Michael Fuller
24 **Michael Fuller, OSB No. 09357**
25 Lead Trial Attorney for Mr. Valles
26 Olsen Daines
27 US Bancorp Tower
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9
10 **PROOF OF MAILING**

11 I declare and certify that on the date below I caused a copy of this complaint
12 to be mailed to the following:
13

14
15 **Oregon Department of Justice**
16 **c/o Attorney General Ellen Rosenblum**
17 **1162 Court Street NE**
Salem, OR 97301-4096

18
19 **United States Attorney's Office**
20 **c/o Investigator Kevin Burke**
21 **1000 SW Third Ave Suite 600**
Portland, OR 97204

22
23 **U.S. Senate Committee on Banking**
24 **c/o Ranking Member Sherrod Brown**
534 Dirksen Senate Office Building
Washington, DC 20510

25
26 **US Senator Jeff Merkley**
27 **c/o Financial Services LA Lauren Oppenheimer**
28 **313 Hart Senate Office Building**
Washington, DC 20510

1
2 **US Senator Ron Wyden**
3 **c/o Financial Services LA Thomas Brunet**
4 **221 Dirksen Senate Office Bldg.**
5 **Washington, DC 20510**

6 **Office of the Comptroller of the Currency**
7 **c/o Deputy Chief Counsel Charles Steele**
8 **400 7th Street, SW**
9 **Washington, DC 20219**

10 **Federal Reserve Board of Governors**
11 **c/o Board Member Lael Brainard**
12 **20th Street and Constitution Avenue NW**
13 **Washington, DC 20551**

14 **Consumer Financial Protection Bureau**
15 **c/o Deputy Director Leandra English**
16 **PO Box 2900**
17 **Clinton, IA 52733-2900**

18 **Wells Fargo & Company**
19 **c/o CEO Tim Sloan**
20 **101 N Phillips Avenue**
21 **Sioux Falls, SD 57104**

22 **Wells Fargo & Company**
23 **c/o CFO John Shrewsberry**
24 **101 N Phillips Avenue**
25 **Sioux Falls, SD 57104**

26 **Wells Fargo & Company**
27 **c/o Controller Richard Levy**
28 **101 N Phillips Avenue**
Sioux Falls, SD 57104

1
2 **Wells Fargo & Company**
3 **c/o Corporate Responsibility Committee Chair Federico Peña**
4 **101 N Phillips Avenue**
5 **Sioux Falls, SD 57104**

6 **Berkshire Hathaway Inc.**
7 **c/o CEO Warren Buffett**
8 **3555 Farnam St.**
9 **Omaha, NE 68131**

10 **Berkshire Hathaway Inc.**
11 **c/o Vice Chair Charles Munger**
12 **3555 Farnam St.**
13 **Omaha, NE 68131**

14 February 28, 2018

15 **RESPECTFULLY SERVED,**

16 s/ Michael Fuller
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